

*Thursday,
14th March, 1918*

ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of India,
LAWS AND REGULATIONS

Vol. LVI

April 1917 - March 1918

ABSTRACT OF PROCEEDINGS
OF
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ASSEMBLED FOR THE PURPOSE OF MAKING

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April 1917 - March 1918

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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE INDIAN LEGISLATIVE COUNCIL ASSEMBLED UNDER
THE PROVISIONS OF THE GOVERNMENT OF INDIA ACT, 1915.
(5 & 6 Geo. V, Ch. 61.)

The Council met at the Council Chamber, Imperial Secretariat, Delhi, on
Thursday, the 14th March, 1918.

PRESENT :

His Excellency BARON CHELMSFORD, P.C., G.M.S.I., G.M.I.E., G.C.M.G., Viceroy
and Governor General, *presiding*, and 59 Members, of whom 52 were
Additional Members.

QUESTIONS AND ANSWERS.

The Hon'ble Mr. Srinivasa Sastri asked :—

1. "(a) Is it a fact that the entire Indian trade in raw goat and sheep skins has been captured by the American tanners and manufacturers, consequent on the Indian Government's embargo on tanned skins?" The trade in goat and sheep skins

(b) Has the tanning of goat and sheep skins in Indian tanneries been prohibited with the object of increasing the production of tanned hides in those tanneries for War Office requirements?"

The Hon'ble Sir George Barnes replied :—

"(a) The answer to the first part of the question is in the negative.

The export trade in Indian raw skins to the United States of America has been an important trade for many years. During the five years from 1909-10 to 1913-14 the average annual export was 548,259 cwts., of which the United States took 423,133 cwts.

From January to December 1917, the year in which the prohibition of tanning of skins in Madras and Bombay was enforced, exports from India of raw skins totalled 460,711 cwts., of which the United States took 370,942 cwts.

[*Sir George Barnes* ; *Mr. Srinivasa Sastri*.] [14TH MARCH, 1918.]

(b) The answer to the second part of the question is in the affirmative, except that the prohibition in question extends to the Madras and Bombay Presidencies only. The object of the prohibition is also to conserve for hide tanners the whole of the resources of suitable tanning bark, which are insufficient for the production of the full number of tanned hides required by the War Office."

The Hon'ble Mr. Srinivasa Sastri asked :—

Government
profiteering
in leather.

2. "(a) Have the Government of India perused the following passage taken from an article, headed 'Government Profiteering' in the issue of *Shoe and Leather Record*, dated 3rd August, 1917, page 18 :—

'In the Memorandum on War Office contracts reviewed in the *Record* of July 6th, 1917, it was officially stated that East India kips which cost the Department 1s. 4½d. per lb. were sorted, the best taken for Army work and the rejection sold at 2s. 8d. per lb. We asked at the time whether this was profiteering, and we repeat the question. The truth which stands plainly revealed is that the demand for leather is so strong that there is an enormous margin between the cost of production, when properly controlled, and the price which the public can be made to pay. This is a fact upon which no public department should be permitted to trade.'

(b) Is it a fact that the margin between the cost price to the Indian Munitions Board in India and the War Office auction price in London of Indian tanned hides has increased since July last by more than 50 per cent.?"

The Hon'ble Sir George Barnes replied :—

"(a) The Government of India have seen the article referred to in the first part of this question.

(b) With regard to the second part of the question, the Government of India have no detailed information as to the disposal in England of such tanned hides from India as have been found unsuitable for Army work. They understand, however, that the greater part of the non-Army selection hides are being utilized in the manufacture of standard boots in England, which are a war-time necessity, and that these hides have not for some time past been offered for sale by public auction."

The Hon'ble Mr. Srinivasa Sastri asked :—

Purchase of
tanned hides
by the Muni-
tions Board.

3. "(a) Does the purchase of tanned hides by the Indian Munitions Board go beyond the requirements of the War Office for Army purposes ?

(b) If so, do Government propose to consider the desirability of ordering that all such excess purchases should be stopped ?"

The Hon'ble Sir George Barnes replied :—

"(a) In reply to the first part of this question, the War Office requirements of tanned hides have not yet been reached, in spite of the phenomenal increase in tanning of hides in Indian tanneries. The Munitions Board is purchasing all selections and weights of tanned hides in Madras and Bombay, since the complete control of the outturn of the tanneries is essential to ensure the maximum production of leather suitable for Army purposes. Prices are so adjusted as to make it more advantageous for tanners to tan hides suitable for Army work than inferior selections.

(b) Government do not propose to discontinue purchasing non-Army selections, as the result of this would inevitably be a falling off in the quantity of leather suitable for Army work."

[14TH MARCH, 1918.] [*Mr. Srinivasa Sastri ; Sir George Barnes.*]

The Hon'ble Mr. Srinivasa Sastri asked :—

4. " Is it a fact that tanners of hides have been hard hit by the ruinously low prices offered to them and by means of the rigid assortments of their production for purposes of valuation ? "

Tanners of hides.

The Hon'ble Sir George Barnes replied :—

" The answer is in the negative. Government's inquiries show that a few tanners have recently failed to secure a profit, owing principally to indiscriminate purchases of raw hides; but they are satisfied that at present prices for raw hides and tanning bark hide tanners should be assured of good profits."

The Hon'ble Mr. Srinivasa Sastri asked :—

5. " Is it a fact—

Government control over raw hides.

(a) That the *Southern India Chamber of Commerce*, Madras, sent the following telegraphic representation to the Government of India on the 17th August, 1917 :—

' Regarding order in writing, 19th June, requiring hides to be clean, fleshed and free from unnecessary material, Madras tanneries complain that the tanning of hides and buffas as now required works out to a loss of one rupee on each hide and that raw and wet hides at Cawnpore and Calcutta are not available at reduced prices. As it is, tanneries are turning out only half the quantities they were doing two months before. Therefore they ask either for an increase of two annas per lb. in the purchase price of tanned hides, or for the price of raw hides at Calcutta and Cawnpore being brought down by one rupee a hide. If neither arrangement is made immediately, they inform us that tanning operations will stop ; ' and

(b) that the Indian Munitions Board, in their telegram of 3rd September, 1917, replied as follows :—

' Your telegram 17th August, tanned hides. Question of further control raw hides prices is being carefully considered by Government.'

(c) Will Government be pleased to state whether any reduction in raw hide purchases has since been effected as a result of the consideration promised ? "

The Hon'ble Sir George Barnes replied :—

" The answer to the first and second portions of the Hon'ble Member's question is in the affirmative.

With regard to the third part of the question raw hide prices at the principal markets have been appreciably reduced as a result of Government control. So far from the Southern India Chamber's anticipation of a falling off in the outturn of tanned hides being realized, the actual outturn has more than doubled within the last year, and the present outturn is more than three times as great as before the introduction of the Government purchase scheme. Exports of raw hides in the same period have been greatly reduced."

The Hon'ble Mr. Srinivasa Sastri asked :—

6. " With reference to the statement made by His Excellency the Viceroy on the occasion of the opening of the Madras Exhibition in December last, that ' Government is prepared to intervene more directly in obtaining for tanners their supplies at fair rates if the existing agencies are unable to deal with the situation,' will the Government of India be pleased to state how it is proposed to meet the difficulties of tanners in respect of the supplies and prices of raw hides and tanning materials ? "

Tanning materials.

[*Sir George Burnes; Mr. Srinivasa Sastri; Sir William Meyer; Mir Asad Ali, Khan Bahadur; Mr. G. S. Khaparde.*] [14TH MARCH, 1918.]

The Hon'ble Sir George Burnes replied :—

“ Government is controlling prices and selections of raw hides at the two principal markets of Calcutta and Cawnpore; at the former through a Government Committee of firms, and at the latter through the Deputy Controller for Hides, Cawnpore. Large quantities of suitable hides have already been sent to Madras and Bombay from Calcutta for sale to Indian tanners at prices which should leave a large margin of profit.

The control of tanning materials is being effected at Bombay through the Deputy Controller for Hides, Bombay, who arranges for supplies for Bombay tanners, and at Madras through the Controller for Tanning Materials. The latter officer, with the assistance of the Madras Government, is arranging for a scheme of greatly-increased control of tanning bark resources.”

The Hon'ble Mr. Srinivasa Sastri asked :—

Duties and powers of the Auditor-General.

7. “ Will Government be pleased to lay on the table the correspondence (if any) that passed between the Government of India and the Secretary of State on the question of securing independence of audit and the reconstitution and definition of the duties and powers of the Auditor-General ? ”

The Hon'ble Sir William Meyer replied :—

“ A copy of the correspondence* is placed on the table.”

The Hon'ble Mir Asad Ali, Khan Bahadur, asked :—

Food grains used in the manufacture of alcohol.

8. “ Will Government be pleased to state for each of the last five years—
 (a) the total quantity of food grains used in the manufacture of beer and kindred liquor in this country; and
 (b) the quantity of alcohol (in gallons) used for commercial and industrial purposes ? ”

The Hon'ble Sir George Burnes replied :—

“ There are no figures available which would enable me to answer the first part of the Hon'ble Member's question.

With regard to the second part, alcohol used for commercial and industrial purposes has only been shown separately in the statistics for the last two years. I am laying on the table a statement † of the amounts of rectified and denatured spirits issued in the various Provinces during the years 1915-16 and 1916-17, which I hope will give the Hon'ble Member the information he desires.”

The Hon'ble Mr. G. S. Khaparde asked :—

Income-tax cases reported in the “ Tribune.”

9. “ (a) Has the attention of Government been drawn to the following Income-tax cases published on page 6 of the issue of the *Tribune*, dated the 8th February, 1918 :—

(i) The order of the Income-tax Collector in objection case No. 84-86 of 1917 in which the Collector, after noticing the fact that the objector produced no accounts alleging that he had none and disbelieving him on the strength of the statements of the Illaquadar and Lambardar, proceeds to discuss the objection with the following remark :—

‘ He has three sons and will not enlist one of them. He has also not subscribed to any war fund or war loan although he could easily do so.’

(ii) The order of the Income-tax Collector in objection case No. 43-170 of 1917 in which the Collector, after referring to the admission of the objector that he went towards Sind and did business there, proceeds to dismiss the objection with the following remark :—

‘ Up to date he has not helped even by a single pice any of the war or Red Cross funds. He has produced no accounts, and I cannot take his verbal

* *Vide* Appendix A.

† *Vide* Appendix B.

[14TH MARCH, 1918.]

[*Mr. G. S. Khaparde; Sir William Meyer; Rai Sita Nath Ray Bahadur; Sir George Barnes.*]

statement as to his income. The Lambardars and Illaquadars testify to his income and I accept their version.'

(iii) The order of the Income-tax Collector in objection case No. 134-146 of 1917 in which the Collector, after stating the facts and holding that the assessment was made by the Tahsildar after careful inquiry, disposes of the objection with the remark :—

'He (the objector) is a miser and has not helped with a single pice in any war fund or loan. He says he has no proper accounts. It is clear he wishes to conceal his true income and will not therefore produce his accounts. Objection dismissed.'

(iv) The order passed by the Income-tax Collector in objection case No. 21-42 of 1917 in which the Collector, after noticing that the objector is a Sahukar, has a fair money-lending business, has obtained decrees in Courts, but has not produced accounts and says that he has none, disposes of the case with the following remark :—

'The objector has so far not helped in any way towards the war and has not subscribed a single pice to any war fund or war loan. His objection is dismissed. He has not even given a 'Statement.'

(b) Do Government intend to ascertain whether the above objection cases have been correctly reported, and, if correct, to take any notice of the manner in which, and the propriety of the remarks with which, the said Income-tax Collector disposed of the same ?

The Hon'ble Sir William Meyer replied :—

"The Government of India have no information as to the facts alleged and the question should be put in the Legislative Council of the Punjab Government with which Government the detailed administration of the Income-tax Act in the Punjab and the control of Income-tax Collectors in that Province rest."

The Hon'ble Rai Sita Nath Ray Bahadur asked :—

10. "(a) Will Government be pleased to state what progress has been made in forming a Ship-building Branch of the Indian Munitions Board with a view to examine the possibilities of ship-building in India?" ship-build- ing in India.

(b) Are Government aware that in his evidence before the Industrial Commission, Sir Vithaldas Thackersey said that the establishment of the ship-building industry was necessary to further Indian trade and industries after the war ?

(c) Are ship-building concerns subsidised in Japan? Do Government intend subsidising ship-building concerns in India with a view to encourage the establishment of the ship-building industry ?"

The Hon'ble Sir George Barnes replied :—

"(a) A Ship-building Branch of the Indian Munitions Board has recently been formed. It is in charge of an officer whose services have been borrowed from the Admiralty to take control, and who is now engaged in examining the possibilities of ship-building in India.

(b) The Government of India have not yet received the full evidence recorded by the Industrial Commission, but they understand that Sir Vithaldas Thackersey did express the view stated in the second part of the Hon'ble Member's question.

(c) The Government of India are not aware whether ship-building concerns are subsidised in Japan. Until they have received the report of the Controller of Ship-building, they cannot consider the last question raised by the Hon'ble Member."

Mr. Surendra Nath Bannerjea; Sir William Vincent. [14TH MARCH, 1918.]

The Hon'ble Mr. Surendra Nath Bannerjea asked :—

Rule 12-A
of the
Defence of
India
(Consolidation)
Rules,
1915.

11. "Will Government be pleased to place on the table all papers relating to the promulgation of Rule 12-A of the Defence of India (Consolidation) Rules, 1915?"

The Hon'ble Sir William Vincent replied :—

"Government do not think it would be in the public interest to place on the table all papers relating to the promulgation of Rule 12-A of the Defence of India Rules, but I would like to give the Council some explanation of the circumstances in which it was introduced. Towards the end of 1915 it was found necessary to detain certain persons pending the issue of orders against them under the Defence of India Rules (or Regulation III of 1918. Government, while recognising that this was essential, were of opinion that there was nothing specifically providing for it in the existing rules, and they determined therefore to introduce Rule 12-A in order to make it legal. If there is any further information on the subject which the Hon'ble Member desires, and I can, without divulging the contents of confidential papers give him, I shall be happy to do so if he will see me personally."

The Hon'ble Mr. Surendra Nath Bannerjea asked :—

Case of the
hunger
striker in
gaol at
Amraoti.

12. "(a) Has the attention of Government been drawn to the following letter which appeared in the *Amrita Bazar Patrika* of the 14th February, 1918:—

'You are aware that one of the interned gentlemen (hunger-strikers) is in gaol at Amraoti. He is in a wretched condition. For a long time he refused to take any food, but when he became unconscious on account of fatigue artificial means were tried to feed him. For a time he pulled on and took food. The situation seems to have been very intolerable to him, for he actually attempted suicide. I am informed that on the 24th of this month (January) he contrived to hang himself. He was provided in his room with water, chair, and table and his clothes. He tied his *dhoties* to each other and, throwing them over one of the beams in his room, made a noose for himself. Then placing the chair on the table he stood on the chair and put the noose round his neck and kicked away the chair. That made noise, and attracted the watchman's attention. In the meantime the knot of the *dhoti* gave way and he fell on the floor with his hands and feet bound, almost unconscious. His life was however, saved. He is now removed to another cell generally used for murderers and convicts of that kind.'

(b) Are the facts as stated above substantially correct, and is it the case that the political detenu referred to attempted to commit suicide?

(c) Has he been removed to a cell 'generally used for murderers and convicts of that kind'?"

The Hon'ble Sir William Vincent replied :—

"(a), (b) and (c). The report in question is substantially correct. In consequence of his persistent refusal to take food the detenu's physical condition was considerably reduced, when, to save his life, resort was had to artificial feeding. He had abandoned his hunger-strike and his health was improving when he attempted to commit suicide. As he threatened to repeat the attempt, he was placed in a cell adjoining the condemned cells in order that the warden on duty there might be at hand to prevent him from doing so. Orders have issued for his removal therefrom, and arrangements are being made for his transfer to Bihar and Orissa."

The Hon'ble Mr. Surendra Nath Bannerjea asked :—

"May I put a supplementary question? Was any inquiry made as to the circumstances under which he attempted to commit suicide?"

[14TH MARCH, 1913.] [*Sir William Vincent; Rai Bahadur B. D. Shukul;
Sir Claude Hill; Sir William Meyer.*]

The Hon'ble Sir William Vincent replied :—

" I am afraid I must ask for notice of the question. I have no doubt that inquiry was made, but I cannot remember the details on the subject."

The Hon'ble Rai Bahadur B. D. Shukul asked :—

13. "(a) What is the number of improved agricultural implements sold in each Province during the last ten years ? Agricultural
implements

(b) Are Government aware that the demand for improved agricultural machines has increased, that the present supply is not adequate, and that the exorbitant prices of imported machinery are prohibitive ?

(c) If so, will Government take necessary steps to establish workshops in this country to cope with the increasing demand ?"

The Hon'ble Sir Claude Hill replied :—

" (a) A statement* is laid on the table giving the information asked for in part (a) of the question so far as it is available.

(b) It is true that the demand has increased, and that this increase, coupled with the growing scarcity of raw materials, especially iron and steel, has caused a general rise in prices.

(c) Government workshops for the manufacture of agricultural implements already exist in Bombay, Madras and the United Provinces, and one has recently been sanctioned in the Punjab. Each of these Provinces employs an Agricultural Engineer, whose duty it is to supervise the manufacture of such implements, and the establishment of similar workshops in other Provinces must naturally await the appointment of Agricultural Engineers, regarding which I would invite the Hon'ble Member's attention to my reply to the question which he asked on the 6th of February. Government workshops cannot, however, attempt to supply the whole demand, and we may hope that the large expansion that may be expected in the future will be met by private."

THE INDIAN INCOME-TAX BILL.

The Hon'ble Sir William Meyer :—“ My Lord, I beg to move that the Report of the Select Committee on the Bill to consolidate and amend the law relating to income-tax be taken into consideration. 11-15 A.M.

" I referred at some length in my speeches on the 6th of February, when introducing the Bill, to the objects with which it had been framed and replied to some general criticisms which had been made. Since then, the Bill has been very carefully and fully considered in the Select Committee. The Committee has made a very clear and full report, and I think that we are greatly indebted to its members for their capable, willing and useful assistance. Also, in presenting the Committee's Report on the 5th of March, I made some supplementary remarks, chiefly by way of further explanation—a sort of popular exposition if I may so put it—of the new system which it is proposed to adopt in respect of revising assessments which have been made with reference to the figures of previous years.

" I have only one remark that I need make now. It has been represented to me that it would be a very graceful concession to the soldiers and officers of the Indian Army who have won such special distinction as to have obtained admission to the Order of British India or to the Order of Merit, or to have received the Victoria Cross or the Military Cross, that the money allowances which accompany these distinctions should not be assessed to income-tax. I am most ready to accept this suggestion, and I propose to carry it into effect under the powers vested in the Government of India by clause 44 of the present Bill."

*Not included in these Proceedings.

[*Mr. Khaparde.*] [14TH MARCH, 1918.]

The Hon'ble Mr. Khaparde:—"My Lord, I beg to move that this Bill, as amended by the Select Committee, be republished.

"My reasons for proposing this are seven, and I shall proceed in their order. My first point is that this Bill was not sufficiently published and was not published in time to admit of the officers and public bodies concerned making their representations. The dates of publication are given at the end of the Report of the Select Committee and, trying to analyse those dates, I find that the students of the Government of India Gazette had only 101 days within which to study the Bill and make their representations on it. Others had a smaller number of days. I believe the Central Provinces, which is the province from which I come, had only 37 days within which to read this Bill and submit their opinions. If this was so in the case of officers, I humbly submit that public bodies would take a much longer time to think about it. They would not have the machinery readily to call a meeting together, nor would they be in a position to consider all these matters at one and the same sitting. The longest time that anybody had to think of this Bill was, as I said, 101 days, and the shortest time that they had to think of it was 37 days. That is for those who are students of English and who can read in English. As to those who depend on the vernacular entirely, it will be found that the shortest time in their case was 15 days, and the longest time was about 43 days. It will be seen from the dates which are given at the end of the Report that the public had very little or in fact no opportunity of discussing this Bill, understanding its contents and taking a note as to its bearings on their interests. This is not a fact that I merely complain about; it will be found that the Punjab Administration also complains of the shortness of time given to them to think over this Bill.

"I do not propose reading the whole of it out, but from page 17 of the paper it will be seen that the Punjab Government say the Bill is of a very far-reaching nature, in the words of the Statement of Objects and Reasons, and so on, and yet the time allowed for obtaining opinions, for considering those opinions when obtained, and for formulating the views of Local Governments is, if the X'mas holidays be excluded, merely five weeks. 'It is obvious that in such conditions, and with the pressure of their urgent work, it is impossible for either the Local Government or its officers to give the subject adequate consideration, and the Lieutenant-Governor feels bound to point out the dangers attending legislation rushed through in this manner.' I submit, my Lord, that this is an expression of opinion as strong as anybody would like to make it, and the complaint of the Punjab Government is a general complaint: I have felt it myself and many people have felt it the same way. In fact there are telegrams received and letters received, all of them complaining more or less of the shortness of time allowed for consideration, and asking for more time. I should not have brought this amendment if I did not feel that the Bill is really of a very serious nature and having very far-reaching consequences. It might be said to begin with the cradle of a man and to end with his funeral; it covers him in all his activities and it deals with all possible conditions. This remark of mine can be easily seen to be justified when it is remembered that it concerns the joint Hindu family, that it concerns the taxability of a married woman, the taxability of a person following a profession. I do not know whether our incomes as we come here to attend this Council and get a few rupees a day, whether that does not come within one of these far-reaching sections. My Lord, this Bill is of a very far-reaching nature, not merely touching trade or agriculture, but even family life and marital relations; and a Bill dealing with all these conditions does require some amount of time for consideration. Then the next point which I wish to urge, and I hope it will be taken into favourable consideration, is that this Bill is of a very highly contentious character. As such I think it is not quite suitable to be discussed during war time. There is no urgency about it. There is no deficit that we have got to meet. Its object is not to raise money. That it does not seek to raise money has been stated both in the Statement of Objects and Reasons, and also at the end of the Report of the Select Committee. So, obviously, it is a matter that can wait, and if it can wait, so much the better, because being of an unusual nature people

[14TH MARCH, 1912.]

[Mr. Khaparde.]

would like to understand it more, and I am sure it will be found easier to work—if at all accepted in the end—that people have had discussions over it and people know where they stand. As it is, if my motion does not meet with the approval of Council and is not carried, you will be practically passing a Bill without the knowledge of anybody at all—at any rate, in the case of people depending for their knowledge on the vernaculars. The time that has been given is so short that it will practically amount to passing the Bill without the knowledge of the large majority of the people who have to pay under it; and in that way it will have all the disadvantages of legislation without knowledge. The people will entertain all sorts of misapprehensions about it; officers will find it very difficult to administer, and misunderstanding may arise. It is not desirable that all these things should take place. My Lord, highly contentious as the Bill is and liable to be misunderstood, it is complicated by a further fact, and that is, that even a philosophical mind will find itself puzzled in considering the various sections of the Bill. It is called an Income-tax Bill, and yet it seeks to tax property, and it really is a Property Tax Bill, and it is carried so far that even vacant houses appear to come within its scope. By the rules it is said that power will be given to executive officers and income-tax collectors to grant exemptions or to grant compensation and so on. So this is not only an Income-tax Bill, but it is also a Property Tax Bill. Now, a property tax, though at one time it was the favourite tax, is now condemned almost universally; and this combination of property and income-tax in one and the same Bill is rather puzzling, to say the least of it. There is a further objection I feel to it, and that objection is that this Bill seeks to move in something like an indirect manner. If it is intended that agricultural incomes should be taxed, then nothing like bringing forward a straight-forward Bill, so to say, and giving time for people to look into the Bill and for this Council to consider it and pass it. But that is not the case. In this Bill it is not intended to tax agricultural incomes. In fact, it is said that they are not going to be taxed under section 4. As this matter will be discussed later on under one of my other amendments, I will not say any more about it here, except merely to say that this Bill is to a certain extent puzzling in its nature. The great object of this Bill is said to be to consolidate the law; and a further object is to improve the machinery. Now this machinery improving is something which always frightens me, as this is an age and a civilisation in which we bother about machinery too much. In fact, we know that for eating one ounce of food one generally requires some few tons of furniture; if you take into account all the knives and forks and plates and other things for eating one ounce of food, ten tons of furniture would be a very moderate estimate. In the same way, for collecting a few rupees you require a large machinery; and in the opinions that were circulated I find that various officers have complained that all these things will make a great deal of work, and the Commissioners will find it very heavy work getting through all the appeals that will be carried to them; district officers will be worried and the unfortunate Collector, or whoever it is who will deal with it in the first instance, will be burdened with civil and criminal inquiries of every sort touching on every department of life. So this is a Bill which, I humbly submit, will promote a great deal of inquiry and a great deal of work. One officer in Bombay—Mr. Shepherd is the name of the gentleman, I believe—says that the establishment necessary for administering the Act will be nearly trebled if not quadrupled; and it is likely that three-fourths of the proceeds will go in working expenses, and only one-fourth be left, a sum which will be hardly worth taking into consideration. I may have to refer to this later on when I speak on another of my amendments; but I only mention it here as a reason why this Bill should not be passed now. A further reason for demanding this delay is that this Bill has been amended very considerably in Select Committee. A new system has been introduced, as was briefly mentioned by the Hon'ble Finance Minister; and the extent of it has been changed.

