

6th February 1930

THE  
LEGISLATIVE ASSEMBLY DEBATES  
(Official Report)

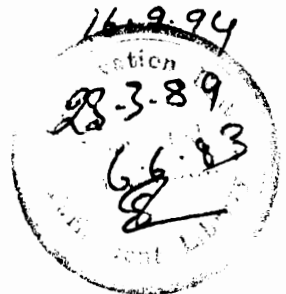
Volume I, 1930

(20th January to 24th February, 1930)

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SIXTH SESSION  
OF THE  
THIRD LEGISLATIVE ASSEMBLY, 1930

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1930

# Legislative Assembly.

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THE HONOURABLE MR V. J. PATEL.

## *Deputy President :*

MAULVI MUHAMMAD YAKUB, M.L.A.

## *Panel of Chairmen :*

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

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

SIR ZULFIQAR ALI KHAN, KT., C.S.I., M.L.A.

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

## *Assistant of the Secretary :*

RAI SAHIB D. DUTT.

## *Marshal :*

CAPTAIN SURAJ SINGH BAHADUR, I.O.M.

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# LEGISLATIVE ASSEMBLY.

Thursday, 6th February, 1930.

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

## STATEMENT OF BUSINESS.

**The Honourable Sir James Orerar** (Leader of the House): With your permission, Sir, I desire to make a statement as to the probable course of Government business in the week beginning the 10th February. Owing to the expedition with which the House has disposed of the Government business hitherto placed before it this Session, the Government find themselves in the unexpected position of having no fresh business to place before the House on Monday, the 10th. I accordingly suggest to you, Sir, that, unless the Government business which is on the paper today is not concluded before the House rises today, you should direct that the House shall not sit on Monday, the 10th. The time thus rendered available will then be occupied by the sittings of Select Committees whose work has not yet been completed. On Wednesday, the 12th, the Honourable Sir George Schuster will move to take into consideration the Bill to regulate the law dealing with Dangerous Drugs in connection with which the Select Committee's Report is, I understand, to be laid on the table today. A motion that the Bill be passed will also be placed on the paper. It is hoped that the following Bills will be ready for introduction:

1. A Bill to repeal and re-enact with amendments the Indian Lac Cess Act, 1921.
2. A Bill to amend the Indian Companies Act, 1913, in connection with the appointment of auditors of companies.
3. A Bill to amend the Indian Tariff Act, 1894, in a number of particulars.
4. A Bill to amend the Indian Tariff Act, 1894, in order to amend the law relating to the fostering and development of the steel industry in India.

The next item on the agenda will be a motion for leave to amend Standing Order 40 of the Assembly Standing Orders, and, if that motion is carried, it will be followed by a motion that the draft amendment be referred to a Select Committee.

## THE DANGEROUS DRUGS BILL.

### PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

**The Honourable Sir George Schuster** (Finance Member): Sir, I beg to present the Report of the Select Committee on the Bill to centralise and vest in the Governor General in Council the control over certain operations

[Sir George Schuster.]

relating to dangerous drugs and to increase and render uniform throughout British India the penalties for offences relating to such operations.

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### THE PROVIDENT FUNDS (AMENDMENT) BILL.

**The Honourable Sir George Schuster** (Finance Member): Sir, I beg to move that the Bill further to amend the Provident Funds Act, 1925, for certain purposes, as passed by the Council of State, be taken into consideration.

This is a very short Bill which was fully discussed and debated in the Council of State. Its objects are clearly stated in the Objects and Reasons to the Bill and I do not propose to take the time of the House with any further explanation of its purpose. Sir, I move.

The motion was adopted.

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

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Sir George Schuster:** Sir, I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

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### THE INDIAN INCOME-TAX (AMENDMENT) BILL.

**The Honourable Sir George Schuster** (Finance Member): Sir, I beg to move that the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes (amendment of sections 2, 23, etc.), as reported by the second Select Committee, be taken into consideration.

The main object of this Bill has been under consideration for six years. Different projects of legislation, including the original draft of the present Bill as it stands, have been circulated by one method or another a number of times and commercial opinion has thus had repeated opportunities of expressing itself on the provisions of the Bill. The subject was also considered by the Taxation Inquiry Committee. Two Select Committees have sat upon the Bill. I think, Sir, therefore, that the Government cannot be accused of undue precipitance in bringing forward this legislation, and I hope that the Bill, as now amended by the second Select Committee, will meet with the approval of this House.