“There is also a summary procedure added, and I have to move an amendment that section 27 of the Act should be retained. So your Lordship will

[*Mr. Khaparde; Sir William Meyer.*] [14TH MARCH, 1918.]

see that this Bill has been practically remodelled very considerably, and it is desirable that the world should know in what directions and in what points it has been remodelled. All these reasons put together I humbly submit make out a good case for this Bill being re-published and the public given further time to consider its details and its mechanism, and possibly also to make any observations even on its principle. For these reasons, my Lord, I humbly beg to move that the Bill be re-published. It is not a war measure and so there is no harm done in waiting a few months. This waiting a few months will have the advantage of informing the people concerned, and they will feel that at any rate they have been heard and their views have been considered before any decision was arrived at; whereas if the Bill is passed in the state in which it is at present, the people will have a grievance, it may be a wrong kind of grievance, but still a real grievance, that their views have not been brought before the Council and that those views have not been considered. With these remarks, I propose that the Bill be re-published."

11-32 A.M.

The Hon'ble Sir William Meyer:—"My Lord, my Hon'ble friend stands forward as an advocate of delay on the ground that sufficient time has not been given for the consideration of this Bill. I think he made it a point of personal grievance that he had had only 37 days to read it himself. I would ask him how many days he would require for a really long Bill, re-casting, for example, the Indian Penal Code or the Civil Procedure Code. He said that in other cases there had been 101 days allowed, but even that does not meet with his satisfaction. He quoted with evident sympathy, a sympathy which, perhaps, I may say he always does not feel for Provincial Governments, the wail of the Punjab Government that they only had five weeks to consider the Bill. Well, I may say perhaps, without divulging confidences, that in our discussions on the subject of constitutional reforms, we have had now and then a representation from a Local Government that the time was rather short to consider these important matters; so I am quite confident that my Hon'ble friend, his state of mind being what it is, will presently move a Resolution that the scheme of constitutional reforms be postponed until all the Local Governments shall have had fuller time to consider it.

"I must point out that it is not as if this Bill has been newly sprung upon the Local Governments; they had been referred to so early as March 1917 on the subject of the revision of the existing Act. We only framed our Bill after most careful consideration of what the Local Governments and various other people said to us on this subject. So that it is not really a valid complaint that the Local Governments have not had time adequately to consider this Bill, in the shaping of which they themselves have had a very considerable voice. The Hon'ble Member referred to the Bill as dealing with a man's life from his cradle to his funeral. I have no doubt that when the Angel of Death appears to him, he will, in accordance with his notion this morning, put in a protest on the ground that the time allowed to him had been much too short.

"Now he refers to this Bill as a new measure of a highly contentious character. He does not seem to be aware of the old Act. This Bill is a Bill to replace the old Act, II of 1886, the Act now existing, and to improve the machinery and clear up doubtful matters. Subject to one exception, which will undoubtedly be fully discussed in this Council, in regard to the way in which agricultural income is dealt with under clause 4, there is no new principle. My Hon'ble friend talks about measures to the detriment of the Hindu joint family. The Hindu joint family is provided for in section 3 of the existing Act. He complains of the provision for taxing houses as taxing property which is not income. What, of course, we tax is the income derived from house property, and, if my Hon'ble friend refers to section 24 of the existing Act, he will find that there is provision there for taxing income from houses. Well, as it is perfectly clear that if my Hon'ble friend had had to pay income-tax himself, he would have studied the law under which he was paying. I can only conclude that by some regrettable oversight on the part of the Central Provinces

[14TH MARCH, 1918] [*Sir William Meyer.*]

authorities he has not been asked to pay income-tax hitherto, and I trust that under the new Bill that oversight will be promptly repaired.

"He spoke also of the cost of collection as going to swallow up all the proceeds of the Bill. I have explained more than once that we are not introducing this Bill for the purpose of getting revenue, though we expect incidentally a certain amount of extra revenue from it, but we are introducing it in order to get a more just and equitable distribution of taxes; to remove those sore feelings that have been very much to the front whenever we have had under consideration any income-tax enhancement, that under the present machinery with its water-tight compartments and so on a man who is honest, and puts up his accounts readily, pays more than the man who does not. We want to remedy that and to make our procedure as equitable and uniform as possible. I certainly agree with what the Bombay official whom the Hon'ble Mover quoted said, that as income-tax grows more complex—and it does naturally grow more complex with the commercial and industrial development of the country—you must have a larger income-tax staff. But that is not a source of loss to the public exchequer. What we found in Bombay, for instance, was that the special Income-tax Collector has paid his cost over and over again by increased collections, and at the same time has kept on very good terms with the commercial community.

"Then the Hon'ble Mover talks of the way in which the Bill has been altered. Well, if you look at the portions of the Bill now printed in italics, it certainly does seem at first sight to have been subjected to considerable alteration. But any one who studies the Bill will see that the real amount of alteration is not large, and such alterations as have been made uniformly not to the detriment of the tax-payer but to his advantage. Wherever we have made alterations in Select Committee, it has been to help the assessee, to remove grievances which were put before us.

"Then as regards the question of the year of assessment, as one might call it loosely, and the way in which a man's assessment should be calculated, the existing Act provides for that. It says 'You pay primarily on the basis of your takings of the year before, but in certain circumstances you can get it re-adjusted.' We wanted originally to make this more simple, by saying 'Pay each year on the takings of the year before.' That, however, provoked a good deal of criticism from the commercial classes. So to meet the views of those who would be most affected, we have practically restored the principle of the existing Act. Only whereas section 88 of the existing Act is a one-sided measure, which was only to the benefit of the assessee and in no way to the benefit of the Government, we have provided for a re-assessment which will enable us to be just to both parties. And recognising that that system of assessment in two stages, as one might call it, would not be desirable for small folk, we have made a special provision for such cases by means of a summary procedure.

"I suppose my Hon'ble friend realises that, if his motion is accepted, it would mean that the Income-tax Bill could not possibly be taken up this Session, and that therefore it would not come into effect as regard the coming year, 1918-19. If there was anything in it which would justify an adjournment in this way, I would not oppose it, but, as I maintain most emphatically, there is nothing to justify such an adjournment; on the other hand, the commercial public have much to gain by the new Bill which is generally admitted to be a material improvement on the old Act in regard to greater clearness and the greater uniformity it lays down in regard to methods of assessment and so on.

"The Hon'ble Mr. Khaparde wants to give the public a fresh opportunity for putting in objections. I may tell him that the public, or some members of the public, will always object to any taxation, especially income-tax taxation, so that however much you may remodel your Bill, even if you got an absolutely perfect enactment, you will still find some persons criticising it.

"For these reasons, my Lord, I am unable in any way to accept the Hon'ble Mr. Khaparde's amendment."

[*Sir George Lowndes ; Mr. Khaparde.*] . [14TH MARCH, 1918.]

11-43 A.M. **The Hon'ble Sir George Lowndes** :—" My Lord, I should like to add one word to the remarks of my colleague Sir William Meyer. It seems to me that there is a point of principle involved in my Hon'ble friend Mr. Khaparde's speech. As it appears to me when this Council has had a Bill before it and has referred it to Select Committee by a unanimous vote of the Council—I believe Mr. Khaparde was present at the motion and he certainly did not object—I assume he voted for it. In those circumstances, I say, it is impossible to move now to re-publish the Bill, except on the sole ground that the Committee has so altered it that it is not the same Bill that was published before. There can be no other reasons. The reason he gives that there should be more time to consider the Bill appears to me, if I may say so, bad. The Council has considered it and has ordered the Bill to be referred to Select Committee, and it has been considered by the Committee. The only rational ground on which, I suggest to the Council, my Hon'ble friend could ask for the re-publication of the Bill after it has been to Select Committee is that the Bill as it emerges from Select Committee is not the same Bill that went in there. The Select Committee on this Bill was a particularly large and particularly strong one; they unanimously recommended that re-publication was not necessary, and I venture to think the Council, under such circumstances, would be very wise to follow the advice of their Committee."

The motion to re-publish was put and negatived.

The motion that the Report of the Select Committee be taken into consideration was then put and agreed to.

11-46 A.M. **The Hon'ble Mr. Khaparde** :—" My Lord, my next amendment is to move :—

'That in clause 3 (f) for the words 'under this Act' the following shall be substituted :—
'under the provisions hereinafter contained in the Act'.

The clause will then read :—

'Save as hereinafter provided, this Act shall apply to all income from whatever source it is derived if it accrues or arises or is received in British India or is under the provisions hereinafter contained in the Act deemed to accrue or arise or to be received in British India.'

"At first sight it may appear that my amendment is merely verbal substituting a few words for others, and that also struck me, but it will be seen that the few words that I propose to substitute for those in the existing Act are of a far-reaching character. It is like this. In Madras, the question was raised whether income earned outside British India and not remitted to British India is liable to be taxed at all under this Act. The Advocate-General gave the opinion that it was liable to be taxed, and the Board of Revenue was of opinion that it was not liable to be taxed. The matter appears to have been represented to the Government of India, and they gave two rulings, saying that income would not be taxed and should not be taxed, and words 'under the present Act' leave this point vague. The word that makes the difficulty is the word 'deemed'. The words 'deemed under this Act' and 'deemed under the provisions hereinafter contained in the Act' would make all the difference; 'deemed under this Act' would be an expression that would be general, and were it allowed to stand the provisions of this Act would be left aside and only the policy of the Act would be considered. Whereas if the provisions were specifically mentioned and referred to, then whoever holds that income earned outside British India but not remitted to British India is still liable to be taxed, would have to bring it under one or other section of the Act. That makes the difference. I am advised and myself think that if these words are introduced, it would be clear that incomes earned outside British India would not be taxed, whereas if these words are left vague, it would be a matter of contention and perhaps of a reference to Courts hereafter. My experience is that these cases are likely to arise because people living in British India and doing a little business here sometimes have *jagir* lands or *inam* lands in adjoining Natives States. In those cases oftentimes the income in Natives States is so small that it is seldom remitted to British India, and the people who live there manage to exist with what they

[14TH MARCH, 1918.] [*Mr. Khaparde; Sir George Lowndes; Mr. K. K. Chanda; Sir William Meyer; Rai Sita Nath Ray Bahadur.*]

earn from *jagir* and *inam* lands, whether that income is again to be included under the income-tax is the question. There are two cases pending in the High Court of Madras and there are likely to be more. I should like the point made clear in this way, and perhaps this amendment, which really looks verbal, will have real significance to Government. I recommend this amendment to the Council."

The Hon'ble Sir George Lowndes:—" My Lord, when I first ^{11-50 A.M.} read the Hon'ble Mr. Khaparde's amendment, I confess I was of the same opinion as he said he was when he read his own amendment, that it was merely a verbal one. I have every sympathy with anyone who wishes to make an Act clearer, but I am afraid I am still of the same opinion. There is no deep-laid plot to get rid of an iniquitous Madras decision as to what income is taxable and what is not. I really cannot see that any difference is made by the proposal to substitute for the phrase 'under this Act' the words 'under the provisions hereinafter contained in the Act.' I think that it amounts to the same thing, but if it will really give any pleasure to my Hon'ble friend, then I suggest in the spirit of compromise that we split the difference, and instead of saying 'under this Act' that we say 'under the provisions of this Act' I think that is a fair concession. It will be just half of the words and, if I may say so, the whole of the sense."

The Hon'ble Mr. Khaparde:—" Sir, I accept the words 'under the provisions of this Act' as suggested by the Hon'ble Member."

The motion was put and agreed to.

The Hon'ble Mr. K. K. Chanda:—" My Lord, I beg to move the ^{11-58 A.M.} small amendment which stands in my name in clause 3 (2) (*visi*) for substituting the word 'or' for the word 'and.' It is a very small thing and I will explain it in a moment.

"The clause as it stands reads thus:—

'Any receipts not being receipts arising from business or the exercise of a profession, vocation or occupation, which are of a casual and non-recurring nature and are not by way of addition to the remuneration of an employee.'

"I may be wrong, my Lord, but my view of the clause as it stands is that it provides that receipts shall be exempt from the operation of income-tax if they satisfy two conditions. In the first place, the receipts must be 'casual and non-recurring.' This is exactly in accordance with the English practice which is not to tax casual profits as distinguished from ordinary business or professional profit. But, my Lord, the clause imposes another condition which you do not find in England. It is this that the receipts 'are not by way of addition to the remuneration of an employee.' That is to say the insertion of the word 'and' restricts the operation of exemption to one class only, namely 'employee.' The same receipt which will be exempt in the case of an employee will not be exempt in the case of a merchant, a zemindar or professional man. I do not see, my Lord, any cogent reason in favour of this differentiation. I propose to amplify the scope of the exemption so as to make it applicable to all, and this will be effected by substituting 'or' for 'and.' This is my amendment, my Lord, and I trust that the Government and the Council will see their way to accept it."

The Hon'ble Sir William Meyer:—" My Lord, in the spirit of ^{11-54 A.M.} reasonableness to which my Hon'ble friend referred just now and which is observed by this Government, I am quite ready to accept the word 'or' for the word 'and' after the words 'non-recurring nature'."

The motion was put and agreed to.

The Hon'ble Rai Sita Nath Ray Bahadur:—" My Lord, I ^{11-56 A.M.} beg to move a small amendment that in clause 4 (1), the words from 'but

[*Rai Sita Nath Ray Bahadur.*] [14TH MARCH, 1918.]

the net amount' to 'under this Act' in the Income-tax Bill be omitted. While we are indeed very thankful to Government for recognising as heretofore the principle that agricultural income should be exempted from the scope of the Income-tax Act, I regret to find that an amendment which we moved in the Select Committee, for the omission of the latter part of clause 4 was not accepted by the Committee. I am, therefore, obliged to move this amendment that, in calculating an assessee's income from other sources, his agricultural income should not be taken into account. Unless this amendment is accepted, the result of the inclusion of the agricultural income into the aggregate income of an assessee from other sources would be to raise the rate at which assessment would be made on non-agricultural income. It would have an indirect effect on the income of zemindars though it would not tax them directly, and, therefore, I say that considering the very small gain that it would bring to the public exchequer, it is not proper to create a feeling among the zemindars that they are going to be taxed in an indirect way. There is also this feeling that it is a thin end of the wedge, if I may use that expression; that it is something like a feeler in order to ascertain whether the zemindars are prepared for a new provision which is anticipated in the shape of a tax upon the agricultural income. Under these circumstances, considering the very small gain that would accrue to the public exchequer by the adoption of this procedure, my humble request is that the Government would be well advised to ignore it altogether. The zemindars are fighting not so much on account of any heavy burden this innovation would impose on agricultural income, but on the question of principle underlying it. Their contention is that, having exempted agricultural income from the operation of the Act, you should not attempt to touch it in an indirect way. However, the indirect effect, I must distinctly mention, the indirect effect so far as agricultural income is concerned would be so small that it would be unwise on our part to raise the cry about the inviolability of the permanent settlement.

"I may incidentally mention that if it is considered proper, as suggested also by my Hon'ble friend Mr. Kharade, to impose a direct tax on agricultural incomes, it would be much better to consult public opinion and the opinion of the zemindars. Not only the Government would be quite justified in imposing the tax, but I am sure considering the exigencies the zemindars would acquiesce in such a proposal. Therefore my suggestion is if there is any idea to tax the zemindars it would be much better to take public opinion before taxing agricultural income in an indirect way.

"Another effect of this indirect attempt to tax agricultural income, I fear, would be that it would go to discourage some of the zemindars who are inclined to embark on commercial and industrial enterprises. Take, for instance, the case of a zemindar whose zemindary income is, say, Rs. 2,25,000 a year and his income from commercial or industrial pursuits is Rs. 25,000; he would be called upon to pay an income-tax and a super-tax on Rs. 25,000 at the rate of four annas in the rupee. If that income which arose from his zemindary had not been taken into account then he would have been called on to pay only at the rate of one anna in the rupee. At a time when India cries aloud for the development of industries and commerce, we can hardly contemplate with equanimity the prospect of landholders fighting shy of industrial enterprises. With the Munitions Board attempting to give an impetus to the existing industries and the Industries Commission collecting and sifting information about the industrial potentialities of this country, new hopes have filled our hearts and new aspirations have sprung up about the industrial regeneration of the country. The landholding classes have realised the responsibilities that their wealth and position in the country have imposed upon them and instances are not wanting in which zemindars like my esteemed friend to my left (Maharaja Sir Manindra Chandra Nandi) have come forward to be pioneers if not captains of industry. This is certainly not the proper time to impose a fresh tax on agricultural income and thereby dissuade a large, influential and well-to-do section of the people from taking part in the industrial and commercial development of the country.

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"With these few words I beg to move that the latter part of clause 4, commencing from 'but' and ending 'under this Act' should be omitted."

The Hon'ble Sir William Meyer:—"My Lord, perhaps if I rise now it will make the subsequent course of the debate more clear. I congratulate my Hon'ble friend on his rather novel appearance as the champion of the landed interests. I had always looked on him as rather a pillar of commerce! And I may also point out that he has proposed to leave out only one portion of the clause, so that the second portion of the clause would still remain. 'Agricultural income,' he will have it, 'shall not be chargeable to income-tax,.....but in any province in which a basis has been definitely laid down for the assessment of such income for the purpose of cesses,.....net agricultural income for the purposes of this Act shall be ascertained on that basis, etc.'

19-2 P.M.

"But I will not lay stress on that because, I think, it is perfectly clear that what my Hon'ble friend means..."

The Hon'ble Rai Sitanath Ray Bahadur:—"May I interrupt? If this portion of clause 4 is omitted, then the second portion will go out of itself."

The Hon'ble Sir William Meyer:—"Well, the Hon'ble Member did not say so. However, I do not want to raise a mere technicality, and of course one understands that the whole of clause 4 is really obnoxious to the Hon'ble mover. The reasons for putting forward this clause were set forth in the Statement of Objects and Reasons on the Bill in my speech of the 6th February introducing the Bill, and my farther reply speech on that date, and in paragraph 7 of the Select Committee's Report. There can be no question of breach of faith *quod* the permanent settlement or land tenures generally, since as I indicated in my speech on 6th February, incomes from land were directly assessed in the early sixties. At present, however, we are not doing anything towards direct assessment, but merely providing that, where a man derives considerable income from land and at the same time has income from other sources, he shall not in respect of the latter income get the advantage of favourable low rates of taxation which were intended only for those who are not well-off. As I explained on a previous reference to this matter, that question has come to the front in connection with the gradation rates at which our income-tax has been levied in the last two years. In other words, the rich man, looking to his wealth as a whole, must not get the benefit of a special rate of taxation provided for the benefit of the poor man. An instance of what might happen in this way was given in paragraph 7 of the Select Committee's Report, where it was shown that without this clause a man with a large agricultural income and small receipts from other sources might pay on the latter at the rate of 4 pies intended for the poorest class of assessors. I will add an instance of a less extreme description. If a landholder, having a lakh of rupees from land, has Rs. 10,000 other income, under the present Act he would pay Rs. 312½ on the latter at the 6 pies rate. It is now proposed that, having regard to his landed income, he should pay Rs. 625 at the rate of one anna in the rupee. There is no taxation on his agricultural income as such. He merely pays at an equitable rate on income which is not agricultural. I am not impressed by the Hon'ble Mover's wail that if we taxed the landlord on what he derives from industrial enterprises at the same rate at which we tax other citizens, he would not invest in industrial enterprises. We always hear that sort of thing when there is any taxation proposed. We heard a good deal about it in connection with the Super-tax Bill last year. In England, they heard about it constantly in connection with their successive revisions of income-tax. We are always told that the would-be investor is such a touchy person that if you put a little extra tax on him, he would rather not invest at all, but let his money lie idle. I give the investor, whether he is a landlord or not, credit for more sense. If he sees there is a profit to be made or if he has a patriotic interest in some local industry, he will not be deterred

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because he pays the same rate of income-tax on his profits as other citizens do. It will be observed too, from clause 4 (1) that even in determining the gradation rate in respect of taxable income, we leave out of account all agricultural income not exceeding Rs. 1,000, so that we thereby sweep away the mass of ordinary ryots and tenants. It is only in the case of a really well-to-do agriculturist that his agricultural income in excess of Rs. 1,000 will be taken into consideration.

"It has been suggested that clause 4 is a prolude to a tax on land. It is nothing of the sort. I indicated in paragraph 60 of my speech introducing the Financial Statement for the current year, 1917-18, that the Government might possibly in future have to raise more revenue from land. I cannot pledge the future at present, but if we had wanted to do this in present circumstances, we should have done it in a direct way. As, however, I indicated in introducing the Financial Statement for 1918-19, we do not want to impose any further taxation at present. This proposal has no reference to increase of taxation, but is brought forward merely as a matter of equity to improve the machinery of our existing Act, and to prevent the rich man getting the benefit of a poor man's rates on taxable income, because though his taxable income as such may be small, he has a larger amount of non-taxable income. As I said in my speech of 6th February, one of the objects we have had in view here, as in other matters, is to remedy unequal assessment on persons of equal means: no more no less. This furnishes an answer to a suggestion that has been made to me privately that this clause should be understood to be a war measure only. That is quite impossible. It is a part of the permanent machinery of the Act which will apply with equal justice, war or no war. If the Government had wanted more money for war purposes, we should have asked for that money direct.

"It has also been suggested to me that, as a counter concession, a promise should be made to reduce hereafter the income-tax rates in Schedule I. That is out of the question for the reasons stated in paragraph 33 of the Select Committee's Report. The existing rates must continue at present. The question of altering them hereafter in one direction or another must be left to the Government of the day as a budgetary matter, we cannot touch it now.

"Reference has also been made to the services that landholders have done and are doing for us in various ways, in connection with recruiting, for example. I fully appreciate those services, but I would remind my Hon'ble friends of the land-owning classes that it is a question of *noblesse oblige*; that property has its duties as well as its rights. Nor have the Government been unmindful of the interests of the landholders. I would remind the Council that from 1905-06 onwards, we have relieved them by sweeping away the *patwari* and famine cesses, and village service cesses of various kinds.

"It has been suggested to me that the action of Government would be misinterpreted as a beginning of an attack on agricultural incomes. I have already given reasons to show that nothing of this sort is intended; and as regards the political effects of the measure, I may say that, although the Local Governments were duly consulted, not one of them took exception to the proposal on equitable or political grounds. Indeed the measure was actively suggested by two of them.

"But, my Lord, in view of the opposition which has been excited among representatives of the landowning classes, the Government have determined to leave this matter to the free decision of the Council. We emphatically hold, as I have said, that the proposal is one which is absolutely just; that if the Council throw it aside, they will lend themselves to the charge of preferring the interests of the rich to those of the poor, and stereotype a system under which a rich man deriving the bulk of his income from land, the taxation of which as such is outside the purview of the Bill, is also to get an unfair advantage in the matter of gradation rates over a poor man whose income is all, or almost all, of a taxable character. As I have said, we propose to leave these considerations to the Council. There will be no cracking of the Government whip, and though officials can speak and vote, they will do so with full liberty

[14TH MARCH, 1918.] [*Sir William Meyer; Sir Gangadhar Chitnavis.*]

of conscience. They can approve or disapprove of the proposal according to their own judgment."

The Hon'ble Sir Gangadhar Chitnavis:—"My Lord, my position in regard to this amendment is clear from the Note of Dissent subject to which I have signed the Report of the Select Committee. Mature consideration only confirms the suspicion that in the evolution of legislation, to which we are accustomed in India, the provision now sought to be embodied in clause 4 may sooner or later, in spite of present assurances, lead to the imposition of the income-tax upon agricultural incomes also. The clause easily lends itself, as stated by the Hon'ble Mover, to such an expansion, and few Finance Members will be able to resist the temptation of exploiting such a productive source of revenue, however opposed that policy may be to the policy followed by Government for so many years past. My Lord, I again repeat what the Hon'ble Rai Sita Nath Ray Bahadur has said, that if Government want to have such a clause as a war measure few landlords, with all their record of sacrifice and patriotic zeal in the great cause of the Empire, would have opposed it, even though acquiescence would have involved the abandonment of a principle and cherished right for the time being.

12-12 P.M.

"Now, my Lord, agricultural income has so long been, directly or indirectly, excluded from calculation in operations under the Income-tax Act, not from any misconception about the scope and meaning of the provisions of that Act. The Hon'ble the Finance Member reminded the Council the other day that agricultural income was liable to assessment under the Income-tax Act of the early sixties of the last century. If that income then was expressly excluded from computation in the later Act of the eighties, the exclusion, it cannot but be said, was provided for advisedly, and must have been based upon some sound principle. It does not, also, appear that there was any criticism of such an exclusion when that exclusion was made. It is, moreover, quite clear that on the present occasion, when this provision has been inserted, those who have done so do not seem to have been very happy when they made it. They felt the impropriety of their action and, with a view to allay suspicion, have expressly premised this clause with a provision that agricultural income as such will not be assessed to income-tax. I am glad that in putting this clearly in the clause they have not only repeated but confirmed the practice hitherto followed. When the exclusion was first made the consideration that was then paramount in their minds was that, apart from other considerations, it would have been imprudent to tax India's greatest, nay, chief industry, agriculture, when it already pays tax in the shape of revenue and cesses. It must also be borne in mind that it was immediately after the Mutiny that agricultural income was taxed. It was a time of exceptional difficulty; and it was, with a view to meeting extraordinary expenditure, that this was done, and it was taken off as soon as the necessity had disappeared. No serious attempt has been made, my Lord, to demonstrate how the principle of exclusion is unsound. So far as can be gathered from the Statement of Objects and Reasons, and the discussions since its introduction, two considerations appear to underlie the clause. In the first place, the adoption of the principle of graduation in assessment is supposed to have so changed the situation that the exclusion involves inequalities in assessment and hardship upon the other classes; in the next place, the inequalities are so great that they would lead to public clamour. Now, in judging of the position, Hon'ble Members will bear in mind that abstract principles, however just or sound, are not the determining factors in legislation. Laws must be suited to the genius, habits, and traditions of the people, and must in all cases be modified by special circumstances. In order to secure public co-operation, they should likewise follow the lines of least resistance. It is a point worth consideration that the existing provision about exclusion of agricultural income is justified by the fact that India is an agricultural country. It was this provision which probably reconciled people to the income-tax, as otherwise the bulk of the people who pay the land-revenue and cesses would have been doubly taxed. It offered some protection to the 80 per cent. of the

[*Sir Gangadhar Chitnavis; Raja Sir Rampal Singh.*] [14TH MARCH, 1918.]

people, and has been appreciated by them. A graduated scale of income-tax cannot possibly be responsible for inequalities of assessment of a graver nature than those very often possible under the existing law. It is also worthy of note that the principle of graduation has been embodied in our Income-tax Act from the first. The rates were 4 pies per rupee for smaller incomes and 5 pies for larger incomes. — And it is remarkable that not a voice was heard against a system under which such inequalities were possible and for a certainty were noticeable—inequalities as is obvious, far greater than any which the development of the principle of graduation can cause. The new scale has been in operation for two years. And yet how many complaints about unequal assessment have been heard during this time? There has never been any public clamour, except perhaps against the whole imposition and the lowness of the minimum. The apprehended hardship to the general tax-payer cannot justify a departure in policy—when even if there is any hardship at all—it is so little felt that nobody has even thought of complaining about it publicly before now.

“My Lord, clause 4 is also to be condemned for the cogent reason that it defeats the object of Government as set out in the Statement of Objects and Reasons. We are assured that the object is not to tax agricultural income, but the clause will have the sure effect of taxing, indirectly it is true, but taxing all the same, such income. The difference between the lower rate charged upon non-agricultural income at present and the higher rate to be charged under the new provision by taking into account agricultural income is an indirect tax upon agricultural income. The broad fact cannot be disguised by any subtlety in argument. In business practice this excess rate will have to be deducted from income for which it becomes assessable, and thus defeats the principle carefully laid down and repeated in the first part of the clause that agricultural income will not be assessed. If it is deducted from the other income, then the tax is subject to the anomaly that the assessee will be made to pay more than what others similarly circumstanced will have to pay.

“My Lord, the tax is also objectionable on account of the fact that ascertainment of agricultural income, even for the purposes of fixing a rate, will lead to much greater harassment and inquisitorial inquiry than the ascertainment of non-agricultural income, and will be a constant source of trouble and harassment to the assessees, whose number, according to the present Bill, will be much greater now than before. It is remarkable how harshly this system of inquisitorial proceeding works in Prussia. Reinach, in a discussion in the French Chamber of Deputies in 1908, stated that in Prussia they have been obliged to resort, for purposes of inquiry in connection with income-tax assessment, to an intolerable espionage and a degrading system of informers. They interrogate caterers, neighbours, servants, children; they keep account of the dinners that are given and of the cigars that are offered to the guests. It is with a view to save people from such obnoxious inquiries and to minimise the worries from income-tax assessment of such a large class as the agriculturists, who already periodically suffer from the harassment of settlement staff at the time of every settlement, and who already pay land-revenue and cesses, that I beg to support the amendment.”

12-20 P.M.

The Hon'ble Raja Sir Rampal Singh:—“My Lord, in rising to extend my whole-hearted support to the amendment moved by my Hon'ble friend, Rai Bahadur Sita Nath Boy, I cannot help expressing my regret on the contentious provision embodied in the latter portion of section 4 (1) of the Bill and on the controversy which it has given rise to. I am glad the responsibility of framing this provision in a consolidating Bill does not rest upon any of the non-official Members of this Council, and I could only wish that the Government would have been better advised not to have made a departure from the principle they have been adhering to, by initiating in the above-mentioned section a new method—rather a novel method—of determining the rate of assessment on assessable incomes of agricultural and landowning classes. It will show in what direction the wind is blowing, and will agitate and open the eyes of those who as a class, I should say, a most important, serviceable and loyal class in this country, have been slumbering under a

[14TH MARCH, 1918.] [Raja Sir Rampal Singh.]

sense of self-complacency that justice will run on its even course, and that the protection of their rights does not require any exertion on their part for their maintenance. They have implicit confidence in the sense of the justice of Government and are still under the impression that no agitation is needed to obtain it.

“My Lord, in 1886, while introducing the License Tax Amendment Bill, Sir Auckland Colvin quoted a passage of Sir John Strachey, which runs thus :—

‘It would be hardly possible to maintain the cesses on the land if the tax on the trades were abolished. It might be more possible to defend the abolition of cesses on land and the maintenance of the tax on trades,’ and then said ‘what was said by Sir John Strachey in 1880 is equally applicable now.’ My Lord, in 1918, we are told by the Hon’ble Finance Member in charge of the Bill that ‘Even if we were to tax agricultural profits now—which we are not proposing to do—it would be a mere question of expediency.’ Mark what a change! A marvellous change! In fact quite a reversal in the policy within a period of 31 years.

“My Lord, the objectionable portion of section 4 (1) has given rise to much anxiety and uneasiness and will be a cause of discontent to the landholders if allowed to stand in the Bill when it passes into Law. The very day when the Bill was introduced in this Council, serious objection was taken to this provision, and since then that opposition had still more gained strength by the facts that have come to light from the Financial Statement and by the strong disapproval with which it has been received by our constituencies.

“It is said, my Lord, that the Bill does not aim at raising money but in effect it does, and at a time when no special necessity for such an addition to our finances has been definitely shown to the Council. We have not to face any deficit this year, and it is expected that no financial difficulties will have to be met next year. I will not dilate more on this point as the inadvisability of adding more burden upon the shoulders of the people, whether by direct or indirect taxation, under these circumstances was forcibly urged upon the Council when the Bill was introduced.

“My Lord, I will not at present say anything whether land is sacred and should remain immune from further such like imposts and whether the land revenue is land tax or rent. These are subtle questions requiring the ingenuity of political economists for solution. But I cannot refrain from stating one fact—a bare fact—and inviting the attention of the Council and your Excellency’s Government towards it. It is this that the landholding class—no matter whether of temporarily settled or of permanently settled areas—do claim strongly and rightly that no direct or indirect encroachment can justly be made upon the customary margin of profits that they were enjoying before the advent of the British rule and that was implicitly or explicitly guaranteed to them by the engagements into which they entered with the Government. I will not enter into that history. It is a long story. Now, my Lord, the above mentioned provision of the Bill does encroach upon that right. My Hon’ble friend will urge that it is not proposed to add any tax on land, I fail to comprehend how, when agricultural incomes will be taken into account in determining rates of assessment, it is not taxing land, indirectly though it may be. Had this been a War measure we would have submitted to it without raising a voice because we are pledged, and in our own interest, to loyally co-operate with the British Government in bringing this war to a victorious end; but this is not the case. The Bill, which we are about to pass, will stand on the Statute-book permanently.

“My Lord, a great principle is involved in the section above referred to, and I feel I am justly entitled to beg the Council to accept the amendment that has been moved. It is not in the interest of big landholders that I am speaking. Small and petty landed proprietors, whose number is very considerable and even tenants and cultivators would be affected more adversely and harshly by the said provision than big Zamindars. Even heavily encumbered,

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proprietors will not escape from the purview of the section. Petty proprietors realising the unreliability and the vicissitudes to which their properties are subjected, have begun to enter into other professions and businesses as well. It would be an easy matter for assessing officers to bring to the prescribed minimum their agricultural incomes by adding together the rents they realise from their tenants and the estimated value of their agricultural produce from their *str* lands under their cultivation for assessing their non-agricultural incomes with higher rates than otherwise they would have been assessed. Similar will be the fate of tenants and cultivators. Big proprietors may better be left out of consideration because they are gradually becoming an eyesore to the socialistic tendencies of the present age. Is it not inexplicable, my Lord, that on one side the Government prompted by the beneficent motives of duty affords relief through the agency of the Court of Wards to encumbered proprietors and on the other side by the above mentioned section will add the burden of taxation over them? I am afraid and my fears are based on the experience that I have of such matters that the said provision will give a good handle to patwaries, kanungos, and others to harass the people of the rural areas by over-estimating the profits of agricultural produce in order to make non-agricultural incomes liable to be assessed by higher rates.

"I admit, My Lord, that land was taxed under the Income-tax Act of 1860, and similar might have been the case in subsequent Acts. My submission is, and on strong grounds, that the principle of levying income-tax on land was a wrong principle, and the Government themselves changed it and rectified that error in 1886 by the Income-tax Act of that year. Unless there be any special, emergent and imperative necessity, my further submission is that it will be improper for the Council to repeat a bad precedent of 1860 which the Government themselves have discarded in 1886.

"I may, in passing remind the Council that 1886 was a deficit year, while this is a surplus year. In that year the Government were under the urgent necessity of augmenting their resources. But on the consideration that every bit of land was taxed with land-revenue and cess, even under those circumstances justice prevailed and the incomes from land were deliberately excluded from further taxation under the Income-Tax Act.

"My Lord, whenever the question of levying any further tax on landholders arises, it is more than often forgotten what further unavoidable charges besides revenue and cesses they have to meet from their incomes, and what services they have to render to the State entailing still further calls upon their purse.

"My Lord, the Hon'ble Member in charge of the Bill has laid great stress on equalising the rates of assessment on landholding classes with those on other assesses. I am afraid the Hon'ble Member has not paid due regard to all these considerations. The argument of equity and justice pressed so forcibly and ostensibly in support of this provision does not hold good. Was there no thought paid to equity and justice when agricultural incomes were excluded from the purview of the Income-Tax Act of 1886? That Act, too, provided for a graduated rate of assessment. From the speech delivered by Sir Auckland Colvin at the time of introducing that Bill from which I have already made a quotation above, it is apparent that that Act was passed to make rates equitable. Land is separately taxed with land-revenue, and the income arising therefrom is only an income accruing after the payment of a tax or rent or by whatever name it may be called, and so an Income-Tax Act ought not to apply to such incomes either directly or indirectly. Are not the cesses and rates on every land owner, from the smallest to the biggest, a kind of income-tax in another shape? If that is not so, I question the justice of their levy. In the end, with due respect I must express my surprise for there being no provision in the Bill for determining the rates of assessment of the assessable incomes of those who may have large properties and incomes outside British India.

"My Lord, will things be allowed to come to such a pass as far as the land owning classes are concerned as to make the old Indian saying more or less applicable that eight pumpkins for sale and 9 tax gatherers to take one each."

[14TH MARCH, 1918.] [Maharaja Sir Manindra Chandru Nandi, of Kasimbazar.]

The Hon'ble Maharaja Sir Manindra Chandra Nandi 12-34 P.M.
of Kasimbazar:—"My Lord, I beg to accord my heartiest support to the amendment which is now before us. It appears to me that two quite different principles have been sought to be incorporated in section 4 of the Bill to consolidate and amend the law relating to income-tax. The section begins by stating that 'agricultural income shall not be chargeable to income-tax,' but it continues to lay down the provision that 'such income in excess of ₹1,000 which has been received by an assessee in the previous year shall be taken into account in determining the rate at which the tax shall be levied on any income otherwise chargeable to income-tax under the Act'. Now, my Lord, I beg to state that these two are not consistent propositions, and should not find a place in any Act which does not seek to cast to the winds the elementary principles of jurisprudence. Sir William Meyer cannot in the same breath and in the same section of an Act exempt agricultural income from the operation of the income-tax, and also include it within the other incomes of a person for the purpose of raising the rates at which such an assessee should be called upon to pay the tax in question. It is no statesmanship to blow hot and cold at the same time. If Sir William Meyer or the Government of India are anxious to tap anybody's agricultural income, they should do it in a more frank and straightforward manner rather than by laying down a proposition, to begin with, to the effect that such incomes shall not be chargeable to income-tax. My Lord, in a country like India, a straightforward policy always appeals, and every man who has any large agricultural income would be only too glad to come forward to help the State at a time of difficulty if only the Government would want it in the right way. But Sir William Meyer distinctly has given us to understand that he does not intend to raise money or revenue by this new Act. Then why, my Lord, should an income which is to be exempted on principle from the income-tax be made to swell the figures, though in a very indirect and inadequate way, of that tax? Underlying the section in question there run, therefore, two conflicting ideas which can neither be reconciled nor justified. Their juxtaposition in the same Act would be a blot on our Statute-book.

"My Lord, my second reason for supporting this amendment is based on the higher ground of equity. We have been told, my Lord, that this Act has been framed only with a view to consolidate the law on the subject, to remove inequalities in the incidence of the income-tax, and to re-adjust existing anomalies and differences. My Lord, in bringing agricultural income within the purview of the Act for the purpose of determining rates of assessment, the authors of this Act have evidently forgotten two very important conditions of Indian life. One is that agricultural income does not at present possess any immunity from taxation, for, in addition to the payment of the necessary land-revenue, which in some parts of the country comes to nearly 50 per cent. of the actual income, it is also chargeable to road-cess and public works cess and some other minor cesses, and, as such, it does not escape from contributing towards the cost of the administration, and there is therefore no injustice to remove when it is not directly chargeable to income-tax. Agricultural income, from time immemorial, has been associated with many heavy and onerous domestic and social liabilities in the economy of Indian life, while incomes from the professions, trade, commerce or industries are comparatively free from them and are not chargeable to any other Imperial or Provincial tax. That makes a world of difference in India, and should be duly taken note of by all men who are entrusted with the task of making legislation for us. Far from removing any unwholesome privilege, the Act would only be adding to the burdens of an already too overburdened community. In that sense, section 4 seeks to violate a golden rule of equity and can claim no moral justification. The second important condition of Indian life which the framers of this Act seem to have overlooked is the tradition of inviolability which has prompted and inspired owners of permanently settled estates in the country to turn, in the language of Kaye, the author of a very interesting history of the East India Company, large tracts of waste and forest

[*Maharaja Sir Hanindra Chandra Nandi, of Kasimbazar; Rai Bahadur B. D. Shukul.*] [14TH MARCH, 1918.]

lands into cultivated areas, and to free, as the late Mr. Rames Chandra Dutt so clearly proved, whole provinces from the grip of periodic famines. My Lord, I myself do not think that the Bengal Regulation I of 1793 is such a sacrosanct document as, for reasons of state, cannot be tampered with, but if it has at all got to be treated as any other ordinary law of the land, let it be done on very sufficient grounds and in a very straight and frank way.

"My Lord, in section 4 of Lord Cornwallis' famous Regulation of 1793 occur the following words: 'no alteration will be made which they (the Zamindars, etc.), have respectively engaged to pay, but they and their heirs and lawful successors will be allowed to hold their estates at *such* assessment for ever.' My Lord, I will not try to read into this clause any interpretation of my own, for the words 'will be allowed to hold their estates at such assessment for ever.' cannot be twisted to bear any other meaning than Lord Cornwallis had of them in India and Pitt in England. The understanding behind the words is too serious to be lightly thrown away for the purpose of an indirect and insufficient assessment or under cover of removing inequalities or adjusting incidence of taxation.

"My Lord, three important points emerge out of the discussion on this subject. The one is that agricultural income enjoys no such immunity from taxation which may be construed into a grievance by any class of people in this country. The second is that section 4 contravenes some of the most well-known principles of jurisprudence and equity, and the third is that it treats with very scant courtesy one of the most important charters given by some of the earliest founders of the Indian Empire to men of my class. I would, therefore, ask the treasury benches to be so good as to accept the amendment now before the Council, and remove the sense of uneasiness which has exercised our mind for some weeks past over this unfortunate section."

12-48 P.M.

The Hon'ble Rai Bahadur B. D. Shukul:—"My Lord, in offering a few observations on this amendment, I may at the very outset point out that I do not belong to the permanent settled areas. Hence, I refrain from touching on that aspect of the question as to how it would affect the landholding classes there. I come from the temporary settled areas, and I think it to be my duty to convince this Council as to how unfairly the operations of this Act will affect those residing in such areas. With due deference to what has fallen from the Hon'ble Finance Member in his reply to the Hon'ble Mover, I beg to submit that I am still left unconvinced of the cogency of his arguments.

"It is unfortunate, my Lord, that the Government should have seen their way to insist upon retaining this clause which is of so controversial a nature, at this time of strain and general anxiety. The whole body of landholders from one end of the country to the other are opposed to it. Since the introduction of this measure, we have received a number of letters, representations and telegrams from the various bodies representing the interests of agricultural classes in this country. They are all unanimously opposed to this clause on principle and they strongly press for its deletion. They regard it as highly prejudicial to the agricultural and industrial interests of the country and think it most inequitable. I further wish to point out to this Council that this is not merely the opinion of the interested agricultural classes, rather this is what has been clearly urged by some of the respectable Chambers of Commerce who have given expression to their opinion in a similar strain. The Bengal Chamber of Commerce state that 'the policy adopted in the Bill cannot be justified by any principle of equity. The Committee strongly protests against the principle of bringing the agricultural income in any way within the purview of this Act.' They further go on to state that 'the Committee have observed with satisfaction that people having large agricultural incomes have been extending their activities to industrial and commercial lines. The action of the Government as proposed in the Bill will have a chilling effect on such

[14TH MARCH, 1918.] [*Rai Bahadur B. D. Shukul.*]

activities and restrict their extension on other than agricultural lines.' Similarly, the Southern India Chamber of Commerce express as their deliberate opinion that it will be neither just nor expedient to subject him (cultivator) to the vexatious interference and inquisition of income tax officers, a course which in our opinion is bound to aggravate agrarian discontent.

"My Lord, after having received definite and clear opinions like these from altogether disinterested bodies, and after the emphatic protests entered at the time of the reference of the Bill to the Select Committee, not only by the Landholder members of this Council, but also by our talented friends representing other interests, such as the Hon'ble Pandit Madun Mohan Malaviya, Mr. Surendra Nath Bannerjee and Mr. Khaparde, this objectionable clause would be deleted from the Bill by the Select Committee, and it is a matter of keen disappointment to us all that the same has not been done. The Select Committee has thought it fit to retain this clause on the ground that 'It is a necessity, if graduated income-tax is collected on an equitable basis.' The Hon'ble Finance Member has reiterated the same argument just now. With regard to this I have only to point out that with a view to be fair and just to one interest, you should not be unjust to the other. So far as the agricultural income is concerned the principle of graduated amount is already applied to it automatically in the temporary settled areas. At the time of the fixation of rents and revenues, the persons holding different kinds of lands have to pay varying rates according to different soil—units, fixed by the Settlement Officers. The owners and occupiers of inferior lands have to pay a less amount for the same area than that paid by the holders of superior ones. Then, again, the tenants and landholders are classified according to their financial conditions under different heads, namely, A, B, C, and D and the average rate arrived at is reduced in the case of such tenants and landholders as are not in good condition. Is this not a fact? Is this not in itself a graduated scale? Let any one acquainted with the working of the Settlement machinery contradict this and I shall bow to his decision. When the wealthier landholders have already to pay higher rates than those who are not so well-off, I fail to understand how could the same income be fairly taken into account again for the purpose of graduating the income-tax in the case of taxable incomes.

"My Lord, I hope the representatives of other interests in this Council will not object to the deletion of this clause. They will not please forget, as pointed out by the Hon'ble Maharajah of Kasimbazar, that we the agriculturists including Zamindars and Tenants have already to part with more than 50 per cent. of our agricultural profits to the State, in the shape of land-revenue and have further to pay other cesses, such as Education cess, Road cess, and Post Office cess. Can any one say that the proceeds from these imposts have been utilized solely for the benefits of the agriculturists? Is it not a fact that a substantial portion of these go to add to the comforts and conveniences of other classes and have the cultivators ever grudged that? Thus in view of the fact that landholders have already to pay more than other classes and that they have various other obligations to discharge towards their poorer tenants during the time of famine and distress which others have not, is it not a real hardship to them that they should be compelled to pay more than other businessmen, simply because of their agricultural incomes? Well, my Lord, we are again and again being reminded that the agricultural incomes will still continue under exemption; they will only be taken into account for the purpose of determining the rate of assessment on the taxable income and the landholders will not be losers, and this is what we are unable to understand: Will not a landholder business-man have to pay an additional rate over and above what would be paid by a non-landholding business-man? To illustrate this an instance may be given of two persons—A and B both carrying on the same business and deriving the same income, say Rs. 10,000, of these A happens to be a landholder, with a gross agricultural income of Rs. 50,000. Under the present income-tax, both will have to pay at the same rate and the same amount, namely, Rs. 468 at 9 pies per rupee but under the proposed Bill A, who is a landlord, will have to pay Rs. 3,750 at the rate of one anna per rupee, while B, who is not a landlord, will pay Rs. 468

[*Rai Bahadur B. D. Shukul; Khan Bahadur Saiyed Allahando Shah.* [14TH MARCH, 1918.]

only. Thus, although agricultural incomes are said to be exempted, yet in fact they have been indirectly taxed to the extent of Rs. 3,282 nearly 7 per cent. of the agricultural profits and this is what we take a very strong exception to, as a matter of principle.