The main object of the Bill is to prevent the avoidance of income-tax and super-tax by the formation or multiplication of companies or firms as a means of reducing the rate of tax payable by the individuals who are interested in these companies or firms. The Bill aims only at the improper use of this practice. It is a Bill which has sometimes been referred to as the Bogus Companies Bill. That in itself is a misleading term. It refers to companies which are formed for a certain purpose and which are

utilised for a certain purpose. In order to come within the provisions of this Bill, Companies or firms must be in the control of one or a very small number of persons; but not only that, they must be used definitely for the purpose of avoiding tax. I want to make that clear. There is no intention in this Bill of penalising any company which happens to be controlled by one or by a small number of persons, unless it is used for the particular object of avoiding tax. The provisions of the Bill have, as I have already explained, been very fully considered by the two Select Committees, and I should like to take this occasion of expressing my thanks to the Members of the Select Committees for the care which they have given to this subject and for the assistance which they have given to me in drafting its provisions. I think, Sir, that the objects of the Bill are so clearly apparent from the clauses of the Bill and that the work done by the second Select Committee is so clearly explained in its Report, that it is not necessary for me at this stage to say anything further on the subject. If points are raised in the course of the debate, I should be very pleased to give further explanations. Sir, I move.

**Mr. M. S. Aney** (Berar Representative): Sir, I wish to state that I did not intend to move the amendment\* that stands in my name, but I want to make one observation for which I think this is the proper occasion, and that is in connection with the presentation of the Report of the Select Committee on this Bill. It was unfortunate that, when the last meeting of the Select Committee was held, I could not be present owing to a previous engagement which I had made on that day. When the Report was being circulated to the Members for their signatures, it was sent to me, but somehow or other the man who brought the Report to me for my signature, whether he had instructions or not I could not say, said he could not wait even for ten minutes to enable me to go through it. I do not know why it should be so. I asked him to leave the Report with me so that I might go through it, consider it and then append my signature to it, but he said he had no time and I said, "All right, you can go". I was told that some time afterwards he came to me, but I could not see him, and I was surprised to find that the Report had been presented here although I wanted to go through it and put in my signature. After the Report was presented, I read it and did not find anything in any portion of the Report to which I should take objection, but what surprised me was that the arrangement for circulating the Report of the Select Committee should be of such a nature that members of the Select Committee could not have time enough to go through it, consider it and make any suggestions they might want to make. That is the complaint I have to make, and I thought I could make it on the day of the presentation of the Select Committee's Report, but I found that the Standing Orders did not permit it as it is laid down that no debate can be raised at the time when the Report is presented by the Member in charge to this House. That is why I have brought this little point to the notice of the Honourable Member in charge in connection with this Report, and also with a view to impress further that hereafter the arrangements for the circulation of Reports of Select Committees should be of a more satisfactory nature. I have nothing to say on the merits of the Report. I support the motion of the Honourable Member.

\*"That the Bill, as reported by the Select Committee, be recommitted to the same Select Committee."

**Sir Hugh Cocks** (Bombay: European): I sympathise with the Honourable Member, Mr. Aney, that he was not able to be present at the last meeting of the Select Committee and that he was not able to retain the Report of the Select Committee long enough for him to read it, but I am glad to hear that, having read it now, he is quite satisfied with the work of the other members of the Committee. I was a member of the first Select Committee on this Bill, and we found it a very difficult one to phrase satisfactorily. We made an attempt, and since then a further attempt has been made, and I think undoubted improvements have been made in the Bill. The Honourable the Finance Member, in his remarks just now, referred particularly to the fact that this Bill was not aimed at a genuine company; it was only aimed at companies which were out to hold up profits in order to avoid taxation. I just want to say one word on that point, because it has been one of the most difficult matters which the Select Committee have had to deal with, namely, the question of using phraseology which would make it perfectly clear that this Bill was not aimed at a genuine company. The opening words of clause 4(2) are:

"Where the Income-tax officer is satisfied that a company is under the control of not more than five of its members and that its profits and gains are allowed to accumulate beyond its reasonable needs, existing and contingent, having regard to the maintenance and development of its business without being distributed . . . etc. . . ."