"I have to say one word more as regards the aspersions cast against the landholders with regard to our attitude of opposition towards this particular clause of the Bill. It is said that at this time of trial, when the Empire is involved in a deadly struggle, and stands in need of more money, the landholders are unwilling to accept this clause, as they do not wish that their pockets should be affected. Well, my Lord, I emphatically say that it is not so. So far as the Statement of Objects and Reasons of this piece of legislation can reveal, this Bill has not been introduced as a war measure to raise more funds. But if that be so, let the Hon'ble Member in charge of the Bill state frankly that he wants more money for the exigencies of the war, and I on behalf of my landholder friends here in this Council and outside will assure him that a statement to that effect will disarm all oppositions and we will be prepared to subject ourselves to as much additional burdens, as may be necessary, for the successful prosecution of the war. But it is because we honestly believe that this is not a war-measure, because we think that the introduction of this novel principle is merely a thin end of the wedge and has come to stay permanently in the Statute-book, and because we notice that it has already caused a great mischief by creating alarm amongst the agricultural classes that we have opposed it, and we earnestly hope that the clause will be deleted even at this belated stage."

12-53 P.M.

The Hon'ble Khan Bahadur Saiyed Allahando Shah:—

"My Lord, the amendment proposed by my friend the Hon'ble Rai Sita Nath Ray Bahadur has my fullest support. The last portion of section 4 which provides that agricultural income above Rs. 1,000 shall be taken into account in determining the rate at which the tax shall be levied on any income otherwise chargeable to income-tax, will form a source of hardship and harassment to the agriculturists. The net agricultural income of the zamindar represents his net profit after he has paid a heavy land-tax on his gross income. As it has already been taxed once, it should not be taxed again. Besides, the income-tax officers are generally strict in their assessment. They being generally Revenue Officers, zamindars are afraid of them and would not dare to appeal against their assessment. The measure thus, my Lord, will prove to be a source of harassment for them. Generally the zamindars for want of purchasers store their produce to avoid consequent loss which will accrue to them by selling it at very low rates, and sell it only when the rates are favourable. It often happens that in this way they suffer also a loss. Their necessities are numerous and when the Government demand is pressing, they sell their produce at whatever rates they can get for them. I am afraid that this transaction of the cultivator will be considered by the income-tax assessing department as trade transactions, and this ordinary income from the sale of produce of land will be considered as the zamindar's income from business sources, and he will thus be liable to income-tax on it, thereby adding to the already overburdened and meagre means of the tiller of the soil. The zamindars in my part of the province are a class of persons who have not benefited from the Sarkar on auspicious occasions, such as the Coronation Durbar of the King-Emperor, and they are always liable to enhancements of land-revenue on the occasion of every periodical settlement which comes after every ten or twenty years. The zamindars generally being ignorant and illiterate do not appeal against assessments, and whatever tax is levied or whatever they lose in the sale of the produce of land they accept it resignedly. I commend their condition to your Lordship's notice, and in strongly supporting my Hon'ble friend's motion, beg to submit it for your Lordship's acceptance, and trust it will be accepted by Government so that zamindars may not have any anxiety or harassment at the hands of income-tax officials."

[14TH MARCH, 1918.]

[Mr. Sastri.]

The Hon'ble Mr. Sastri:—“ My Lord, my Hon'ble friend Mr. Shukul made an appeal to those in the Council who represent interest other than the landed interest. I do not represent the landed interest, but what other interest I represent it is difficult even for me to say. I own no land and pay no land-tax. I make no income which comes within the Hon'ble the Finance Member's sweep. I pay no income-tax. I contribute, so far as I can see, nothing to the State except a certain amount of agitation, which I am firmly persuaded is entirely wholesome. Yet I do not wish, like many who have not, to deprive those that have of what they have or any part of it. I wish to be just to everybody. Looking at the Bill with an impartial eye, I am unable to discover that it violates any pledges given by Government or that it presses unduly on the landed interest. Agricultural incomes have been long exempt from income-tax and under the Bill as I see it they will be still exempt from the income-tax. But it is asserted that they are indirectly taxed. Are they? I am honestly trying to find out whether agricultural incomes are even indirectly taxed. I am unable to persuade myself that the answer is a fair affirmative. What I find under the Act is that people who have incomes from two sources, one of them agricultural, have their income reckoned in a certain way and the effect of it is that on their taxable income they will have to pay income-tax at a higher rate than if they had no agricultural income. Now, my Lord, that does not mean that agricultural income is indirectly taxed. It is merely taken into calculation. It does not mean that a landlord who has other income will be obliged under the new Act to take anything out of his agricultural income. The worst which will happen to him, even if the highest part of the Schedule is applied, is that he will have to pay under the taxable non-agricultural income one anna in the rupee. Now it seems to me that it is no justification for saying that the agricultural income is indirectly taxed. But perhaps what is meant is this. Although it has not been stated, in my search for the truth I am endeavouring to put it to myself in this way. Perhaps what they mean is that the State has a certain claim on sources of income, and when that claim is satisfied, the State has to ignore what is left of that source of income. If agricultural incomes once pay to the State what is required of them, whether in the permanently settled or in the temporarily settled areas, then when the land-tax has been paid, the Government ought entirely to ignore the balance of the income that is left over; Government have no right to think of it at all. That is to say, when a man has paid in respect of his land, whatever is due to the State, he must be considered to have no agricultural income at all for other taxation. Well, there may be something in that, and I have not heard from the Hon'ble the Finance Minister any reply to that argument. If we say that agricultural incomes are indirectly taxed, it seems to me to be an over-statement of the case. But if the case is as I have stated now that even in respect of the income-tax Government has no right to consider the agricultural income in respect of which the State demand is already fully satisfied, there has been still no answer to it. But although the answer to it has not been given, it occurs to me that there has been surely a certain amount of inequality in the working of the income-tax which the amendment under the Bill now seeks to remedy.

“ I think, my Lord, the equity of the case requires that the amendment suggested by the Hon'ble Finance Minister in clause 4 should go through. And in respect of agricultural incomes I am aware that the landlords here have put it to us clearly that if the State is in real need of money, or if the money raised from them under the Act is going to be applied to purposes like primary education or local sanitation which they have at heart as much as anybody else, they would have no objection to the tax. Their objection seems to receive additional force because it is made part of the income-tax, and how income-tax is spent nobody seems to know precisely because it forms a part of the general revenue. Now to these objections it is very difficult to give a satisfactory answer, but I reckon, my Lord, that it will be difficult to give a satisfactory answer in respect of any taxation to which people object. The Hon'ble Finance Minister referred to the way in which all taxation is resisted

[*Mr. Sastri; Mr. Muhammad Ali Jinnah.*] [14TH MARCH, 1918.]

by people who have to pay it, and one remembers the way in which landlords in England resisted the super-tax when it was imposed a few years ago, using expressions like spoliator, plunderer, confiscator, and many in the enjoyment of princely incomes, who never knew what to do with their incomes, were heard to say in both Houses, 'well, all our incomes are taxed away by Mr. Lloyd George.' Now we have not heard to-day, I am happy to think, grievous exaggerations of that kind, and I am in a position to pay a compliment to my landlord friends that in their protests to-day they have shown a great deal of moderation. I say I appreciate that; but notwithstanding my appreciation, I am unable to sympathise with their standpoint. I still think that as they are in a position to pay more than others, the State is laying no undue burden on them in asking that their agricultural incomes should be merely taken into account when the amount of their taxable income is reckoned up."

1.3 P.M. **The Hon'ble Mr. Muhammad Ali Jinnah:**—"My Lord, I entirely agree with Mr. Sastri that the landholders have put their case before the Council with great moderation. Nobody desires that the landholders, or the zemindars, because they happen to be rich or because they happen to have plenty of money, should be taxed or attacked in season and out of season, for raising the revenue, but, my Lord, I must on this occasion speak out my own conviction with reference to clause 4. It seems to me, my Lord, that the provisions of clause 4 have been very much misunderstood by the landholders who are my colleagues in this Council and also outside.

"It is said that the Government is not frank. It is said that you are not going at this business in a straight manner; it is said that it is a breach of faith and breach of Permanent Settlement and violation of what was said by Lord Cornwallis. Well, my Lord, I cannot support any of these allegations. As far as the question of the Bengal Regulation and Permanent Settlement is concerned I shall deal with it later on, but I see no want of frankness, I see nothing but straightforward business. Here is the Bill, clause 4 speaks for itself. The Government have placed it before us and the country. Any one who reads that clause can see at once what the object of it is. Of course I do not wish, my Lord, to be a champion of the Government, but I think, in fairness it might be said that clause 4 is very clear, and what does it mean? It means a very simple thing indeed. It says, in the first instance, that agricultural income is not chargeable to income-tax. That does not mean, if I may remind my Hon'ble friends there, that the agricultural income is not chargeable for ever, it only means under this Act and nothing more. But while making that clear, otherwise it may lead to some confusion or it may drag in the agricultural income also, it says, "but it shall be taken into account for the purpose of assessing income," other than agricultural income, so as to get a higher rate. Well now, in the Statement of Objects and Reasons annexed to the Bill it is made very clear as to what the object of this clause was. It says this—

'But with the present system of income-tax gradation, under which an assessee's rate of assessment increases in accordance with his means, it is obviously equitable that in assessing the rate on which a person should pay on his non-agricultural income, his income from agriculture should be taken into account. Otherwise a wealthy landlord possessed also of some non-agricultural income might pay on latter at rates intended only for the poor.'

Accordingly the Bill provides for the 'inclusion of net agricultural income' in 'total income.' Therefore the object of this clause is a very simple one. The normal rate of income-tax under this graduated scale is one anna, but a concession is made in a graduated scale in favour of the poor, and if you look at the scale, which is given in the Bill, it is clear how it runs. You start with 4 pies in the rupee and you go up to one anna according to the income varying from Rs. 2,000 to 25,000. The whole object of that is that the normal rate is one anna, but there is a concession made in favour of the poor. Well now I have not yet heard first of all why the zemindars, who get large incomes, should not pay at the normal rate of one anna, and that is a question which the opponents of this clause 4 have got to answer. It is not correct to say that they will have to pay super-tax as far as I understand this Bill. The question of super-tax is not touched by clause 4.

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All that they will be liable for under the Act would be to pay at the rate of one anna at the very most and nothing more. Therefore, my Lord, it seems to me that the Bill, looked at from that point of view, and that is the only point of view it seems to me it is, to use the words of the opponents, in consonance with the principles of jurisprudence and equity and not opposed to them at all. But grave fear in the minds of my Hon'ble colleagues here is that this is, as it were the thin end of the wedge, and that it is doing something indirectly which you dare not do directly. Well, now, my Lord, if this is equitable, if this is just as I have already explained that in my opinion it is, what is the answer to it? On what ground can this be resisted? The ground that is put forward in the first instance is that agricultural income is not taxable, and therefore what you cannot do directly, you should not do indirectly. Now is this so. Is land not taxable?

"Now, my Lord, I may remind the Council that in 1860 the Income-Tax Act was passed, and that Act included income derived from land, which was taxed directly. I wish this question had not been raised by the zemindars and I wish that they had not put their case so high as they have done. But as, my Lord, they have done it, I think an answer is necessary, and I will point out that when that Act of 1860 was passed the Government, who then had before them the Regulation of 1793 took this position. This is what was said on behalf of the Government by Mr. Sconce; I refer to the proceedings of the Council in 1860. 'Now in the first place he would ask the Council to look to the terms of Regulation I of 1793 which legalised the settlement of estates in Bengal. The declaration made by this law was this, that the zemindars, their heirs, and successors should hold their estates for ever at the assessment which by the Settlement they had engaged to pay; and the clear purpose of this declaration he took to be that the re-assessment of the estates in question was for ever barred: Regulation I, of 1793 undoubtedly was an ample and complete guarantee that no re-settlement of the estates referred to in the Law should ever take effect; but, on the other hand, it seemed to him that the Law gave no guarantee that the proprietors of those estates should never be called upon to aid in the relief of the future necessities of this Government, by contributing according to their means or incomes. It was almost superfluous to say that no such provision was contained in Regulation I of 1793 which, he might repeat, did no more than perpetuate the Revenue Settlement which had been already executed.'

"Then, my Lord, he further goes on to say—

'But it seemed to him that the arguments relied upon to support the claims of zemindars to be exempted from the present Bill pointed more to the rights vested respectively in the State and in zemindars previous to the Permanent Settlement than to that Settlement itself; for example, in the petition presented to this Council by the proprietors of Permanently Settled Estates, it was stated that the revenue paid to the Government was a deduction made from the gains of landowners; and again, in the 20th paragraph of the same petition, that the tax (that is, the revenue) was taken from the landowner for all time, and was a permanent diminution of his property and capital. The right asserted by the zemindars in these words seemed to him to go to the root of the matter. Was the revenue assessed a tax in the sense here asserted, that is, a deduction charged upon the profits or gains of zemindars and diminishing their gains to the same extent, or was it levied in virtue of a substantive and paramount title vested in the State? The Law of 1793, he thought, left no doubt on this point. Let him refer the Council first to Regulation 19 of 1793, of which the first words were these, that—

'By the ancient law of the country, the ruling power is entitled to a certain proportion of the produce of every *baegah* of land, demandable in money or kind, according to local custom.

'Here obviously the right to revenue from land was said to be inherent in the State and not to be a deduction by way of tax from the profit of the proprietor of land, and the Council will find the same fact brought out in still stronger light in Regulation VIII of 1793.'

"Now, my Lord, if this position is a correct one, then the argument that has been advanced, and rather emphatically advanced, namely, that the Government of this country has no right to tax agricultural income, cannot stand, because it is quite clear that in 1860 it was so done. Then, my Lord,

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it does not stop there. This Act of 1860 ceased to operate in 1865. As I understand, my Lord, that the Income-tax Act is really brought into operation because the State requires money and this is one of the modes of raising the revenue which the State requires, as soon as that necessity disappeared the Act ceased to operate in 1865. Then, my Lord, in 1867, the Act was again brought into operation, and that Act excluded agricultural income. But again in 1869 what is known as the Certificate-tax Act was converted into a general Income-tax Act and that again included agricultural income...."

The Hon'ble Mr. S. N. Bannerjee:—"Did that Act exclude agricultural income?"

The Hon'ble Mr. M. A. Jinnah:—"No. The 1867 Act excluded agricultural income, but the 1869 Act included it again.

"Then, my Lord, it seems that again there was no Act in operation for some time. But in 1877 the License-tax Act was brought into operation and then in 1886 that License-tax Act was amended and the Income-tax Act of 1886 came into operation. Therefore, my Lord, one of the arguments which was advanced by my Hon'ble friend the Maharaja of Kassimbazar, namely, that this was a violation of the Permanent Settlement, cannot stand. The next argument, with which I have already dealt, was that clause 4 is opposed to the principles of jurisprudence and equity, and cannot stand. His next argument was that this will give no immunity to the agricultural income, which really comes to the same thing. Therefore, my Lord, I submit that no case has been made out on that ground at all.

"Then it is said that if this Bill comes into operation there will be a tremendous harassment caused to the landlords in the working of the Act. Well, my Lord, so far as that is concerned, I see that an amendment has already been made in that clause by the Select Committee which probably will, to a very great extent, remove that complaint. But still if there is a certain amount of difficulty in carrying out this Act, then, my Lord, if Hon'ble Members were anxious and really wished to avoid that, I am sure, if they had brought in an amendment which would have appealed to this Council, that amendment would have been accepted. But it seems to me, my Lord, that that is merely one of the arguments employed in order to get rid of clause 4, and it does not seem to me to be a real grievance. If it was a real grievance, I am quite sure that, with the experience at the back of so many Hon'ble Members, an amendment would have been brought in to put that difficulty or that danger right.

"Well then, my Lord, what is the other ground on which this clause should not be accepted by this Council. These are the only important arguments. But then the Hon'ble Mr. Shukul said if it was necessary, if the State required money for the purpose of the war or some other exigency of the State, he would be only too glad to acquiesce in this clause 4. It is quite correct, as far as I understand, to say that this clause was not introduced for the purpose of getting money. I believe, and as far as I can make out, very little money will after all come into the coffers of Government through this provision. He said that if it was necessary for the prosecution of the war the Government should have come forward and said so, and probably in that case they might even directly tax agricultural income, and I am sure Mr. Shukul would be glad and many other landholders would be only too glad, to submit to it. But just as you would submit to that, may I not appeal to my Hon'ble friends here that you should also consider whether it is equitable, whether it is just, whether it is fair and, if so, should you not submit to that? On what ground can you say it is not fair, it is not equitable; and if it is fair, if it is equitable, and just as you would submit to the demands of the war, so you must submit to the claims of justice. If here you have an income-tax, which has for its principle the graduated tax, then by what reason can you say that a landholder who has got a large income from agricultural sources should not pay the higher rate? Then, my Lord, it was said that you will prevent industry and commerce being helped by

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landholders. Well to that the Hon'ble Member in charge of the Bill has already replied. But, my Lord, it is not going to be such a severe calamity after all, because really it will only affect those landholders who have got large incomes; it will not affect the landholders who have small incomes. If you have a small income, you will not be taxed; but if you have a big agricultural income and at the same time are making money in other directions, in industry, in commerce or money-lending, etc., and your total income is Rs. 25,000 and upwards, then you are required to pay at the rate of one anna. I really cannot see why my friends should grudge paying at the normal rates and why they should raise all sorts of fears which are quite unnecessary; nor do I understand why they should have raised such a huge issue at this moment as to whether the Permanent Settlement can be touched or cannot be touched, or whether agricultural income can be taxed or not.

"My Lord, I oppose this amendment entirely."

The Council here adjourned for Lunch till 2-35 P.M.

The Hon'ble Sir George Lowndes:—"My Lord, I welcome 2-35 P.M. the opportunity of speaking on this amendment, because I am confident that the provision which we have made in the Bill by clause 4 is a just one, because, in my view, it is essential to the fair working of a graduated income-tax in this country, and lastly, because it is a matter of great importance to the Government to know what attitude is to be taken in this Council upon a question of such importance, and if I may say so, at a moment of such importance in the politics of India. I propose to refer in the first place to the speech that was made, when the Bill was introduced, by my friend the Hon'ble Pandit Madan Mohan Malaviya. The Hon'ble Pandit charged us, if I may use the word, with bringing in this clause as a device for further taxation. I use his own word. My Lord, that is language which the Government must repudiate....."

The Hon'ble Pandit Madan Mohan Malaviya:—"May I rise to a point of order, my Lord, to point out that my friend is not quoting me correctly? I said if you want to tax agricultural incomes, tax it in a straightforward manner and not indirectly as you are doing."

The Hon'ble Sir George Lowndes:—"I will read the words to which I referred and I think I shall be justified in what I said. They are:—'By this device the rate of taxation for persons who happen to be the unfortunate recipients of an income from agricultural sources is raised.' 'Device' is the word which contains the sting to which I alluded. I say this is not a device for raising taxation, is not a device of any kind at all. The reason for the insertion of this clause in the Bill is a very simple one. So long as we had the old Income-tax Act of 1886 everybody was taxed at the same rate and agricultural income was exempted; it was not material to deal with agricultural income at all. But the moment you go a step beyond that and have a graduated income-tax, it is essential to say one way or the other how agricultural incomes are to be treated. You have either to give them the benefit of what is really an exemption intended for the poor, or you have to bring them in as we have brought them in under clause 4 of the Bill. The scheme of the Bill, as has been rightly and sympathetically pointed out by my Hon'ble friend, Mr. Jinnah, is, that we propose to tax at the general rate of one anna all round, exactly in the same manner as under the English Income-tax there is one rate for everybody, with exemptions for poor people below that rate; we have adopted the same principle, though not in the same form of words. In this Act the principle is that the one anna rate is the main rate applicable, and that those who are poorer should receive certain exemptions. This appears from the fact that the companies pay at the one anna rate, that firms pay at the one anna rate; that is the main rate. The lower rates are alleviations in favour of the poorer people and smaller incomes. Therefore, we were faced

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at the very outset in drafting this Bill with the question, 'Are we to allow agricultural incomes to come in under these abatements for the relief of the poorer people, or are we to treat their possessors on the natural and logical basis that being rich men they should not have advantage of the relief which was intended for the poor? Now, that is the genesis, the whole genesis and the only genesis of this clause. There was no device in it to obtain further taxation by indirect means, nor indeed do we suppose that we shall get any great additional revenue by it. That had nothing to do with the object of the clause. The object of the clause was to meet this difficulty. Directly you get a graduated income-tax, you have got to do one thing or the other, to treat the big landowners as if they were poor men or to treat them as if they were rich men and leave them to come in at the one anna rate or any lower rate according to their station in life and the goods that have been bestowed upon them. My Lord, that is all that I think I need say in answer to the Hon'ble Pandit's speech. It was a good debating point no doubt to say that this, assuming it to be a device for taxation, ought not to have been brought in an ordinary Bill; that we ought to have waited till after the Financial Statement was made, ought to have treated it as a finance Bill to raise further taxation; but that only means that the Hon'ble Pandit's objection would be removed if we had brought in clause 4 as a separate Bill by itself. I am sure the Council would not desire that such a subterfuge as that should be adopted.

" Passing on to the more important points that arise on this amendment, one cannot help noticing that there are among the non-official Members of the Council to-day at least two parties. There is a party of progressives and, if I may use the term, a party of the landlords. I can make no other division, the line of cleavage is an illogical one and perhaps an unfortunate one, but it seems to have been very clearly marked by Hon'ble Members who have already spoken on this amendment. To what I would call the party of progress and from whom I expect sympathy in every thing I say to-day, I shall say very little. To the party of landowners, or rather of landlords as I prefer to put it, for that is the real party, there are many things I desire to say in the short time that is available to-day. The great argument that has been used is that this is the thin end of the wedge. One expects it, it is a natural argument, and I hope to meet it as frankly as it has been raised. Is it the thin end of the wedge? Yes and No. It is the thin end of the wedge certainly if that means that if clause 4 is to find its place in the Act, which I hope we shall pass, the unreasonably favoured position which the landlords now occupy under the existing Income-tax Act, now that a graduated scale has been introduced, will be put an end to. To that extent it is the thin end of the wedge, and it is a wedge that I hope may be driven home to the hilt. But if it means that this is merely a prelude to the taxation of agricultural incomes generally then I say it is not. My Hon'ble friend, the Finance Member, has told the Council more than once that there is no present intention, no present intention whatever, of taxing agricultural incomes. But the Council will remember the note of warning that was sounded by him last year and repeated this year. If necessity arises to tax agricultural incomes, then these great sources of wealth in this country, for the necessities of the war or for other important expenditure, must be tapped. I understand from my landlord friends in this Council that there is no objection to taxation on these lines. But inasmuch as there is no present intention of taxing agricultural incomes, the argument of the thin end of the wedge has no real application. That has been emphasized by my Hon'ble colleagues speaking on behalf of Government.

" Speaking for myself, however, I have no hesitation in saying in this Council that additional taxation upon the larger incomes in this country, from whatever source derived, will come under any form of popular government that we may have in the future of India. It will come as surely as night follows day. We have been told over and over again of the poverty of the people. Do you believe, does any Hon'ble Member of this Council believe, that if you put the strings in the hands of these poverty-stricken people they

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will spare the rich, that they will not tighten up taxation on every source of income which is enjoyed by the rich? Will they spare (if I may use the expression which my friend Raja Rampal Singh used), will they spare the landlord's 'customary margin of profit?' Do you think that that is likely? Are a number of the landholder Members of this Council contemplating, with the earnest hopes and the aspirations that they have, that we are going to make an advance towards popular government in India? Have you all asked for it, have you pressed it? If you have, surely you have counted the cost. No popular form of government came to any country yet without an increase of taxation upon the rich. It is the popular party that taxes the rich for the poor, and you cannot look forward to any advance in the polity of India towards that goal, to which we all in this Council aspire, without heavier taxation. Taxation must come, taxation will come and taxation ought to come, for it is only under a popular form of government that you can get real taxation of the rich for the benefit of the poor. Therefore that party in this Council, be they landlords only or be they also progressives, must face this as an absolutely essential necessity of any progress towards popular government.

"My Lord, I remember a certain historical document which has been very much before us recently, and as I look round this Council and see the faces of many of the signatories of that document, I wonder whether there will be 19 Indian Members who will vote for clause 4 of this Bill. This is at all events some test of the earnestness of their protestations. You will be judged in the future by your deeds and not by your words. If you on paper claim to advance towards popular government, and repent the moment you find that popular government means additional taxation upon the the richer classes of the country, if you are going to rebel at the first prick of the public needs of which this clause is only prophetic I tremble to think what attitude will be taken by a new Council here under different conditions, when popular measures of taxation are brought before it. This is a question of very great importance.

"It will not be, I venture to predict, a bureaucratic government that will lay a heavier burden upon landed incomes, but when you have any form of popular government in this country the rich will not escape taxation on account of their landed interests. When I look at Bengal and remember the difficulties of arranging for the future of the province because more than 100 years ago the increasing incomes of Bengal were pledged away; when I am told in this Council that that is a pledge which is binding on any government beyond recall, I wonder how progress in Bengal is to be achieved. Do you think that the great incomes in Bengal will in future be exempt? I shall not be here, but I venture to prophesy that they will not. One of the first moves of a popular government will be to put taxation upon those shoulders that are best able to bear it. Income means what a man has in his pocket after he has paid all the costs of earning it,—what he has to spend. If he has a big pocket and it is full, a popular Government will not ask where the money came from; they will tax it. They will want the money and they will have it. I say to my landlord friends in this Council it is unwise to look forward to any form of popular government as I believe they do and to kick at the first prick of taxation. My Hon'ble friend Mr. Sita Nath Ray used the argument 'do not do this, you will get so very little by it.' But, my Lord, if we are to get very little are not the great landlords going to pay very little ...?"

The Hon'ble Rai Sita Nath Ray Bahadur:—"May I rise to a point of order to ask whether this discussion as to whether the progressive party will kick at the pricks is relevant to the question before us?"

The Hon'ble Sir George Lowndes:—"I am content to leave the Council to judge between me and my Hon'ble friend. I was saying that if we are to get very little, which I frankly believe to be the case, then the great landlords are going to pay very little, and I say that it is the first tiny prick that they are kicking at now."

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This to me is a very great unwisdom. I do hope, and it is my last word in this connection at all events, that Members will not in the future come to their Council merely to support class interests, to defend themselves against every shadowy infringement of their class rights, I want them to come here as representatives who will 'watch and safeguard the interests of the masses and the agricultural population with whom they are in closer touch than any European officer, however sympathetic he may be.' Some of my Hon'ble friends will recognise the quotation. I say that if we are here merely to fight for our own class interests and to fight for our own pockets, we shall not be doing the great things for India which have been so often promised.

"Now, my Lord, I pass on to the definite arguments that have been used in support of this, to me very unfortunate opposition. I will deal first with a speech that was made here by my Hon'ble friend Mr. Bannerjee. He spoke of this Bill when it was first introduced with his usual fire and eloquence, but I thought at the time that it was prostituted to an unworthy cause. He asked very definitely for an answer from the Government whether this was not a breach of a pledge, a breach of a guarantee. My Hon'ble friend Mr. Jinnah has answered that question, but my Hon'ble friend asked for an answer from the Government, and, so far as I represent the Government, I give it to him as straight as he asked for it. I have no hesitation in saying that in my opinion there is no shadow of a breach of pledge. The words used by my Hon'ble friend were 'that when a solemn contract has been made on behalf of Government that pledge and that contract are never departed from.' I fully stand by those words, but I say that the solemn contract has not been made in this case, and if it has not, no pledge will be violated by the passing of clause 4 of this Bill. My task has been made easy by my Hon'ble friend Mr. Jinnah as he dealt with this question very fully, but I would just remind the Council of the position. This pledge is said to have been given in 1793, when Lord Cornwallis' Proclamation was made and was embodied in the Regulation which has been referred to. Now the words of that Proclamation, in the first place, are significant in themselves. It declared that the *jama* which had been assessed on the lands of zemindars and other actual proprietors was fixed for ever. There is no mistake about the word used. The word 'taxation' was not used or referred to in any way. *Jama* is the word which found a place in the Proclamation and Regulation, and we all know what *jama* is. Now has the *jama* ever been increased yet? I do not know what your popular Government will do, I am not dealing with that. But, as I say, have we altered, have we attempted to alter, or are we now attempting to alter it? I say in the next place that this is not even indirect taxation of the landlords. That contention was met by two of my Hon'ble friends, Mr. Shastri and Mr. Jinnah, who pointed that this is not in any sense indirect taxation. What the landholder has in his right-hand pocket, as representing his agricultural income, will remain there, but we are going to take a little more from the left-hand pocket which contains his taxable income. We are going to leave in his right pocket the over-flow of rupees and gold mohurs which are derived from the land. We do not want them; but we are going to take a little more out of his other pocket. That is not indirect taxation of the right-hand pocket. But supposing it was an indirect taxation of the landlord, how can we be precluded from doing so by this supposed pledge? Hon'ble Members of this Council know that in 1793 income-tax was not thought of anywhere in the British Empire—not merely in India, but not even in the British Islands. The first Income-tax Bill was brought in by Pitt in 1798, five years after Lord Cornwallis' Proclamation; the first Income-tax Act in India was enacted in 1860. How when you make a pledge in 1793 that the *jama* shall not be increased can it be suggested for a moment that you are prejudging what you may have to do more than a hundred years later by way of taxation? It is not an increase of the *jama*; it is not even an indirect increase of it. Surely this argument on the score of breach of pledge cannot hold water for a moment. Pitt's Income-tax Bill was introduced in 1798, and it is interesting to follow the debate on it. The great creators of those days took very much the same point against it which has been taken here about the pledge. It was said it was a breach of faith by the

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Government. They spoke then not for the landed classes, but for the funded classes, people who owned fortunes in the funds and who had paid large sums for annuities which Government had undertaken to pay them. They said 'This is a gross breach of faith; we have a pledge from you that we shall have these annuities which we have bought from you that we shall have the whole sum; and here you are taking away a part of it in the shape of income-tax.' Fox put forward this argument with all the eloquence that he was worth. The answer to it was possibly two-fold. The direct answer which was made by Pitt was this. He said 'If you call this a breach of the pledge that we gave when we promised to pay you so much on your annuities, can you tell me what form of taxation there is open to us? Can you tell me of any form of taxation which will not be indirect taxation on these annuities?' And I put the same question to the Council to-day. Can you tell me any form of indirect taxation or direct taxation which will not be in itself taxation on the pockets of the landholders? Put a tax on tea, put a tax on coffee, put a tax on cotton goods, put a tax on anything, he will have to pay it out of one pocket or the other. In that sense every form of taxation must be indirect taxation of income from land of whatever character it is. Therefore, I say, as was said in Parliament when the first Income-tax Act was introduced, this is not a breach of the pledge. If it is indirect taxation of the land, it is not within the pledge which was given, and the pledge does not come into our consideration to-day. The other answer that was given in Parliament was that the Income-tax Act of 1798 was carried by, I think, 170 and odd votes to 50, and that I hope will be the answer that will be given to the same argument in this Council to-day.

"So far with regard to the argument of the pledge, and of course this argument can only be used in respect of permanently settled land. It cannot be used with regard to temporarily settled lands, and therefore an entirely new argument on behalf of temporarily settled lands has to be brought up. It has been advanced by my Hon'ble friend Mr. Shukul both on a previous occasion and again to-day. The argument that is brought up against this clause on behalf of temporarily settled lands is that the land is already over-burdened with taxation. I forget the exact words of my Hon'ble friend, but I think I have quoted them correctly. My Lord, is that so? Can you say that a man who, when he has paid all the expenses of his land and has got an income of, say, over a lakh of rupees still in that right-hand pocket, can you say that he is such a poor man, so heavily taxed already that we ought not to take another pie from him? Surely not. That is an argument, I suggest to the Council, which is inapplicable even to the temporarily settled lands, and nobody can venture to use it with regard to the permanently settled lands. There you have the huge incomes which have been derived from the increased value of the lands since 1793, and no one can suggest that taxation there on the land is overburdensome. Therefore, I say that argument cannot be applied to the permanently settled lands, and it is not applied to them. It is used only as an argument in regard to the temporarily settled lands. But surely the answer to that at once is we are not proposing to tax the people who have little incomes. We are not proposing to tax a man who has a thousand rupees only from his land—and that will cover nearly the whole class of the smaller landholders—he will be left out of account altogether. It is only when a man gets into several thousand rupees that he will feel the burden of this at all; he will not feel it when he gets one thousand or even 2,000 rupees. It is only when his agricultural income, plus his commercial income, brings him over the larger margins that he will feel it at all, and therefore it can only press in any way on those who have great incomes. And does it behove the men in possession of great incomes from the land to come and say 'We are very poor, you should not tax us?' Surely there is no force in that argument.

"Then my Hon'ble friend Mr. Shukul said that this tax will be oppressive to agriculture. Surely it will not. The large incomes of the landholders are not really derived from agricultural operations; they are derived from rents, and that is why I said some few minutes ago the term I would prefer to use would

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be landlords and not landholders. The big incomes which will be hit by this clause, which does not give them the exemption which we are giving to the poor man, will be those of the landlords, not the agriculturists. I say frankly, I feel confident, that there will be no burden laid upon the culture of the land by this clause. There was also an argument which I was surprised to hear from the Hon'ble Mr. Surendra Nath Bannerjea on a previous occasion. He said that to solve their difficulties the landlords will pass the tax on to the tenants. My Hon'ble friend can tell a great deal better than I can whether that is possible under the Bengal Tenancy Act. He can tell better than I can whether the ryots in Bengal are of such a meek character that they will pay for the great landlords without complaining; but I confess I was surprised to hear the argument from my Hon'ble friend. The argument I would have expected from him was, 'if you are going to do this, tighten up the machinery of the Tenancy Act, make it quite certain that the rich will not pass the tax on to the poor.' And if there is any danger of the tax being passed on by the rich to the poor I am sure this Government will be sympathetic to any measure which may be introduced in order to prevent that result being attained....."

The Hon'ble Rai Sitanath Ray Bahadur:—"May I assure the Hon'ble Member that the zemindars will do nothing of the kind."

The Hon'ble Sir George Lowndes:—"My Lord, if I could hear the Hon'ble Member better I might be able to reply to him, as well as to Mr. Bannerjea, but I have nothing to add. No doubt other Hon'ble Members will be able to meet anything I have put unfairly in my argument."

"I only desire to add one word. When I talk of the party of progress and so on it is not in any sense of mockery, but because I feel very deeply on this subject. It means a great deal to me, I am earnestly sympathetic with any reasonable ideas for the progress in the government of this country, and I do ask my Hon'ble friends to pause, whether they are themselves landlords or whether they are only those who are prepared to support the landlords, to pause before on this occasion they record a vote in favour of this amendment. I have seen in various publications that have reached me lately advertisements of the collected speeches of many of my Hon'ble friends. I hope that among those of men with whose aspirations I have the greatest sympathy, for whose eloquence I have the greatest respect, future editions will not have to perpetuate public speeches which acclaim the interests of the landlord class as against those of that coming 'people' whom they hope to represent in this Council."

8-5 P.M.

The Hon'ble Mr. Surendra Nath Bannerjea:—"My Lord, my Hon'ble friend who has just sat down began by saying that there were in this Council the party of progress and the party of landlords. I think my Hon'ble friend would have been franker and more candid if he had just slightly changed his phraseology, and had observed that there were two parties, the party of progress and the party of re-action, the party of the landlords being identical with the party of re-action on the present occasion. My Lord, I belong, at any rate in connection with this amendment, to the party of landlords, and if I am to be told that I belong to the party of re-action because of my conviction in this matter, I may say in reply, that this is the first time in my life-history when an indictment of this kind has been levelled against me. My Lord, I have always held aloft the banner of progress; I have incurred odium; I have incurred the resentment of the powerful; I have faced the penalties of prison-life in the discharge of those duties which I believe to be identified with the progress of the motherland, and I repel with indignation any suggestion which seems to imply that I belong to the party of re-action. My Lord, if in my heart of hearts and as the result of my deliberate conviction I feel that my friend's amendment has to be supported, am I to be diverted by one hairbreadth from my conviction and the verdict of my judgment by an

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allegation of this kind? I hope the record of my public life will enable me to face the charge now brought and perform my duty manfully in this Council.

"Then, my Lord, we have been told a great deal about popular government, and we have been reminded that when popular government comes, it will be necessary for us to impose additional taxation. Nobody is more cognisant of that fact than the leaders of the popular party. We know additional taxation will be a weapon in our hands for the purpose of helping forward the progress of the country. A foreign bureaucracy hesitates to impose taxes; an indigenous and popular government will feel no hesitation to do so, and why not? Because all taxes will be imposed with the concurrence of the people. Suppose we tax the zemindars, suppose we make a breach of the Permanent Settlement—I do not say that we shall ever do so, but suppose we do it—it will be with their concurrence, with their support (laughter)—I think that laughter is a bit uncalled for, and I will tell you my reasons for it. Babu Jai Kishon Mookerji, one of the most capable zemindars that ever lived, was assailed with the proposition that the income-tax involved injustice to the Government and the people. He said 'Very well, you buy us up; give us the market price of our properties. Most of us have purchased those properties; you buy us up and then there will be no quarrel between us and the Government.' Is that a very indefensible proposition? Is it a very absurd proposition to suggest to the zemindars, in view of the progressive and advancing interests of the country, 'here is the money for your landed properties according to the market value, take that money and give us the land, and give us the unearned increment which belongs to that land.' Is that an unreasonable proposition? I do not think so. Therefore the existence of the permanent settlement is no bar to the progressive expansion of our revenues that may be necessary for the purposes of popular government. And if it is necessary to go beyond the permanent settlement and impose taxes, we shall do it because we prize self-government and we are prepared to pay the price of self-government. It cannot be had for nothing. Everything has to be paid for in this world of God's providence, and we are prepared to pay the price of the inestimable boon of self-government. I do hope my Hon'ble friend the Law Member will help us in the matter of acquiring self-government. He has expressed great sympathy with the question of constitutional reform that is now pending. I do hope and trust that the enthusiasm which he has displayed to-day in regard to self-government will materialise in recommendations that will fulfil that great object.

"Then, my Lord, it was observed that there was no breach of the permanent settlement involved. I think my Hon'ble friend made that observation—no breach of the permanent settlement in connection with the clause in regard to which my Hon'ble friend has moved his amendment. I think that observation, if I may say so with all respect, is absolutely irrelevant, for the simple reason that I for my part—I am not speaking for my friends—so far as this particular Bill is concerned, do not take my stand upon the Permanent Settlement, and, therefore, the question of a breach of the Permanent Settlement does not come in at all. You say in the Statement of Objects and Reasons that agricultural incomes are exempted. I take my stand on that. The question of the Permanent Settlement is beside the point altogether. I do not wish to go into the dusty and musty literature to which my Hon'ble friend has referred....."

The Hon'ble Sir George Lowndes :—"My Lord, may I be allowed to say that I only answered a question of the Hon'ble Mr. Bannerjea. I thought he wanted the question answered."

The Hon'ble Mr. S. N. Bannerjea :—"Those were in the days when my mind was unilluminated about this matter. I do not want to trouble the Council or myself with those broader considerations. When the time for the revision of the Permanent Settlement comes, if it does at all come, we shall discuss it; but, for the present, let us not be diverted by extraneous

[*Mr. Surendra Nath Bannerjee.*] [14TH MARCH, 1918.]

considerations of that kind. In this Bill you say that agricultural incomes are exempted and you do not propose to tax them. I say that you do tax these incomes indirectly, and that is the whole contention between myself and the Government. I am sorry the Hon'ble Mr. Sastri is not here. I am obtuse enough not to be able to follow him into the niceties of his metaphysical reasoning. I do say that you cannot dispute the position that you indirectly tax agricultural incomes under this Bill, because you take agricultural incomes into account to swell the volume of the whole income of a man and then levy a super-tax according to the higher rate upon his earnings swelled by his agricultural income. But for the agricultural income he would not be taxed to the same extent as he will be now. To a common-sense man like myself, not comprehending the niceties of metaphysical reasoning, this does seem to me to be an indirect taxation of agricultural incomes. Therefore, I say that in taxing agricultural incomes, with that express statement made in the Statement of Objects and Reasons, you stand self-contradicted, and you ought not to do it. That is reason number one. Call me a reactionary if you like, but that is a strong ground with me.

"Then, my Lord, here is a fact which you cannot ignore, that there is genuine concern, anxiety, and alarm among the zemindars of all the Provinces of India. Here is my friend,* belonging to a princely family and the representative of the founder of his house who was associated with the establishment of the British Empire in Bengal. There are gentlemen from the United Provinces, from the Punjab, from the Central Provinces, zemindars from different parts of India, all united in condemning this particular section, and there is such a genuine ring of sincerity, alarm, and anxiety in the language that they have used to-day. It may be that the alarm is unfounded, but that is not the question. We are here as administrators and statesmen. We have to take note of feeling as a fact of administration. Be it illusory or be it well-founded, there is that feeling, and I appeal to this Council not to ignore it. They feel a sense of real concern and anxiety. They say it is the thin end of the wedge. Rightly or wrongly I do not care, there is that feeling. Do you dispute it? I do not, because it is expressed in language the sincerity of which cannot be mistaken. I think that is a fact which we ought to take note of, coming as that feeling does from those who have been rightly described as the bulwark of the British-Indian Empire, patriotic, loyal, devoted men who will stand by the Empire at any sacrifice, any hazard, any cost. And these are the men whom you disconcert and fill with alarm by a measure of this kind. Is this wise, is this expedient, is this statesmanlike especially at a juncture like the present? Therefore, I say I object to this provision of the Bill and, if popular Government is endangered by it, I am sorry, but I must do my duty.

"Then, my Lord, something has been said about the justice of this re-adjustment. Well, my Lord, I am an ardent student of Edmund Burke, the prince of political philosophers, and one of the greatest men that England or Ireland ever produced. In one of those illuminating passages which abound in his works he tells us that there is such a thing as temperance in truth, temperance in justice. You may be fired with enthusiasm for justice and truth, and sublime things of that kind. But you are men of the world, you are statesmen, you are administrators. Expediency is the great law which we follow, and the claims of justice have sometimes to be postponed in deference to the demands of expediency. In view of the present state of things, in view of what is going on around us, in view of the feeling that has been aroused, I ask is it expedient that you should embody in the law a section like this which will spread alarm and anxiety among the landed classes throughout the length and breadth of this country? I appeal to the Council to take into consideration these facts. Let us not be carried away by sublime considerations. Circumstances determine the action of the practical politician. Descend from heaven to earth and do things as practical administrators, and I am sure you will accept the amendment of my Hon'ble friend."

[14TH MARCH, 1918.] [*Khan Bahadur Mian Muhammad Shafi.*]

The Hon'ble Khan Bahadur Mian Muhammad Shafi:—

8-17 P.M.

" A distinguished advocate and a very able speaker like the Hon'ble the Law Member very naturally to-day availed himself of that species of advocacy with which we are familiar, *i.e.*, whenever we have to advocate a particular case, to avail ourselves of the professed sentiments of our opponent, however those sentiments may ordinarily be opposed to our own convictions, in order to strengthen our case on that particular occasion. He will, I hope, pardon me when I say that in the eloquent word-picture which he has painted before us to-day of what India is going to be in the distant future, I have heard words which present to my ears a great deal of resemblance to the telegrams which we have recently been receiving about what is going on in Russia.

" Well, my Lord, whatever the state of affairs in this country years hence may or may not be, I, as a practical politician, am concerned with the actual state of things as they exist to-day. And, looking at the state of things which actually does exist to-day, I have the utmost confidence in saying that the framers of clause 4 and the majority of the Select Committee would, if they had only considered the question, not from a purely theoretical point of view, but from the point of view of its practical results and the surrounding circumstances, have come to the conclusion that this clause involves unmerited hardship to a class of persons whose welfare and whose contentment have hitherto been the foremost concern of the British Government in India, that the provision embodied in this clause is absolutely inopportune and, looked at from a purely political point of view, it involves consequences in the highest degree detrimental to British interests.

" My Lord, before I develop this position I wish, at this stage, to make it absolutely clear that I fully and gladly acknowledge that the framers of clause 4, as well as the majority of the Select Committee, were not guided and were not influenced by any ulterior motive. I further gladly recognise that the provision embodied in this clause is, according to their honest convictions, one consistent with equity and justice. But where they have erred in putting forward their case to-day is this, they seem to have adopted this position, that it lies on us, the supporters of this amendment, to make out a case for it while, according to every principle of law as well as of commonsense, it is for those who seek to impose fresh taxation to justify their position. It is for them to make out a case. It is for them to show the necessity which has resulted in their putting forward fresh proposals with regard to additional taxation; and it is for them to show how those proposals are just and equitable. Argument based on assumptions, argument based on debatable propositions will not succeed in substantiating a case when you have to establish a case to the satisfaction of the Court or the Tribunal before which you are pleading your cause. It is from this point of view, and this point of view alone, together with the actually existing conditions in this country, that I propose to examine clause 4.

" Now, my Lord, I said that no justification whatsoever has been put forward for the provision embodied in clause 4. To-day in the speeches to which we have listened with respect and with attention, what has been repeated over and over again in different words and in multifarious forms is what the Select Committee have stated in their report; and I propose to invite the attention of Hon'ble Members to what they have actually said. This is the justification, according to the majority of the Select Committee, for the latter portion of clause 4 as embodied in this Act:—

' Our colleagues, Mr. Sitanath Ray, Sir G. M. Chitnavis and Sardar Sundar Singh, object to the principle of clause 4 by which agricultural income is taken into consideration for the purpose of determining the rate on other chargeable income. They have recorded their views in a separate minute, but, as far as the rest of the Committee are concerned, we are clearly of opinion that such an arrangement is a necessity if graduated income-tax is to be collected on an equitable basis. It seems to us quite unjustifiable that a person whose net agricultural income is 10 lakhs, and whose income from business is Rs. 1,000, should pay on the Rs. 1,000, at the rate of 4 pies, while a trader whose sole income is Rs. 25,000 from trade will pay on that income at the one-anna rate.'

" Now these lines constitute the justification in full for the provision embodied in the second portion of clause 4; and as I said all the speeches to

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which we have listened to-day have been variations of the arguments that the majority of the Select Committee have put forward.

"Now the arguments are two. First, the Select Committee considered it unfair that landlords possessing incomes of 10 lakhs and above should not pay into the public exchequer in the same manner at the higher rate as persons who derive their incomes from non-agricultural sources do. And in the second place, they thought that if the graduated system of income-tax is to be equitable, this provision must be embodied in the enactment. These are the two principal grounds justifying the inclusion of the second portion of clause 4.

"Now, so far as the first argument is concerned, I respectfully submit that it is based on an entire misapprehension of the facts of the case. I must make it clear that I hold no brief for the Permanent Settlement landlords. I come from a province in which Permanent Settlement is unknown. We have in the Punjab periodical revision of settlements every ten or fifteen years in some districts, every twenty years in other districts. The same is the case in the North-West Frontier Province, Baluchistan, Bombay, Madras, the Central Provinces, the larger portion of the United Provinces of Agra and Oudh, and also in portions of Bihar and Orissa. It is clear, therefore, that the permanently settled zemindars constitute but an infinitesimal portion of the landed classes in this country. I am concerned mainly not with permanently settled zemindars nor with large landed proprietors, but with the vast agricultural middle classes in this country; and it should be remembered that the incidence of taxation, so far as this clause is concerned, will fall mainly and principally upon these agricultural middle classes. For every single large landed proprietor that you will tax under this clause there will be hundreds and hundreds of middle class land-owners in this country who will come within the provision of this clause.

"The second assumption which is made when this argument is put forward is this that the income derived by agriculturists, as the result of spending money and labour upon their lands, is not taxed at all. The two cases are not at all parallel. The non-agricultural section of our population pay nothing else—at any rate, into the Imperial exchequer—except income-tax; while the agricultural classes in this country—classes which have been recognised to be the backbone of the British Raj—have all along been paying, according to theory, 50 per cent of the income derived by them from their land and in practice a little less but always in excess of the highest rate which the income-taxpayer, even the supertax-payer under the Income-tax Bill—has to pay. Over and above this contribution which they make to the public exchequer in the form of land-revenue, they have to pay rates and cesses, including—and I invite the attention of Hon'ble Members to this particularly—even an education cess. That is to say, the agricultural portion of our population has not only been contributing the major portion, so far as the revenues and taxes of this country are concerned, to the public exchequer, but the children of the non-agricultural classes have been educated at the expense of the agricultural classes.