Those words, Sir, "having regard to the maintenance and development of its business", that have been put in are very important, and the explanation of the Select Committee is equally important. The Select Committee's Report on clause 4 says:

"The first insertion we have made expands the words relating to the 'reasonable needs existing and contingent' of the business, and are designed to place it beyond doubt that accumulations made by a company as a matter of sound financial practice or in order to make provision for the development of its genuine business, shall not come within the scope of the sub-section."

Now, Sir, every one who is at all connected with business knows that companies do come into existence, in connection with which it becomes essential to hold up profits for perhaps a number of years, and there are companies which have had to do that, and might have to do it again, so that it was very essential that it should be made perfectly clear in this Bill that these companies should not be interfered with in their legitimate holding up of profits in connection with the development of their business. I think that has been made clear in this Bill, and as long as it is understood by income-tax officials throughout the country that they are not expected, under this Bill, to attempt to assess such profits, or rather not to deal with companies in the way the Bill provides, where those companies are genuine development companies, I think no harm will come from this particular feature of the Bill.

**The Honourable Sir George Schuster:** Sir, with reference to the amendment moved. . . .

**Mr. President:** No amendment has been moved.

**Mr. M. S. Aney:** I did not move it.

**The Honourable Sir George Schuster:** With reference to the amendment standing in the name of the Honourable Member, Mr. Aney, I should only like to say that I hope that, when he next serves on a Select Committee

with which I am concerned, we shall have the benefit of his presence at our meetings and of the critical examination which he always gives in such a determined way to the provisions of any Government measure.

As regards the remarks of my Honourable friend, Sir Hugh Cocke, I have no hesitation at all in associating myself with what he has said. I intended to make it quite clear that this Bill, if it is passed into law, will not be used to interfere with genuine business operations, and I shall do my best to see that suitable instructions are issued to that effect.

**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, etc.), as reported by the second Select Committee, be taken into consideration."

The motion was adopted.

Clauses 2 to 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 George Schuster:** Sir, I beg to move that the Bill, as amended, be passed.

The motion was adopted.

## DEMANDS FOR SUPPLEMENTARY GRANTS IN RESPECT OF RAILWAYS.

### *Expenditure from Revenue.*

#### WORKING EXPENSES—ADMINISTRATION.

**Mr. A. A. L. Parsons** (Financial Commissioner, Railways): Sir, I beg to move :

"That a supplementary sum not exceeding Rs. 18,25,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending 31st March, 1930, in respect of 'Working Expenses—Administration'."

**Mr. K. O. Neogy** (Dacca Division: Non-Muhammadan Rural): Sir, I desire to draw the attention of this House to the initiation of a new procedure that has been made by my Honourable friend, Mr. Parsons, in connection with this Supplementary Demand. Honourable Members will find that in the Statement of these Supplementary Grants, it is stated that the Standing Finance Committee for Railways has agreed to this particular Demand being granted. In the past the invariable practice has been to circulate the proceedings of the Committee bearing on these grants. On the present occasion, what I find is that the proceedings of the meeting of the Standing Finance Committee for Railways, dated the 27th September, 1929, have been stitched on to these Supplementary Demands Grants; and on going through that paper, I find that it has absolutely no bearing upon the Demands which we are expected to consider today. I do not know whether my Honourable friend intends to be more and more independent of the control of this House, as I understand he is getting more and more independent of the control of the Governor General in Council.

Sir, I find that one of the reasons assigned in justification of this excess expenditure in this particular grant is that there has been a slight increase

[Mr. K. C. Neogy.]

in publicity expenses—I suppose (because of increased activities of the Publicity Department in Europe and America; but we in this House certainly can claim to have the benefit of the publicity activities of the Railway Department in trying to understand these Demands for Grants. My Honourable friend, Mr. Parsons, not merely did not care to circulate the proceedings of the Standing Finance Committee, but he thinks that this demand is so very reasonable that he need not even say one word in its support.