"The argument that the rich cannot be favoured to the prejudice of the poor does not apply. I am not speaking on behalf of the landed aristocracy of this country: I am speaking more on behalf of the agricultural middle classes who cannot, under these circumstances when a large slice out of their income already goes into the public exchequer, by any means whatsoever be characterised as rich. Then it is said: 'But under a system of graduated income-tax it would be inequitable not to introduce a provision like this; otherwise the system will not be equitable.' That argument again, I respectfully submit, is based on a misconception of the actual state of things. We have, so far as the agricultural classes are concerned, three kinds of land, and these lands are sometimes owned by one and the same person, and sometimes by different persons. We have, first, the *Bārani* land, the crops on which depend entirely upon rain water. Then we have what are called the *Chābi* lands, that is to say, the agricultural owner of this land digs a well at his own expense, to which the State contributes nothing either of labour or money, and as soon as the land is irrigated by this well, then the land-revenue on the well-irrigated land is at once enhanced owing to the enhanced productive power of the land. That

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is an excess which the agriculturists have to pay. Then you have the highest grade of land and that is *Nehri* land; as soon as land begins to be irrigated by canal water, although the agriculturist has to pay *Abiyana*, that is to say the water-rate, to the Irrigation authorities, he pays that to the department as the price of the water that he gets, yet as soon as the land becomes a little more productive by reason of the application of canal water, he has to pay a still higher rate in land-revenue into the public exchequer. The land-revenue system is, thus, itself a graduated system, and it is a graduated payment which he is already making into the public exchequer. Call it tax, call it the traditional due of the Government, that is a question into which I do not propose to enter. It is a debatable point, and one debatable point can never strengthen another debatable point when the latter point is in issue. Therefore, I do not propose to enter into that matter. I say, therefore, that the argument that both branches of the argument, as given in the Select Committee's report, are based on a misconception of the actual state of things, and on assumptions for which there is no foundation.

“ Then, my Lord, is this provision opportune? I beg to draw your Lordship's attention in particular to this part of the argument. In this time of crisis, when the Empire has had to face a situation unparalleled in the history of the world, who is it who has come forward to the help of the Government here in India at this critical juncture? My Lord, it is this very class of land-owners on whose behalf I am pleading to-day who have supplied you with all the recruits constituting the British Indian Expeditionary Force. And remember, my Lord, that this furnishing of recruits by this class of land-owners is something which has cost them a good deal. Every *zaildar*, every *lambaradar*, every middle-class land-owner who, because of his patriotic feeling and because of his abiding and traditional loyalty to the British Crown, has furnished recruits to the Government, has had to pay for every single recruit from his own pocket money which has gone into the pockets of the families that the recruits have left behind them here. I know I am personally aware of this fact, because I have had a great deal to do with the work which has been going on in the Punjab. And remember, my Lord, that it is agricultural income out of which this money is spent. My Lord, at this time, when the war has reached a very critical stage, I say, is it opportune to enact a law of this kind? As a sincere well-wisher of the British Government my humble but earnest advice to Government is, that this is not the time when additional taxation should be placed upon the shoulders of those very classes who are doing all that lies in their power to help the Government at this critical juncture.

“ My Lord, the third argument which I put before the Council is this: that looked at from a purely political point of view, this provision is in the highest degree prejudicial to British interests. That is an argument which is still more worthy of your Lordship's consideration. I do not propose to dwell on this part of the case. I will not say what is in my mind in such clear words as I, under different circumstances, might have used; but this much I may say, that by the enactment of this provision there will be a great deal of room for misconceptions and misapprehension not only of what the Government has done actually, but what the Government intends to do. And, my Lord, the opportunities which will be furnished by the results of this measure will be taken advantage of by certain classes of people. Taxation as was observed by the Hon'ble Finance Minister is not always welcome. It creates, naturally creates, a certain amount of discontent, and that discontent which this taxation will create amongst agricultural classes will be taken advantage of by persons who are not always well-inclined to the existing state of things and mischief will be created. As a sincere well-wisher of the British Government, I warn the Government of it. I say, my Lord, that this is not the time, this is not the occasion, for introducing into this Council measures of this kind. I was sorry to hear the Hon'ble Law Member say that we were fighting for class interests, and that we were fighting for our pockets—let me tell him that so far as I am concerned the major portion of my income is derived from my professional practice, and I am already paying super-tax on that, so that this new provision does not in

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any way touch my pocket. Nor in this Council do I represent the agricultural classes, but I represent the Muhammadan community of the Punjab. It seems to me, my Lord, that under a representative form of government if there is a Member of this Council who represents a particular class or a particular interest, provided he has the good of the State at heart, provided he takes up a position which is perfectly consistent with his loyalty and with his good-will towards the Government, there is no sin in advocating the interests of the class he represents; in fact, it is his duty to do so. My Lord, with these few remarks, I support the amendment moved by my Hon'ble friend Mr. Sitanath Ray."

3-40 P. M.

The Hon'ble Mr. M. N. Hogg :—" My Lord, like the Hon'ble Mr. Sastri, I have endeavoured to approach this question with an open mind and from an impartial standpoint, and I have arrived at very much the same conclusions as he has told us he arrived at this morning. I had intended to put a few points on this question before the Council for consideration, but most of them have already been placed with great clearness by the Hon'ble Mr. Sastri and the Hon'ble Mr. Jinnah, and I therefore do not wish to repeat them. I will content myself with associating myself with the remarks which have fallen from both those Hon'ble Members. But there is just one point which I should like to refer to in the remarks of the last speaker (Mr. Shafi). He has pleaded for the middle-class agriculturist and land-owner. I do not know exactly what size of income he had in mind; but I just worked out what difference this new clause would make to a man who had an income of Rs. 5,900 a year from land and Rs. 2,500 from other sources. The new clause would make a difference of Rs. 10. Well, Rs. 10 is something undoubtedly—I do not suppose he would necessarily like paying it—but is it such a hardship, that it is going to have all the dire consequences with which the Hon'ble Mr. Shafi threatens us? With these few words I desire to support the clause as it stands."

3-41 P. M.

The Hon'ble Dr. Tej Bahadur Sapru :—" My Lord, I have known a Chief Justice who after hearing the case for the prosecution called upon the counsel for the defence, and, after hearing the counsel for the defence, said to him that whatever doubts were left in his mind with regard to the guilt of the accused had been removed by the arguments of the counsel for the defence.

" I have had the privilege of hearing the arguments of my landlord friends to-day with the utmost possible interest. I have also had the privilege of listening to the arguments advanced by two of their distinguished advocates. One of them certainly is a gentleman whom I have been accustomed to look upon as my political leader since my political life commenced. The more I reflect upon the arguments that have been advanced by my distinguished leader Mr. Surendra Nath Bannerjea the more do I feel that I ought not to support the cause which he has so eloquently advocated here. My Lord, the Hon'ble Sir George Lowndes referred to the prospect of popular government. I do not make a grievance of that. I personally believe that that was a very relevant part of the argument which he addressed to us this afternoon. My Lord, my Hon'ble friend and leader the Hon'ble Mr. S. N. Bannerjea said that when popular government came he had no doubt whatsoever that if it was necessary to abolish the Permanent Settlement, it would be possible to do so with the full consent and concurrence of the zamindars. I have great respect for the eloquence of the Hon'ble Mr. S. N. Bannerjea, and I speak with all the sincerity that I am capable of when I say that I have been and am a warm and ardent admirer of him. But, my Lord, living as I do in the twentieth century, I am not prepared to credit Mr. Bannerjea with the power of miracles. If popular government comes, and if Mr. Bannerjea is able to convince my friends the landlords of the desirability of abolishing the Permanent Settlement, I shall look upon him as a gentleman endowed with the power of performing miracles in the twentieth century. Now, I think it is best that we should not deceive ourselves in regard to these matters. I entirely agree....."

[14TH MARCH, 1918.] [Mr. S. N. Bannerjea; Dr. Tej Bahadur Sapru.]

The Hon'ble Mr. S. N. Bannerjea:—"May I rise to make a correction. I did not say abolishing the Permanent Settlement. I referred to the policy of the State buying up the landlords—paying the value of their property."

The Hon'ble Dr. Tej Bahadur Sapru:—"Even that would be nothing short of a miracle to my mind, though I stand corrected. I may be permitted to observe that in my own humble way I happen to belong to what has been described as the party of progressives. I and my family happen to be small zemindars and, although politics have grown thick upon me, yet the instincts of the zemindar are not wholly extinct. I therefore, with the utmost respect for the zemindars, do feel that they will not consent to be parties to anything that affects the Permanent Settlement or diminishes their sources of income. I do not blame them for that, none of us would be willing to subject ourselves to a process like that if it affected our own profession or if it affected our callings. I am only referring to an elementary fact of human nature.

"Then, my Lord, I was going to say that it is not right that we should deceive ourselves in this matter. I think Sir George Lowndes was right in saying that there are two parties in this Council, and, indeed, there are two parties in the world outside in India, the party of progressives and the party of landlords, or the party of those who represent vested interests. My Lord, if popular government is to come, I do venture to think that those of us who believe in vested interests must be prepared to receive some rude shocks. I have been a very ardent advocate of popular government, and I am wedded to these ideas and to these beliefs, and I for one do not hesitate to say that my conception of popular government is not the government of any particular party or of any particular interests. By popular government I understand a government of the people which seeks to secure the interests of the majority irrespective of any pecuniary inconveniences that may result to any minority however strong, powerful or influential they may be. Perhaps I have digressed from my point. My Hon'ble friend Mr. Sita Nath Ray in the opening portion of his speech, if I may be permitted to say so, gave away the whole case. He said 'Oh! well, after all the gain to the State would be very small.' I hope I am quoting him correctly. If the gain is to be such a small one as he thinks it is going to be, may I ask in all humility why then enter the lists at all, why raise a thunderstorm? But it has been said that there are two main objections to clause 4. The first objection is that it imposes indirect taxation, and the second is that the present Bill does in a manner, if not directly, seek to violate the pledges which have been given to the landlords by the British Government. Let us examine all the provisions of this clause as they stand in the Bill itself. The first few words in the clause seem to my mind to be quite clear; no question of interpretation arises with regard to them. The words are 'agricultural income shall not be chargeable to income-tax'. If I were asked as a lawyer to interpret those words, I would say that they meant that under no circumstances shall agricultural income be charged to any income-tax under the provisions of this Act. It is, however, said that the sting lies in what follows in the next clause, which runs as follows:—

'But the net amount of such income in excess of ₹1,000 which has been received by an assessee in the previous year shall be taken into account in determining the rate at which the tax shall be levied on any income otherwise chargeable to income-tax under this Act.'

Does this really amount to indirect taxation? I have honestly tried to follow the arguments that have been adduced on the other side, but I regret to say that I am not able to appreciate the force of those arguments. It is not agricultural income which will be made the subject of any assessment; it is non-agricultural income which will continue to be assessed, but assessed at a higher rate of taxation. I do not certainly call that an indirect way of taxing income. If the zemindars are so very anxious about it they can certainly keep the agricultural income apart, and then they will pay the increased rate of

[*Dr. Tej Bahadur Sapru ; Rai Sita Nath Ray Bahadur ; His Excellency the President.*] [14TH MARCH, 1918.]

tax out of their non-agricultural income, which really means nothing more and nothing less than this, that the savings to them from the non-agricultural income would be somewhat less under the provisions of this Bill than they would have been if the provisions of this clause had not come into force. As regards the fairness or equity of this provision, I should have thought that it was an elementary principle of taxation, especially of income-tax, that the capacity of a man to pay is the real test. The graduated scale of income-tax having been admitted as the basic policy by the Government of India, I think it is only fair and equitable that those who can afford to pay more should be called upon to pay more than those who can afford to pay less. Now, it is perfectly true that the zemindars have got to pay land-revenue and certain cesses. But then the tax under the provisions of this clause is sought to be levied upon the savings, and the increase, I venture to think, under the provisions of this Bill will not be such that they can suffer any real hardship. Look at the scale which is provided there. The Schedule says, and my Hon'ble friend Mr. Jinnah took pains to point out that, the normal rate of taxation is one anna in the rupee, and it is only in the case of poorer people that exemption is given. Well, I venture to think that the number of people who will be affected by this clause, certainly in my province, will not be very large, indeed. I find that the number of men in my province who pay income-tax is not over 40 or 46 thousand, and out of these, I believe, only about twenty or twenty-five thousand will be affected. Therefore, my Lord, I submit that if you bear in mind the basic principle of the capacity to pay, I do not think there is much room for grumbling on the ground of this clause being inequitable or unjust.

"Then with regard to the pledges, I think my Hon'ble friend Mr. Jinnah very effectively disposed of that part of the argument. I do not feel myself called upon to enter into any elaborate discussion as to the Permanent Settlement, but I do certainly think with Mr. Jinnah that it was not part of the agreement arrived at at that time between the Government and the landlords that the landlords would not at any time be called upon to make any further contribution that it might be necessary for the State to require of them at any time in the future. I have not read that Regulation in the light in which it has been sought to be interpreted to-day by the zemindars, and I do think that the argument which is founded on that Regulation is not by any means valid or convincing. I agree with my Hon'ble friend Sir George Lowndes, if I may be permitted to say so, that all that it secures is permanence in the *jama*. It does secure nothing more than that, and, so far as permanency in the *jama* is concerned, I do not think that by any stretch of imagination the provisions of clause 4 can be said to affect it.

"Then, my Lord, there was one more argument which was addressed by my Hon'ble friend Mr. Sita Nath Ray, and with your Lordship's permission I will very briefly notice that. It was suggested by my friend that one certain consequence of clause 4 would be that landlords would not find themselves in a position to promote and further industries. May I ask, my Lord, in all humility, how many industries have been promoted and furthered by the zemindars under the present system when they are not called upon to pay any tax on their agricultural incomes? I do not know anything of Bengal; but, speaking of my own province, I venture to say with some degree of confidence that the number of zemindars who have promoted or furthered industries in the real sense of the word can be counted on the fingers of one's hands . . ."

The Hon'ble Rai Sita Nath Ray Bahadur :—"May I point out, my Lord, that my Hon'ble friend the Maharaja of Kassimbazar has spent several lakhs on commercial and industrial enterprises"

His Excellency the President :—"Order, order."

The Hon'ble Dr. Tej Bahadur Sapru :—"My Lord, I should not be misunderstood on that subject. I do not deny for a moment that there are

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zemindars and there have been zemindars who have made some investments in industrial enterprises. But look at their enormous income and look at the large numbers of zemindars in Bengal and in the United Provinces and in some other parts of the country, and then look at the output with which they can be credited in this matter. I do not think that they can justly claim to be captains of industry in any part of India. Well, so far as trade and commerce are concerned, we know that in Bengal it is the Marwari community which has got practically the monopoly so far as the Indian population is concerned. But I do not wish to fight my friends of Bengal. I am only concerned with my province, and I do say that that claim has yet to be established.

"Now, my Lord, I leave my friend Mr. Sita Nath Ray and just try to meet one of the arguments which has been addressed this afternoon by another advocate of the cause of agricultural classes—I refer to my Hon'ble friend Mr. Shafi. He has not tried to advocate the cause of the big zemindars, but he has espoused the cause of the small agriculturists in the Punjab. I sympathise with my Hon'ble friend, but may I ask how many zemindars, small agriculturists in the province of the Punjab, and, so far as I know, Punjab is a province of small zemindars, will be really affected by the provisions of this clause I? have not got the figures before me, but I think that the number of small agriculturists who also have other sources of income must be very small indeed in the Punjab, as I have no doubt is the case in other parts of India. Therefore, my Lord, it seems to me that there is not any very serious danger of the small agricultural Punjab population being injuriously affected by the provisions of this clause.

"Now, my Lord, lastly, there is one more point which I would venture to notice very briefly, and that is, a point which was raised by the Hon'ble the Maharaja of Kassimbazar. In the course of his speech the Hon'ble the Maharaja Sahab said, to use his own words, 'that the provisions of this Bill are against juristic principles.' My Lord, I have all this time been trying to analyse the provisions of this Bill, particularly the provisions of this clause, and I do not find what jurisprudence has got to do with clause 4. Of course, I can understand a reference to equity in the consideration of this clause, but I cannot understand what jurisprudence has got to do with it. Let us, therefore, not confuse the issue. The issue to my mind is a very simple one, and it is this. Are those people who, having regard to their capacity can pay more, to be exempted merely because, according to certain opinion, agricultural income should be considered to be sacrosanct? I have no hesitation in answering that question in the negative."

The Hon'ble Sir John Campbell:—"My Lord, I should like 4 P. M. to explain that I was a member of the Select Committee on this Bill and signed the majority report, and I do not wish to resile from the position that there can be no doubt of the theoretical equity of considering agricultural incomes in arriving at the rate at which a man's total income should be assessed to income-tax. But I should like to state what my objections to clause 4 are, as they have not yet been mentioned in this Council to-day. As a revenue official I am mainly concerned with the immense amount of work which is going to be thrown upon the revenue authorities, of my own Province at any rate, in arriving at suitable formulæ for the definition and assessment of 'net agricultural income.' Three seemingly simple words, but which have for the last three months been puzzling men who have been studying rent and revenue problems for the last thirty years. It is unnecessary to trouble this Council with the technical difficulties that exist in arriving at a satisfactory definition of 'net agricultural income;' but I can assure Hon'ble Members that they exist, and that they will not be removed by the insertion in the Bill of the new second paragraph to this clause of the Bill nor by the amendment which is to be moved by the Hon'ble Mr. Sarma. Even if formulæ are arrived at which satisfy the revenue authorities and the Government of India I would invite the attention of the Council to the mass of work which will be thrown upon Collectors in applying the formulæ to the incomes of hundreds, if not thousands, of assesses. And all for the sake of what? Not for the sake of securing additional

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income to the State, but for the sake of removing a theoretical inequality. Further, having arrived at our definition of 'net agricultural income' which will satisfy the Government, are we certain that it will be equally acceptable to the assesses? If not, what will be the result? They will claim, under section 51, that their case shall be referred to the High Court for a decision as to the proper interpretation of the Act and the rules made thereunder; and we shall then have the edifying spectacle of the work of the High Courts being dislocated while Bench and Bar waste time over the correct meaning of the apparently simple words 'net agricultural income.' My Lord, I have had the honour of serving on the Select Committee, as I have already said, for the consideration of this Bill; a committee full of financial experts, legal experts and commercial experts, but mine has been the voice of one crying in the wilderness when trying to explain the difficulties which will crop up in working the Act for the unfortunate and already over-burdened Revenue official, and therefore I have laid some of the difficulties before this Council."

4-4 P. X.

The Hon'ble Pandit M. M. Malaviya :—"My Lord, I regret to think there has been a great deal of heat imported into the discussion of this measure to-day, and that both on the Government side and on the side of the zamindars. I must say I was not prepared to find Sir George Lowndes take up the attitude that he did, and I must also say that I was not prepared to hear my zamindar friends exaggerate the effect of the present measure to the extent that some of them did in their speeches, and imagining consequences of a very evil character which would arise if the provision were passed into law. I do still think, my Lord, that the matter might and ought to be considered in a cool manner and in a manner as much removed from the feeling that there are two parties working here, one the party of vested interests, and the other the party of progress, but from the point of view of what is right and proper and what is the proper procedure to adopt in a consolidating and amending Act. In speaking on this proposed measure when the Bill was introduced I said what I beg leave to quote to you. I said :—

'The Hon'ble Finance Member says this Bill is not a Bill which is designed, either by altering the rate of tax, or otherwise, to raise money.'

He emphasized that point very clearly. He said section 4 lays down that agricultural income shall not be chargeable to income-tax. Then I went on to say, my Lord, that the net amount of income in excess of Rs. 1,000 which had been received by an assessee in the year of assessment was to be taken into account in determining the rate at which the taxation was to be leviable on any income under this Act, and I went on to say that by this device the rate of taxation had been increased. I did not use the word 'device' in any offensive sense, and I am sorry the Hon'ble Law Member should have taken it in that sense. I use it just as he used the word 'subterfuge' in saying that my suggestion that a separate Bill should be introduced would have been a subterfuge. I am sure I did not use the word device in any other sense. Then I said, by this device the rate of taxation would be raised. You say clearly that agricultural income shall be exempted from taxation. Then you go on in the same paragraph and say yes, but the agricultural income above Rs. 1,000 shall be taken into account in determining the rate at which income-tax shall be paid on the non-agricultural income. Now, if a man has a non-agricultural income, and that happens to be below a certain figure, he will pay his tax on that non-agricultural income. If you say that agricultural income is exempt, then you ought to obliterate the existence of that income from your mind, but you have no right, no justification for saying in one breath that agricultural income shall be exempt, while in the same breath you say 'I will take that into account in determining the rate at which you will pay the tax.' The non-agriculturist pays the income-tax according to the Schedule. The agriculturist is to pay the income-tax on non-agricultural income according to the higher rate for what reason? For no other offence, for no other virtue than that he happens to possess an agricultural income. I say with great respect, but with great clearness, that this is taking agricultural income into account, and

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that is indirectly taxing that agricultural income. My point was, and I repeat it, that this is not the right way to do it.

“My Lord, I am not opposed to taxation. I recognise the need of taxation as much as my Hon'ble friend Sir George Lowndes, but I want that taxation to be introduced in the right spirit, and I am sure in that my friend will agree. In dealing with the question what did I say? I said ‘I do not think, my Lord, that that is the right way to proceed about this business of raising the rate of taxation which is to be paid by persons who are in possession of large incomes. I think the straighter course would be for those in charge to say, money is needed and ask the people to contribute.’ I still maintain that that would be the right way. What has been the result? Many questions of great importance have been raised, and the question has been taken up from the point of view of how it will affect the Permanent Settlement, and how it will not affect the Permanent Settlement. Many and learned speeches have been delivered as if the issue before the Council to-day was whether the Permanent Settlement in Bengal should be touched. And my Hon'ble friend Sir George Lowndes has made an appeal which looked more like an appeal to the jury than to the judge when he told us how our future position would be affected by the voting which we shall record to-day. I want to take these two points: first, the question of the Permanent Settlement. My friend, Mr. Jinnah, referred to that question and he has quoted from the Proceedings of 1860. Before I refer to that I should like to make it clear that I am here as no advocate of the zemindars and no advocate of any parties.

“I hope with the light that God has given me to advocate what is right for the zemindar as well as for the poor. I am not opposed to the zemindar because he happens to be a zemindar. I do want to plead the cause of my poor countrymen because they are the bulk of the people, and their happiness has been the object of my ardent desire throughout my life. But I do submit, my Lord, that not even to benefit the bulk of my poor countrymen, would I do an act of injustice to my countrymen who belong to the zemindar class.

“What is the position with regard to the Permanent Settlement? I do not think it should have been raised, but it having been raised, I wish to draw attention to the fact, because it seems to me that both in the speech of the Hon'ble Sir George Lowndes and in the speech of the Hon'ble Mr. Jinnah, the importance which attaches to that Permanent Settlement was somewhat lightly dealt with. The Hon'ble Mr. Jinnah quoted from the speech of Mr. Sconce in which he discussed this question. Mr. Sconce said:—

‘The declaration made by this law (Regulation I of 1793) came to this, that the zemindars, their heirs, and successors should hold their estates for ever at the assessment which by the Settlement they had engaged to pay; and the clear purport of this declaration he took to be that the re-assessment of the estates in question was for ever barred.’

He went on to say:—

‘It seemed to him that the law gave no guarantee that the proprietors of those estates should never be called upon to aid in the relief of the future necessities of this Government by contributing according to their means and incomes.’

In the same speech Mr. Sconce quoted the words of the Governor General (Lord Cornwallis) in his Minute. They are as follows:—

‘By reserving the collection of the internal duties of commerce Government may at all times appropriate to itself a share of the accumulating wealth of its subjects without their being sensible of it.’