There is one other point, Sir, to which I wanted to draw your particular attention, and that is that there is one outstanding point of order in connection with these Supplementary Demands. If I may refer you, Sir, to your own observations made in connection with Supplementary Demands for Railway Grants on the 16th of March last year, you will see that you said on that occasion that, if these amounts represented monies that had already been spent, then these should more appropriately come up in the shape of Demands for Excess Grants and not as Demands for Supplementary Grants, and that, when in reply to that observation of yours it was pointed out that the practice had been in the past to undertake expenditure of this nature with the approval of the Standing Finance Committee, you were pleased to observe as follows:

“I think the Honourable Member will agree with me when I say that if money has been spent already in excess of the grant voted by this Assembly, the Government can only come by way of a motion for excess grant. That is, as I understand, the right Parliamentary procedure. However, as the Honourable Member points out that this practice has been in vogue for the last few years, I do not wish to raise any objection at this stage, but will see that the procedure is regularised in future.”

I do not know, Sir, whether it is your pleasure that this Supplementary Demand should be allowed to be brought up like this, if this particular amount or any portion of it has already been spent without the sanction of this House.

**Mr. A. A. L. Parsons:** Sir, I am very glad that Mr. Neogy has raised his first point, for it enables me to make an explanation to the House. There is no intention whatsoever on the part even of a supposedly independent Financial Commissioner of Railways to alter the previous procedure. What occurred was this, I called a meeting of the Standing Finance Committee for Railways on the 4th instant, with the intention of passing one or two of these Supplementary Grants. I may say that they had agreed to the Supplementary Grant on which we are now speaking at a meeting held in December last in Calcutta, though by an oversight that agreement was not recorded in the proceedings of the meeting. I therefore got it confirmed at the meeting held yesterday. I called originally for a meeting on the 4th instant, so as to enable me to get the usual documents before the House, describing the proceedings of the Standing Finance Committee, before these motions were moved today; but the House sat rather later than was expected and several members of the Committee represented to me that it would be inconvenient to them to hold a meeting at that time. Therefore, to meet their convenience, I held a meeting on the morning of the 5th February. Actually at that meeting the only papers laid before the Standing Finance Committee were the papers which are already in the hands of Members of this House, and the only comments made by the Members of the Standing Finance Committee were that they approved of the proposals for these grants. But if there is any suspicion that, in

bringing forward these motions now, I am attempting in any way to alter the ordinary procedure, I should prefer, with your permission, Sir, to withdraw the motions and bring them forward again on another day, if that would be in order. Actually I explained to the only Honourable Member who has put down a motion with regard to these Grants exactly what had occurred and showed him the Report of the Standing Finance Committee.

My friend, Mr. Neogy, then raised a question with regard to our publicity expenses. I may explain that the Railway Board are extremely keen to get extra traffic from a growth of the travelling habit among Indians and they are considering constantly the development of that side of the activities of the Central Publicity Office. I shall be quite prepared to have a memorandum drawn up by the Chief Publicity Officer showing exactly what we have done in that direction and to lay copies of it in the Library of the House and also, as is indeed my intention already, to place it before the Standing Finance Committee for Railways. I think that will meet Mr. Neogy's point. . . . .

**Mr. K. C. Neogy:** I beg my Honourable friend's pardon: I was complaining of the want of publicity of the proceedings of the Standing Finance Committee for Railways.

**Mr. A. A. L. Parsons:** I am sorry I did not catch the Honourable Member properly. I hope I have satisfied him that there was no intention not to publish the proceedings of the Committee.

As regards the point whether a supplementary grant or an excess grant should be asked for for this expenditure, it is never very easy, when you are dealing with Railway expenses, to say exactly whether the money has already been spent or not. With regard to the portion of the Rs. 18 lakhs odd which is really due to our opening more new lines, I can say with absolute confidence that that money has not yet been spent; that is to say, that though the staff has been employed on these lines, we have not so far exceeded the grant we had when the Budget was passed. I could not say the same with the same amount of definiteness about the expenditure on the Central Publicity Office; but I think it may be assumed that the amount provided for the Central Publicity Office in the Budget has been sufficient up till now, and that if we had not to incur expenditure for two more months, we should not want more money. That deals with all the points, I think, raised by my Honourable friend.

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

"That a supplementary sum not exceeding Rs. 18,25,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending 31st March, 1930, in respect of 'Working Expenses—Administration'."

The motion was adopted.

#### WORKING EXPENSES—REPAIRS AND MAINTENANCE AND OPERATION.

**Mr. A. A. L. Parsons:** Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 1,39,85,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending 31st March, 1930, in respect of 'Working Expenses; Repairs and Maintenance and Operation'."

[Mr. A. A. L. Parsons.]