“So that what he had in mind when he said that they might be called upon later on to contribute according to their means and incomes to the necessities of the State was not that the revenue should be raised, but that incomes should be derived from internal duties on commerce and other sources of income which it was expected that the accumulating wealth of the zemindars would enable them to gather.

“I submit, therefore, my Lord, that that question should not have been taken up as if that was the issue before this Council.

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"Then, the Hon'ble Sir George Lowndes told us that this provision is fair and equitable, and he supported it because he thought it was fair and equitable. Now, my Lord, we may agree to differ on that point. I have very great respect for the Hon'ble Sir George Lowndes, but it is possible for us to differ without any disrespect or discourtesy.

"But the third thing which he said, my Lord, calls for a little consideration. He said the attitude of the Council to-day on this important question at this important juncture was a matter of some concern to him. We know that the Hon'ble Sir George Lowndes has a real and deep sympathy with our aspirations for progress. We respect him for it. But let me assure him that no considerations of progress ought to deviate any Member of this Council from the course of duty which he thinks right and justice dictate. And, if it is right and just to oppose the provision which has been introduced to-day, though that provision might bring in a little added income to the Government, I hope Members of this Council will discharge their duty without any consideration of how their conduct is to be judged.

"And now, my Lord, my friend said there were two parties in this Council, the party of progress and the party of the landlords. There is nothing of the kind. There are landlords who have expressed their adhesion to the party of progress, to which we have the honour some of us to belong. In that party we have no other desire than that the progress in this country should be on sound and equitable lines, administering justice on the basis of the administration that has been laid down and endeavouring to carry out that object in a better way, if possible.

"My friend said 'Remember, in any form of popular government there must be a great deal of extra taxation.' My Lord, we are thankful to him for reminding us of it. If we have studied any books on History, Economics or Political Science, that truth has been ingrained in us. We know that every popular government means greater expenditure. We are longing for the time when we shall be put in power to raise further taxation. We know that many of the measures of progress, which we desire for our country, will entail increasing expenditure. We know that other countries which have advanced have greatly increased their expenditure; but we know also that they have increased their revenue. We are looking forward to being able to increase our expenditure and, correspondingly, to increase our revenue. We are not afraid of levying taxation. We pray God that we may have the opportunity, when, sitting along with the Members of Government, we shall be able to press our views sufficiently strongly to be able to raise the standard of expenditure in order that the standard of national income may be promoted. My Lord, the form of government which will come will not find us wanting in that direction. To-day the simple question before the Council is this. The Government have told us that this Bill has not been introduced with a view to raise revenue. It has been introduced, as the Hon'ble Sir John Campbell has reminded us, in order to remove a theoretical inequality. Some of us feel that this is not the right way to remove what is regarded as a theoretical inequality. Some of us go further and doubt whether there is a theoretical inequality at all. My Lord, the view has already been expressed by some Members that the agricultural income is the net profit of the zemindar after he has paid the tax which he has to pay upon the gross income. The Hon'ble Mr. Jinnah referred to a portion of the speech of Mr. Scone in which he said that from all time it had been recognised that the State had a right to receive a share of the produce of the soil. Nobody questions that, the State has always been recognised in India to have a right to a portion of the produce of the soil. So it is to-day. But thereby the position of the proprietor is not placed in doubt. The proprietor is there. He contributes a certain portion of his produce as tax to Government. If my friends will refer to the original books of the Hindus, from which the idea is taken, it is there spoken of as *kara*, a tax. It is not that the State has a right to it. My friend shakes his head"

The Hon'ble Sir George Lowndes :—"Certainly, my Lord, I shake my head. I have always understood—I may be wrong—that land-revenue consisted partly of tax and partly of rent."

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The Hon'ble Pandit M. M. Malaviya:—"In so far as the right of the State to receive a portion of the produce of the soil is concerned, it is distinctly spoken of as *kara*, as a tax, call it rent or whatever name you like. Now, I submit, that it does not necessarily raise the question of proprietorship. The whole point before us is that the zemindar or the agriculturist does pay a certain amount in the shape of land-revenue and rent. Having paid that, the balance left to him is net profit. You want that he should pay a second tax upon that net profit. If the exigencies of the Government and the State demand that he should be called upon to do so, by all means do so. Introduce a Bill for that, say that you recognise that the tax is being paid already upon that land, and say that still, in the interests of the State, it is necessary that he should pay a further and second tax, and, if the necessities of the situation make them feel that this should be done, I expect there will be many zemindars who will give their assent to such a proposal. But what I submit is that, when you speak of an inequality, there is a mistake, a wrong idea running in the minds of those who speak of it. You say an agriculturist has an income of Rs. 10,000: that is, he has an income from non-agricultural sources of Rs. 5,000, and he has an income of Rs. 5,000 from agricultural sources. Very well. And you say he pays only on Rs. 5,000. You want that the other Rs. 5,000 also should be taken into account in determining the rate. You do so because you say the non-agriculturist has an income of Rs. 10,000, and he pays a tax for the whole Rs. 10,000. But, my Lord, let it be remembered that of the Rs. 10,000 which has made the agriculturist's total income, the Rs. 5,000 derived from agricultural sources is the net profit left to him after having paid the tax. Either this proposition is true or it is not. If it is not correct, then I am wasting the time of the Council. If it is correct and cannot be answered—and I should like to know if it can be answered—then I submit you propose, not to remove an inequality, but to place the agriculturist under a disadvantage,—that is to say, you tax him a second time in an indirect way under the proposed clause when he has already paid a tax upon his agricultural income. That is the entire position. I wish the Government would take these facts into consideration, and I wish that they would examine the question from the point of view of what is right and proper, and what is the right and proper way of doing it. If this unfortunate clause has raised so much heat and discussion here to-day—heat and discussion into which even my Hon'ble friend the Law Member has been drawn—then I submit, my Lord, the Government ought to pause and think whether it is right to pass it at this Council. I hope the matter will receive consideration."

The Hon'ble Mr. F. J. Monahan:—"My Lord, some of my ^{4-21 P.M} Hon'ble colleagues from Bengal are jealous guardians—and I dare say they have some justification for being jealous—of the inviolability of the permanent settlement of Bengal at a time when that institution is subjected to a good deal of not very well informed criticism; but really and truly I do not think that this clause 4 of the Bill has got anything to do with permanent settlement. I was glad to hear my friend the Hon'ble Rai Bahadur Sitanath Ray say that he did not regard clause 4 as a breach of the inviolability of the permanent settlement; and I was also glad to hear my friend the Hon'ble Mr. Surendra Nath Bannerjea say that he did not take his stand on the permanent settlement. I have a kind of recollection that in the speech which he made on the 6th of February, my Hon'ble friend took rather a strong stand on the permanent settlement. But I understand him to have said that before he obtained illumination....."

The Hon'ble Mr. S. N. Bannerjea:—"Quite so".

The Hon'ble Mr. F. J. Monahan:—"Well, I congratulate my Hon'ble friend on the illumination he has gained between the 6th February and the 14th March. The Hon'ble Mr. Jinnah has explained very clearly the grounds for the view that the permanent settlement is no bar to imposing an income-tax on agricultural income in permanently settled districts; and that view is

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supported by the great authority of the Hon'ble Sir George Lowndes, and *pace* the Hon'ble Pandit Madan Mohan Malaviya, two Acts of Parliament have at different times imposed income-tax on agricultural income in permanently settled districts. I mean Acts of the Government of India, not Parliament; I should say the legislature of this country. I take it that view is correct. The Hon'ble Sir George Lowndes goes further and suggests that if there were a popular government in Bengal it would at once set aside the pledge given at the time of the permanent settlement. This question of the permanent settlement in Bengal is sometimes talked about as if the only people interested in maintaining the permanent settlement were a small class of zemindars....."

The Hon'ble Sir George Lowndes:—"My Lord, the Hon'ble Mr. Monahan has misunderstood me. I did not suggest for a moment that a popular government would set aside permanent settlement, but that they would not be debarred by the permanent settlement from taxing the big landlords. That is all I intended to say."

The Hon'ble Mr. F. J. Monahan:—"I beg the Hon'ble Member's pardon; but I was only going to say that as regards these questions of taxation which a popular government might impose, I wonder sometimes what the result would be; because, as I say, the class interested in the permanent settlement as it exists in Bengal is not a small class of large landlords but a very large class—you may say, quite a population of people, comprising landlords, tenants of different degrees,—a large and not unimportant class, and it would be curious to know what the result would be. However, as I said, I do not think that these questions—the question of the propriety or the legality of imposing income-tax in permanently settled districts on agricultural income, or the possibility of taxation being imposed on such incomes in the event of a system of popular government being introduced—I do not think that these questions are very closely connected with the question of this section 4 of the Bill or the amendment under consideration. I am afraid that if Hon'ble Members are not satisfied by the speeches that have been made by the Hon'ble Sir William Meyer, the Hon'ble Sir George Lowndes and others, that this is not a tax, directly or indirectly, on agricultural income or a prelude to such taxation, I shall not be able to convince them; but what I should like to point out is, that this principle of taking agricultural income into consideration in the assessment of income-tax is not altogether a new one. At any rate, in Bengal, it was laid down and recognised a very long time ago—shortly after the passing of the Income-tax Act of 1886—that agricultural income might and should be taken into account in determining the question of whether a person was liable to income-tax at all, and also in determining the question of the rate at which he should be assessed in certain cases. Section 5, sub-section (1) of Act II of 1886, sub-heads (a) and (b), exempted agricultural income from tax; and sub-head (j) of the same sub-section exempted any person whose income from all sources was less than Rs 500 per annum. We know the limit was raised to a thousand rupees in 1903. Well, the Board of Revenue in Bengal laid down that the expression 'income from all sources' means all sources whether taxable or not. That was laid down by the Board of Revenue in Bengal in September 1886, and it seems to be the obvious meaning of the sub-head. Then when we come to the Second Schedule of the Act, we see how this principle was applied. I think it was my friend the Hon'ble Sir Hugh Bray who in his speech the other day pointed out that there were things about income-tax that might escape attention on a cursory perusal of the Act, and that is partly due to the fact that certain things in the important Second Schedule have usually been printed in very small print. That is no doubt unavoidable; but if we look at Part I of the Second Schedule of the Act (dealing with salaries and pensions), it was laid down that, if the income amounted to Rs. 2,000 per annum, the rate of assessment shall be five pies in the rupee, and that if the income was less than Rs. 2,000 per annum, it should be 4 pies in the rupee; that is to say that if a person had an income or salary of less than Rs. 500 per annum and along with that agricultural income raising his total income from all sources to Rs. 500 per annum or over, he was

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liable to be taxed on his small salary at the rate of 4 pies in the rupee. Of course, the amount of income and the amount of tax involved in that construction of the Schedule was not large, but still the principle was there. Then with regard to Part II—profits of companies—the question did not arise because the tax was levied on the profits of the company, and under that Act individual shareholders could not claim refunds if their total income was less than the taxable minimum. When we come to Part III—interest on securities—the rate of tax prescribed was 5 pies in the rupee, unless the owner of the securities produced a certificate signed by the Collector that his annual income from all sources was less than Rs. 500, in which case no deduction should be made from the interest, or unless he produced a like certificate that his income from all sources was less than Rs. 2,000, in which case the rate was to be 4 pies in the rupee. There again, before he could get a certificate he had to show that his income from all sources including agricultural income was less than Rs. 500 or less than Rs. 2,000, as the case might be. When we come to Part IV of the Schedule—other sources of income,—the difficulty arises. The second column of this part of the Schedule prescribing the rates at which the tax should be assessed on incomes of different amounts was worded in this way:— ‘Not less than Rs. 500 but less than Rs. 750 the tax shall be Rs. 10.’ So that under that part the amount of tax from Rs. 500 to Rs. 750 was Rs. 10. But for any income under that Part of less than Rs. 500 there was no rate and no amount prescribed. It was different in the case of salaries, and the Board of Revenue in Bengal laid down that as the rates specified in Part IV for incomes under that Part of less than Rs. 500 was *nil*; a person with an income of less than Rs. 500 under Part IV should not pay any tax on that income, although his total income might come to Rs. 500 or more. Well, when the Act of 1886 was amended by the Act of 1916, there was a change in the rates of tax which was effected by an amendment of the Second Schedule, and under that Act there was the same point about income falling under Part IV. The Schedule lays down that if the income is not less than Rs. 1,000 but less than Rs. 1,250 the tax shall be Rs. 20. In the Schedule of the Act of 1886 as amended by the Act of 1916, the rate of assessment for salaries is stated in the same way. It says if the income amounts to Rs. 1,000 per annum or Rs. 83-5-4 per month, but is less than Rs. 2,000 per annum the tax is 4 pies in the rupee. But here again in this Schedule in Part II, which deals with profits of companies the proviso says ‘provided that a shareholder in a company who satisfies the Collector that his annual income from all sources in the income-tax year last preceding that in which the share of profits was received was less than any one as the case may be of the amounts tabulated below, shall be entitled to a refund of so much’, and, similarly, in the proviso to Part III. Under that also an assessee wishing to get a refund had to satisfy the Collector that his annual income from all sources in the last preceding income-tax year was less than a certain amount. So that as it appears to me this clause 4 of the present Bill does not really introduce a new principle, but it applies universally and uniformly the principle which was already laid down in the law before, but which, owing to certain difficulties in the wording of the Second Schedule (or possibly there may have been some difference of interpretation in different provinces, I do not know about that),—at any rate the principle had not been uniformly applied, and this Bill applies it uniformly. It seems to me to be a just and equitable principle, and I hope it will commend itself to the Council. Of course, I say this subject to any practical difficulty that there may be in regard to giving effect to it in the United Provinces, owing to the technical difficulties to which the Hon’ble Sir John Campbell has just referred. I do not know anything about that. But as far as I am aware in Bengal, there should not be any practical difficulty, having regard to the second part of the clause, which says that the net agricultural income is to be ascertained on the same basis on which the annual value of land is determined for the purposes of a cess on land. I do not think there will be any difficulty in giving effect to that in Bengal. I confess I am a little surprised to hear that there is this difficulty in the United Provinces where I have always been led to believe that land records were complete for the whole province, whereas for a large part of Bengal we have not got them; but, in spite of that,

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we have got material in the returns obtained and records kept for purposes of assessment of cess with the help of which I think effect can be given without much difficulty to this clause."

1.40 P.M.

The Hon'ble Rao Bahadur B. N. Sarma :—" My Lord, the Hon'ble Mr. Shafi has joined the other Members supporting the amendment ; he has drawn pointed attention to the doubtful wisdom of the majority of the Select Committee in adding clause 4, or rather in not removing clause 4 from the Bill as it originally stood. I feel, therefore, that it is absolutely necessary for me, as being the only Indian Member who has supported the majority, to vindicate my position, and I hope I shall be able to show that as honest men we could not have arrived at any other decision than the one at which we have arrived. We may have been wrong in our conclusions, but we felt that we could not in justice to the taxpayer..... "

The Hon'ble Sir Gangadhar Chitnavis :—" I rise to a point of order, my Lord. Does Mr. Sarma mean to say that the others who have signed the note of dissent are dishonest ? "

His Excellency the President :—" I am sure Mr. Sarma did not mean that."

The Hon'ble Rao Bahadur B. N. Sarma :—" I never meant anything of that sort ; I am sorry if any words of mine lent colour to such an impression. Only such of us as have joined the majority report have felt that we could not do anything other than what we have done. Now, I may state that I am a small landholder and that the success of this amendment may perhaps be useful to me personally on some occasions, and I respectfully ask Sir George Lowndes not to be so unkind to all landlords as to group them together and draw a distinction between the two parties here, the party of progressives and the party of landlords. He might very well have put it as a party of progressives and a party of vested interests, the composition of the parties changing from time to time according to the subjects with which the Council may be dealing at the time. Now the point before the Council is, whether, having regard to the basic principle on which income-tax is levied in all civilised countries, there was any reasonable ground for the Select Committee to exclude agricultural incomes altogether for the purposes of the Income-tax Act. Hon'ble Members may remember that the basic principle is not one of taxing property, but one of taxation of incomes, so the argument that a particular property might have been taxed once and might stand a chance of being taxed a second time, has no application whatever in a consideration of the principles on which the income-tax administration is to be guided. Houses in towns and elsewhere pay a heavy house-tax in municipalities and a smaller tax in unions, a tax ranging from 16 to 25 per cent., and yet we have brought house-incomes within the purview of this tax. Businessmen and professionalmen pay a heavy professional tax on the professions they exercise ; they have not sought exemption and cannot seek it under the provisions of the Income-tax Act. Assuming for argument's sake that land has been taxed and in a heavy manner, there seems to be no ground for exempting it from the Income-tax Act ; but if the Government have, for reasons of policy into which the Select Committee did not enter, exempted landed incomes altogether, they cannot be accused of not having extended their exemption in all particulars and under all circumstances. Landholders would, I think, have to be thankful to the Government and would have to be thankful to the Select Committee in that they did not follow the principle of income-tax administration to their logical limits and bring landed incomes within the purview of the Income-tax Act. The question is whether landed incomes, having been taxed already in the manner described by various Hon'ble Members, it was right that we should indirectly tax landed income by putting on taxable incomes a higher rate than was originally

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[*Rao Bahadur B. N. Sarma.*]

intended. My Lord, if the principle I have contended for is correct if a man receives a taxable income which he can spend for his own purposes, whether he receives it from land, houses, business or profession, would not and ought not to matter, so long as it is within the category on which the administration can levy a tax. We will take it that Rs. 3,000 is the income from the land and Rs. 7,000 from other sources, Rs. 10,000 is the total income on which he is justly assessable, and he has to pay a tax on that Rs. 10,000. The legislature have chosen to exempt Rs. 3,000, the agricultural income, therefore the tax on Rs. 7,000, the other income, is at the usual rate at which he would have to pay if the whole Rs. 10,000 was taxable; only care is taken that the Rs. 3,000 does not pay any income-tax. If you regard the normal rate of taxation as one anna in the rupee, I think there can be absolutely no complaint of any kind, the digressive principle being applied in the case of the smaller incomes. If one anna is the normal rate of taxation, on what principle can a person, who has an income of Rs. 10,000, ask for exemption? Can it be simply because his income happens to be derived from one category or another? Let us take the normal rate of taxation to be 4 pies with a progressive scale rising to one anna. Even then, I submit, that the principle I have contended for shows clearly when a man has to pay his tax on his whole income; only on certain grounds of policy all the income is not taxed. With regard to the grounds of policy urged, I think the Select Committee could not have gone into that part of the question. It is one of policy into which it was not their business to enter. They could not do otherwise than enact the provisions in the Bill as they stand before the Council to-day. Whether your Excellency's Government would be disposed under the provisions of section 44 to exempt landlords on account of their various acts of loyalty during the last few years is a question of expediency, of policy, which it is not for the Council to consider. Then, again, I would ask my friends to consider briefly whether they are not asking the Council to perpetrate an act of injustice, injustice as between landlords and the poorer tax-payers. Take taxation during the last few years. We have had a duty on salt, a tax on exports and imports. We have had increased taxation in a number of ways, and it has risen from 82 millions to 110 millions. Where does land come in except to bear its share of increased general taxation? It is true that landlords have come loyally forward to help the Government in numerous ways, and whilst Government are thankful for the same, how could the Select Committee exempt a particular class, having regard to the fact that if money does not come from persons who have justly to pay, it will have to be taken from the pockets of the poor, who have been heavily taxed and who will have to pay a little more if the balance is to be made up. As to whether it would effect in a very large measure numerous classes of persons is another point to which some attention was paid in previous speeches. Speaking for Madras, with which province I am fairly familiar, I may state that in regard to *riotwari pattadars* there would not be very many coming within the clutches of this Act unless they happen to be very rich people getting large taxable incomes; I mean from the purely agricultural point of view, the number of persons paying a revenue on more than Rs. 1,000 to Government is very limited indeed. We have not temporarily settled zamindars except in one or two districts; there are permanently settled zamindars in the district from which I come. Government and the people have to be thankful for their services to the district; although there may be some agitation against the Act, once they really understand it, there would be no difficulty in their appreciating the justice of this special piece of legislation. I have felt it, my Lord, that it is the duty of those who understand a little of the principles of taxation to support Government in measures of this sort where there is some misunderstanding owing to ignorance. I fully realise that no mere possession of knowledge would completely prevent a little of self from asserting itself, but still, I think, it is our duty, and that is the reason why I have ventured to speak to-day in the manner in which I have done. Of course, I feel sure that the Government is sufficiently strong to stand between vested interests and the poor if there be occasion for it, and if they do so in this particular I think they should only be congratulated on that, and I feel sure they will not be deterred from any consideration in doing their duty.

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I also feel that all the greater is the duty which rests upon us in supporting Government, and I hope the landlords will not feel that there is any real cause for alarm as to whether agricultural incomes would be taxed hereafter under the provisions of the Income-tax Act by reason of this enactment. That question does not really arise under the provisions of this clause, and I think they have raised a thunderstorm without any reason with perhaps not altogether desirable consequences to themselves."

4-51 P. X.

The Hon'ble Raja of Kanika:—"My Lord, I beg to support the amendment moved by my friend Rai Sita Nath Ray Bahadur. I may begin, my Lord, by congratulating the Hon'ble the Finance Member on his having secured an excellent champion in the person of the Hon'ble Mr. Jinnah. Indeed, my Lord, the Hon'ble Mr. Jinnah so forcibly championed the cause of the Government that I very much doubted if anything was left for the Government to add. I had no intention of speaking about the Permanent Settlement, but since Mr. Jinnah referred to it and since the Hon'ble Sir George Lowndes has supplemented his remarks, it is necessary to give a reply to it. I shall, however, leave the Government with its good fortune in having got Mr. Jinnah as their spokesman, and I proceed, my Lord, to place before the Council certain facts to show how and why the landlords are feeling extremely apprehensive with regard to the question now before the Council.

"The landlords as a body, my Lord, have no desire to be obstructive, and nothing is further from their mind than to manufacture unreal grievances. The present Bill, however, has caused a feeling of intense uneasiness in all parts of the country, and this apprehension, if I may so, is not without justification.

"It is quite true, my Lord, that there is no question of a breach of faith, in the sense that the Permanent Settlement, as yet, is not openly threatened. But I will venture to put before this Council two pertinent points: first, that the recent trend of Government's action is such as to excite a very reasonable apprehension in the minds of the landlords as to the ultimate stability of the Permanent Settlement and then, secondly, I shall try to show the inequity and the injustice of the present clause 4 of the Bill which is now sought to be passed into law.

"The Permanent Settlement, my Lord, is one of those solemn engagements which must stand for all ages to come, and no Government, unless it chooses to imitate the Prussian Statecraft, will ever think of setting it aside as a 'scrap of paper.' No, my Lord, in the new world in which we are living and in the newer world that is yet to be—God grant it might come soon—scraps of paper, such as the Permanent Settlement undoubtedly is, have acquired a new sanctity and a new sanction. It is no doubt true that as yet there is no thought even of abolishing or even attacking it. But the policy of the Government as expressed from time to time for the last few decades *does* give the landlords great cause for anxiety. I will venture to give a few specific instances. The Right Hon'ble James Wilson, the first Finance Minister of India, speaking in the Council on the 18th February, 1860, in introducing the first Financial Statement emphatically asserted that the landlords had absolutely no right to claim exemption from further taxes in spite of the Permanent Settlement, and the whole claim was, as he put it, 'illusive.' I will not trouble the Council by quoting long extracts from his speech especially after the Hon'ble Mr. Jinnah did so. Any one could easily refer to it. But I beg to say that Mr. Wilson proved his position by quoting long extracts from the Minute of Lords Cornwallis of the 3rd July, 1790, forgetting that the zemindars of Bengal and Bihar take their stand not on any Minute but really upon the Proclamation which became Regulation I of 1793. It is by that Regulation that the landlords stand or fall, and it is under that Regulation that they claim exemption from any further encroachments upon them by way of new taxation. I do wish the Hon'ble Mr. Jinnah had referred to the terms of the Regulations a little more in detail. He would have found there that the assessment was declared to be irrevocable, and that no further encroachments were to be made upon the landlords by any persons whom the Court of

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Directors might hereafter appoint to the administration of their affairs in India.