I have explained the reasons for this Supplementary Grant, I hope in sufficient detail, in the Statement which has been circulated to Honourable Members.

The motion was adopted.

#### APPROPRIATION FROM THE DEPRECIATION FUND.

**Mr. A. A. L. Parsons:** Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 1,00,00,000 be granted to the Governor (General in Council) to defray the charges which will come in course of payment during the year ending 31st March, 1930, in respect of 'Appropriation from the Depreciation Fund'."

**Mr. B. Das** (Orissa Division: Non-Muhammadan): Sir, before these motions are passed, I should like to ask my Honourable friend, Mr. Parsons, a few questions. I do not want to make a speech, because a week hence we will be discussing the Railway Budget once again, when we will have sufficient time to go into details. However, I would ask my friend one question. How is it that his Department did not anticipate this huge expenditure of one crore when framing the Budget last year? Everybody knows that the Government of India are in financial difficulty, verging almost on bankruptcy, and one crore is a very big sum and it might affect the ways and means Budget of the Honourable the Finance Member.

The next question that I wish to ask is this. In the Notes relating to this Supplementary Grant it is written that 18½ lakhs are due to the adoption on the Company-managed railways of the procedure in force on State-managed railways for accounting for credits for material returned to stock from replacement and renewal works. I would like to know whether the old materials that are returned to the store are charged at their original value, or are entered at the depreciated market value of the day on which it is credited to the account of those Company-managed railways. I am very severe in my criticism about the Company-managed railways as they are often reluctant to utilise their appropriations from the Depreciation Fund because, under the contract, they always enjoy the benefit of the surplus profit share if they can show a large balance in the Depreciation Fund. For that reason I should like to know if Company-managed railways do not always underrate their estimates and gain large surplus profits.

**Mr. A. A. L. Parsons:** Sir, the first point raised by Mr. Das was, how was it that we did not anticipate this large expenditure at the time the Budget estimates for this year were framed. Actually, as I hope the explanation in the book of Supplementary Demands shows, this does not represent extra expenditure except to the extent of 25 lakhs. The balance represents purely book adjustments.

Now, in regard to the sum of 57 lakhs which have to be credited to Capital and debited to Depreciation Fund, the position is as follows. I had no information myself that this adjustment had to be made until some time this month, although I believe it was brought to the notice of my office some time in November last. There is no doubt that these adjustments could have been made before partly in this year, partly in the



previous year and partly in the year before. But there was some misunderstanding in the minds of the authorities of the East Indian Railway as to what should be done. I do not think, therefore, that it can be said there has been a failure here to anticipate expenditure; the failure has been to bring to account certain transactions on the Railways quite as rapidly as should have been done.

With regard to the 18½ lakhs due to the adoption on the Company-managed railways of the procedure for dealing with certain credits on State-managed railways, I shall endeavour to explain the point briefly. The change only relates to the Government accounts of these railways. It does not affect the Companies' accounts at all, and it does not in any way whatsoever affect their surplus profits. We need not, therefore, be afraid that in this matter there has been laxity of control over or by Company-managed railways. We could not actually make provision for this particular change in the Budget, because at that time there was no decision to change our procedure. The old procedure was not in accordance with correct rules of accounting, and when it was brought to our notice, we decided to amend it.

The last item of 25 lakhs represents expenditure which, at the time the Budget for 1929-30 was framed, we expected to incur last year, I can only say that this is probably the most difficult point in making railway estimates that I have to deal with. It is almost impossible to say whether you are going to get, shall we say, the delivery of a large batch of locomotives on the 31st March in one year or on the 1st of April in the next year. All you can do when you frame your budget estimates is to make the best estimate you can.

**Mr. President** (to Mr. B. Das): Are you satisfied?

**Mr. B. Das**: Yes, Sir.

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

"That a supplementary sum not exceeding Rs. 1,00,00,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending 31st March, 1930, in respect of 'Appropriation from the Depreciation Fund'."

The motion was adopted.

#### STRATEGIC LINES—WORKING EXPENSES AND MISCELLANEOUS.

**Mr. A. A. L. Parsons**: Sir, I beg to move:

"That a supplementary sum not exceeding Rs. 7,50,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending 31st March, 1930, in respect of 'Strategic Lines—Working Expenses and Miscellaneous'."

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 8th February, 1930.