"In spite of the above, however, the first Income-tax Act of 1860 deliberately taxed all landed profits and the same procedure was continued in other Acts. Then the next move on the part of the Government to which I want to refer was the imposition of cesses on land for local works. The question was keenly discussed from about 1869 to 1871 whether such local cesses could be legitimately imposed upon the landlords in spite of the Permanent Settlement, and the controversy became so keen that that matter had at last to be referred to the Secretary of State.

"Here, again, the interests of the landlords went to the wall, and the Secretary of State decided in favour of the proposed local cesses which were accordingly imposed throughout the country. The landlords have now got to pay, in addition to the land-revenue, the heavy cesses and have still to look pleasant.

"I will not weary the Council by tracing the history of this tendency very much in detail. Suffice it to say that in 1886, the principle of the exemption of agricultural incomes from the income-tax was acknowledged and recognised by law. But after a long halt, recent years have again exhibited this tendency on the part of the Government in a very pronounced form. Last year Sir William Meyer, in introducing the Financial Statement, while refraining from imposing additional taxation on agricultural incomes, said that 'we can give no pledge that we shall refrain from doing so hereafter should future necessities oblige us to take this course.' This ominous declaration is regarded, my Lord, by landlords throughout the country as only an instance of coming events casting their long shadows beforehand. Then comes the present Bill which, though it does not openly and directly tax agricultural incomes, does so indirectly."

"Take again, my Lord, Sir William Meyer's statement in this Council on the 6th February last. 'Even if we are to tax agricultural profits now,' he remarked, 'which we are not proposing to do, it would be a mere question of expediency'. This dangerous doctrine of expediency, my Lord, can make or unmake miracles. There is nothing possible or impossible on the face of the earth which 'expediency' cannot justify. Some of the opinions collected by the Government on the present Bill and also what we have heard from Sir George Lowndes and other Members to-day reveal the same tendency. These statements, my Lord, give just cause for alarm to the landlords. These statements—each of them quite emphatic by itself—when taken together are deemed strong enough to shape the shadows of any coming move and the landlords might be pardoned, my Lord, if after Sir William Meyer's repetition of the theory of expediency even to-day, they think that the present Bill is an attempt to drive in the thin end of the wedge so as to ensure freedom for action in the future . . ."

The Hon'ble Sir William Meyer :—"I rise to a point of order. I think that when, as a man of honour, I said in my opening speech about the clause that there was no such intention, I am entitled that the Hon'ble Member should take that from me and not impugn my honour."

The Hon'ble the Raja of Kanika :—"Yes, I said that as it does not tax agricultural income at all, there is no breach of faith, as I said in the beginning. Agricultural income is already very heavily taxed in the shape of land revenue—in some cases amounting to 50 per cent. or so. I wonder how the other classes of the community would relish the idea of a 50 per cent. income-tax, and it would be most inequitable to subject it to fresh taxation again, however indirectly the attempt might be made. It would in fact be a double taxation of the same thing, or with the cesses I might say it would amount to a triple taxation of the same commodity, and I leave it to the Council to judge whether it would be fair and just.

"I also agree with the Hon'ble Mr. Shafi that the present is of all times the most inopportune for raising such a keenly controversial question. We have

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plenty of such questions on our hands just now, and I believe it would be both just and politic to let the present matter await solution until after the end of the war.

"The landlords, my Lord, could understand the necessity of the clause if the Government of India had been faced by a temporary necessity of finding more money for the supreme task of financing the war. No such justification has, however, been put forward for the clause. On the contrary, the Government has just demonstrated that it could realise a surplus in the fourth year of a world-wide war, and, what is more, they can as readily budget for a surplus at the end of the fifth year of the war. What then is the justification for this penal clause against the landlords? It is the permanent feature of the Bill which has given rise to the grave apprehensions of the landlords. We appeal to your Lordship's Government, therefore, to accept the amendment and thus to remove the most objectionable part of clause 4 in the Bill.

"With these words, my Lord, I beg to support the amendment."

5-4 P.M.

The Hon'ble Sir James Walker :—"My Lord, I first saw this clause last summer. It was not sprung on us quite so rapidly as the Hon'ble Mr. Khaparde has suggested. I did not at all like the clause. But I disliked it, not because it purports to remove an anomaly due to the introduction of graduated taxation, but because in itself it stereotyped the exemption of agricultural income from income-tax, and did that in a consolidating and amending Act. My Lord, I did not anticipate that the portion of the clause, which is the subject of this amendment, would have excited the opposition that it has done. I really did not think that Members would desire that our income-tax law should offer matter as it were for a riddle—"When is a rich man not a rich man?" The answer being—"When his riches are agricultural." I think the equity of the clause has been very well demonstrated by other speakers already. The Hon'ble Mr. Jinnah, among other Members, referred to the history of the several Income-tax Acts. I may notice that there is a clear and concise note on the subject in the Imperial Gazetteer of India, and that brings out one principle noticeably. It is not only in the Act immediately after the mutiny, but in other Acts that income-tax was taken on agricultural income. In most cases when that was not done, a *quid pro quo* was taken in the shape of a cess. I think that was done when the present Act of 1886 was passed, and subsequently when that cess was remitted to the landlords, only a very small relief was given to the income-tax payers—that is to say, only the lowest class of incomes of from Rs. 500 to below Rs. 1,000 were given exemption.

"My Lord, I have no personal experience of the permanent settlement, but the case of the *patels* in the Mahratta country is rather interesting to refer to. These *patels* under Indian administration were practically farmers or publicans of land-revenue, and to some extent they had vested interests, but in most cases not very great. The British Government gave them proprietary rights. There were other publicans and *thekadars* who also had a certain amount of hereditary connection, but they got no such concession. I never heard it argued, for instance, that an abkari *thekadar*, who has paid heavy license fees and heavy still-head duties, should get exemption of income-tax on his next profit on that account. My Lord, my own crude opinions on this subject have been reprinted in Paper No. I, and, as we have been given the privilege of speaking and voting freely, it is necessary to come to some decision as to how I am to vote. My own feeling is that, after the ventilation of views that we have had in this discussion, I have no hesitation whatever in opposing the amendment and in supporting the clause. I think any misapprehensions which might have been caused by this stereotyping of an exemption, which has gone on for over 30 years, have been removed by the discussion we have had to-day. I therefore oppose the amendment.

"There is one word I should like to add with regard to the difficulties mentioned by Sir John Campbell. I agree with him that there may be some difficulty in the framing of rules, but with our system of land-revenue settlement, I do not think there would be much difficulty in working the said rules,

"With these words, I oppose the amendment?"

[14TH MARCH, 1918.] [*Sardar Bahadur Sardar Sundar Singh Majithia.*]

The Hon'ble Sardar Bahadur Sardar Sundar Singh Majithia 6-9 P.M.

Majithia:—" My Lord, as a member of the Select Committee I had the unpleasant duty to differ from my Hon'ble Colleagues so far as the principle underlying the provision of section 4 of the Bill, under discussion, is concerned, and I think it is due from me to the Council that I should give the reasons of my dissent. The provision of section 4 takes away from the proprietors and tillers of the land what has been rightly conceded to them from time immemorial in so far as it indirectly taxes his income twice. My Hon'ble Colleagues on the Select Committee have based their decision, as they say, on the basis of justice and equity, and in support of their contention they have given an example which to a casual observer puts the case somewhat strongly. But, my Lord, they have evidently ignored the fact that the net agricultural income had already borne its share of Government demand. I would strongly urge that, where an income has already borne its share of taxation, it should not be brought under taxation again on the plea of calculation of the total income of an assessee, and it was on this consideration that agricultural income has so far remained exempt from the income-tax assessment. The instance of 1860 was due to special circumstances of the Mutiny of 1857.

"I may say at once that if the exigencies of the State now demanded more money on account of this gigantic war, I would not stand against the imposition. The provisions of the Act of 1860 were repealed, and I would submit that it would not be right to revive it again. It has to be borne in mind that the zemindar gets his net income after deducting the expenses of his cultivation, and after meeting all these demands he is then assessed his land revenue, which demand goes up to 50 per cent. of his net income. He has besides to pay cesses. On the other hand, a trader earns his income from trade and from other sources and has perhaps, for the purposes of his trade, to pay between 6 to 15 per cent. by way of interest on his capital, where it happens to be a borrowed one, while, as submitted above, the zemindar has paid nearly half of his total income from land. I, therefore, fail to see how the two cases could be considered to be parallel. The zemindar has no capital of his own at his command and has not anything to fall back upon, and very often has to face the vagaries of the weather. In seasons of drought and consequent failure of his crops, he only gets by way of concession from Government the abatement of Government demand or only a fraction of it in total remission. The zemindar's capital consists as it does of his stock of cattle and is of a perishable nature. So, on a calamity happening or overtaking him, he finds himself in a tight corner. In such a case he has to go to the moneylender for putting him on his legs, with the result that once in his clutches he is for the rest of his life not able to free himself from the burden of his debts. The indebtedness of the zemindars generally is proverbial, and Government have had to come to their rescue and enactments like the Land Alienation Act have had to be placed on the Statute-book of India for their protection.

"It appears that Government is aiming at taxation of those who are able to pay and perhaps are considered to be very well off. But the majority of agriculturists, at any rate in my Province, are not so fortunately placed.

"Even from the point of view of equity and justice, the taxing of an income which has borne its share of the State demand is not right. Then, my Lord, take the case of a zemindar who has an income of Rs. 1,000 from other sources and has an agricultural income of Rs. 10,000. So, on his Rs. 1,000, he shall have to pay at the rate of nine pies a rupee, whereas the ordinary rate payable by a non-zemindar having an income of Rs. 1,000 would be four pies. This places the zemindar at a disadvantage so far as this tax is concerned, because on his Rs. 9,000 the zemindar has paid nearly 50 per cent. already and he will have to pay on his Rs. 1,000 on the nine-pie rate. To place all parties and all incomes on a basis of equity I may claim that it would be fair if land-revenue was abolished and a general taxation were introduced in the country. That would be really placing the taxation on all incomes from all sources on the basis of equity.

[*Sardar Bahadur Sardar Sundar Singh* [14TH MARCH, 1916.]
Majithia; Sir Robert Clegg; Mr. E. H. C.
Walsh.]

“ We know when the limit of Rs. 500 was raised to Rs. 1,000, what was the attitude of the income-tax assessing officer. No appreciable relief was afforded to the general tax-payer. Only those whose income was taxed at the source, such as men drawing salaries received some relief; but in the case of others, the tax-payers of Rs. 500 income were invariably included in the list of persons having an income of Rs. 1,000. In the case of landholders who do not keep any accounts of their income and expenditure and have no account books, the harassment of the petty official would be very trying. It would besides, my Lord, open a door for corrupt underlings and place temptation in their way. Everyone knows what a zemindar has to pay besides his usual dues of land-revenue to some underlings in some departments, and these expenses are such that could not be properly vouched for. I am therefore afraid it will be extremely difficult to correctly gauge the net income of a zemindar and would entail a good deal of worry and trouble to him. The majority of zamindars are illiterate and as such easily misled as to the intentions of Government in this respect, and endeavours would be made to lead them to think that they are being unduly taxed. It will afford to the agitator a ready handle to stir up feelings which would be undesirable from political points of view and may cause unnecessary worry and trouble to law-abiding citizens of the Empire. So, for political reasons, I consider the provision undesirable.

“ Another point that I would like to bring to the notice of your Lordship and of the Council is, that it will discourage zemindars from adding to their estates small useful industries. We have indigo concerns and small sugar factories attached to some small estates, and if the small profits of these agricultural concerns are to be taxed at a higher rate owing to the other agricultural income of the zemindar being taken into consideration, it will naturally kill those industries. My Lord, indigo could not stand the competition with the synthetic dye and the sugar industry has to face a similar competition with bounty-fed sugar of foreign countries, and the charging of a higher rate of tax consequently will prove the last straw on the camel's back. So, for the sake of these concerns, I think it will be unwise to include agricultural income for the purposes of ascertaining the rate of tax chargeable on other incomes of a zemindar. For reasons of justice, equity and for the saving of these minor industries, and lastly for political reasons, the provisions of the section are fraught with undesirable results. I would, therefore, strongly urge the acceptance of the amendment proposed by my Hon'ble friend, Rai Sita Nath Ray Bahadur.”

5-17 P.M.

The Hon'ble Sir Robert Clegg :—“ I have one or two observations to make, your Excellency. In theory, I think, clause 4 is unassailable and I do not think that any objection can be urged against it on the ground of justice and equity; but I think there are practical considerations which should not be ignored. Personally, I agree to a great extent with what the Hon'ble Mr. Shafi said. I am not aware of any great complaint of injustice in the existing law, speaking for my own Presidency. The clause is not a revenue-producing measure, and we have heard to-day of a great deal of opposition on the part of landed proprietors to it. I do not think that the alteration of the existing practice is of such vital importance as to justify it in the face of such opposition. In Madras, the zemindars have in these anxious times been staunch supporters of Government, and I am opposed to doing anything which tends to diminish their support. I have been listening to the various speeches to find some proof of the necessity for this clause, but, to my mind, the necessity has not been made out. Therefore, on the grounds of practical expediency, I must support the amendment.”

5-19 P.M.

The Hon'ble Mr. E. H. C. Walsh :—“ My Lord, as the Hon'ble the Finance Member has said that official Members on this Bill are at liberty to vote according to their own feeling, I should like to make one or two remarks as to the reason why I must oppose this amendment.

[14TH MARCH, 1919.]

[Mr. E. H. C. Walsh.]

"In the first place, I agree entirely with what has been said by the Hon'ble the Finance Member that the proposal that rich men who derive their money from the land should pay income-tax on their income from other sources at the same rate as rich men who derive the whole of their money from other sources is just and equitable.

"Two objections have been urged against this principle. In the first place, it has been suggested by some speakers as regards Bengal, and it equally affects my province, that it would be a breach of the spirit if not of the letter of the Permanent Settlement. I need, perhaps, hardly make any remarks on that head when the representative of the landholders of my province has definitely said that they would consider it to be no breach of the Permanent Settlement. But, as the fact has been stated and may be considered to have some force in it, I would repeat what has been already so clearly stated by the Hon'ble Sir George Lowndes, that what the Permanent Settlement did in 1793 was to fix in perpetuity the *jama* that was then assessed on each estate, and never undertook that the holders should not be liable to taxation in respect of the income they derived from their estates. This is also clearly shown by the fact which has already been pointed out that previous to the present Act of 1886, income derived from land was for some time assessed to income-tax and at the present time is also assessed to other cesses and taxes in addition to the land-revenue.

"The other objection, which applies with more force to the greater part of India in which the Permanent Settlement is not in force, is that the land is at present so heavily taxed in the form of land-revenue that it is unjust that it should bear, even indirectly, any further taxation whatever. The reply to this objection is that in India the State is held to possess the sovereign right of ownership of the land, and that land-revenue is money paid for the use of land, and is consequently of the nature of rent rather than of taxation. The Hon'ble Mr. Shafi has said that the point is debatable. I think, however, that the history of land tenure in India shows that the above view is correct.

"There is one point that was taken up by the Hon'ble Sir Robert Clegg, that although everybody may admit the justice of the provision of section 4, yet it is not expedient, because it may be misrepresented and may in consequence lead zamindars who hitherto have been particularly loyal in supporting the Government to assume a less sympathetic and loyal attitude towards them. Speaking with regard to the part of the country with which I am acquainted, I think the zamindars and landholders generally, when they fully consider the justice of this liability, will not be affected in any way in their loyal and sympathetic support of Government. I entirely agree with all that the Hon'ble Mr. Shafi has said about the assistance that has been given by zamindars to Government in the matter of recruiting and other war work and the pecuniary assistance which they have given to their tenants to induce them to enlist. In my own province, too, this has been done by many private zamindars, amongst whom I would mention my Hon'ble colleague the Raja of Kanika; and also I may say, as representing the Court of Wards, that many Court of Wards estates under the management of the Board of Revenue have offered special concessions in regard to rent to induce their tenants to join the labour corps and in other ways to help the Government. But I do not consider that these efforts are likely to be lessened by this tax, which is obviously a fair and equitable one.

"There is one other point which the Hon'ble Sir John Campbell has pointed out, namely, that the provision in clause 2 as to the method of arriving at the annual value of land may cause trouble in its application to the United Provinces. As regards Bihar, I should like to say, as has already been said by the Hon'ble Mr. Monahan for Bengal, that we shall have no trouble in this respect, because under our Road Cess Act we have already a basis of annual value on which we can work.

"There is one other point to which I need only allude briefly, as it has already been mentioned by the Hon'ble Mr. Monahan. It is that even if this were indirectly a tax on income derived from land, it is not introducing

[*Mr. E. H. C. Walsh; Nawab Saiyed Nawab Ali Chaudhri; Mr. S. N. Bannerjea; The Vice-President.*] [14TH MARCH, 1918.]

an entirely new principle, because, under section 5 (j) of the existing Act, the income from all sources, which under the instructions of the Bengal Board of Revenue, which have been in force since 1886, include non-taxable sources of income, namely, income derived from land, have to be taken into consideration in deciding whether a man is liable to income-tax.

"I think, my Lord, that at this stage of the debate these are the only points which I need lay before the Council, which, I think, are all of them material as to the decision which should be come to in regard to this amendment."

At this stage the Chair was taken by the Hon'ble the Vice-President.

5-25 P.M.

The Hon'ble Nawab Saiyed Nawab Ali Chaudhri:—

"Sir, I did not venture to speak on the last occasion when the Bill to consolidate and amend the law relating to Income-tax was introduced by the Hon'ble Sir William Meyer, simply for the reason that I was not quite sure how the position of the landlords was affected by the change. The wording of clause 4 is very cleverly put so as not to arouse any suspicion to a casual reader, but when we come to analyse the section we cannot help construing it in the light of a fresh and a new taxation on the landlords—not by a separate Bill but by the amendment of an existing system. Most of the Members who spoke on the last occasion on the subject could not definitely estimate the scope and extent of clause 4. They were vague in their attempts to analyse the real meaning of the section and asked the Government to declare its intention.

"The Hon'ble Member in charge of the portfolio was pleased to state, and the Hon'ble Mr. Jinnah endorsed his opinion, that the object of this unique departure was to make the income-tax taxation more equitable. I do not understand how the clause makes the taxation more equitable when the effect of the section is to make the landlords pay twice over to the Government.

"The yearly revenue that a zamindar pays to the Government for holding the land may be very well styled a tax on his income from the land; though it had been fixed for ever by the solemn pledge of Lord Cornwallis in the Provinces of Bengal, Bihar and Orissa.

"Sir, we have been charged by the Hon'ble Finance Member with escaping taxation and living on the rest of the community. But does our revenue to the Government count for nothing? I can give instances without number where zamindars on account of the old settlement pay a considerable portion of their zamindari income to the Government, sometimes as high as two-thirds of their collection, and the case of the Maharaja of Burdwan is a living example. And, Sir, if in addition to the Government revenue still further inroads be made on our income from land, it would mean a deathblow to agricultural investment.

"It was during the reign of Akbar the Great that the idea of a permanent settlement appears to have been decided upon as a protective measure against the unstable short-period system of revenue. The policy inaugurated by Akbar was continued by the British Government until under Lord Cornwallis it was decided after mature deliberation that the assessment then demanded should be fixed in perpetuity as it was hoped that by making the revenue demand permanent the landlords would be induced to make improvements and in many ways benefit the country.

"Sir, it is unnecessary to remind the Government of the solemn pledges entered into by Lord Cornwallis with the zemindars of Bengal on the subject of permanent settlement. I do not go so far as the Hon'ble Mr. Bannerjea went in asserting roundly that the Government intends to break its faith....."

The Hon'ble Mr. S. N. Bannerjea:—"I did not say that at all."

The Hon'ble the Vice-President:—"I am sure you did not."

[14TH MARCH, 1918.]

[*Nawab Saiyed Nawab Ali Chaudhri; Khan Zulfikar Ali Khan; Sir William Meyer; the Vice-President.*]**The Hon'ble Nawab Saiyed Nawab Ali Chaudhri:—**

"There has been a good deal of adverse criticism on the soundness of the Permanent Settlement, and several unsuccessful attempts were made on different occasions to compel the Government to retract their word. But, my Lord, this policy of Lord Cornwallis brought into being a class of men on whom the Government could rely in the time of stress and difficulty.

"The generous treatment accorded to them was not forgotten, and whenever the occasion demanded they proved a tower of strength and support to the Government; and, my Lord, if this taxation is a temporary measure to meet the exigencies of war. I am sure it will receive the hearty support of the landlords who have hitherto cheerfully responded to all demands made upon their material resources as well as personal services. But if it is going to be a permanent measure merely to rope in the defaulters in the category of which the landlords are to be unjustly included, I beg to protest against such inclusion."

The Hon'ble Khan Zulfikar Ali Khan:—"Sir, as practically all the arguments against the second half of clause 4 have been produced by the previous Hon'ble Members in their eloquent speeches, it is useless for me to traverse the same ground. But in loyalty to the class, which I have the honour to represent, I must not keep silent on this occasion, and must represent to the Council the interests which are jeopardised by the proposed measure put forward by the Finance Member. It seems to me, Sir, that a strange misconception exists that the landlords, whenever their pocket is touched, raise a fearful howl and that by shedding crocodile's tears they try to escape that responsibility. I strongly protest against that misconception, and I assert with all the force that I can command that the landholders bear more than their share of the burdens of the State. Truth does not become stale by repetition, and when I say that the landlords are liable to be charged up to 50 per cent. on their net profits, they pay more than any class that is called upon to pay income-tax. Besides, that, whenever any of these people live in urban areas they pay cesses and other municipal taxes which the urban classes pay. It cannot be ignored that the expenses of the landlords are daily rising not only in the management of their farms, but also in their personal needs; the expenses in connection with the contingencies of life of an agricultural farmer are daily increasing. I can say without hesitation that it is the agriculturist who feeds most of the concerns of life, and it is he who is called upon to provide funds for so many undertakings of the State. The ultimate burden falls upon him. How can it be said then with any show of logic that these people do not pay their legitimate share of the expenses? The other day when we had an informal conversation with the Hon'ble Sir William Meyer about this Bill, he indicated two chief and principal reasons which actuated him in getting through this measure. The first was this, that the landholders were rich and the second that they enjoyed a fixed tenure for a number of years, whereas the ordinary people, the poor people as he called them, were liable to taxation every year....."

5-30 P.M.

The Hon'ble Sir William Meyer:—"I must protest against the Hon'ble Member's distortion of what I said. I mentioned these facts in the course of a long conversation, but I did not take my stand on them. I took my stand on what I said this morning, on grounds of general justice and equity."

The Hon'ble the Vice-President:—"I think the Hon'ble Member would be well advised if he did not refer to any private conversation outside the Council."

The Hon'ble Khan Zulfikar Ali Khan:—"Well, Sir, I was referring to a private conversation and I am sorry that he does not want me to bring it forward. But one of the arguments which he then adduced he still holds....."

[*The Vice-President; Khan Zulfikar Ali Khan; [11TH MARCH, 1918.]*
Sir William Meyer.]

The Hon'ble the Vice-President:—"I think it is better that the Hon'ble Member should not refer to any private conversation outside the Council. We have had here to-day sufficient arguments on this question to which he can refer without bringing in arguments used in a private conversation outside the Council."

The Hon'ble Khan Zulfikar Ali Khan:—"I am referring to the arguments which have been brought forward in this Council."

The Hon'ble the Vice-President:—"You are quite in order in doing that."

The Hon'ble Khan Zulfikar Ali Khan:—"The argument which he brought forward in this Council in his speech was that the landlords were rich and they could afford to pay and there was no reason why they should not be taxed....."

The Hon'ble Sir William Meyer:—"I did nothing of the sort. I said that if a man was a rich man and a landlord and had at the same time income from other sources he ought to pay on that income from other sources with reference to his general wealth. I did not say that all landholders were rich or that all landholders ought to pay more."

The Hon'ble Khan Zulfikar Ali Khan:—"Well, Sir, I take the Hon'ble Finance Minister's word and say that the income from agricultural sources would be taken into consideration to fix the rate for income-tax to be levied henceforth. As regards this argument, it is a debatable point whether a landholder is rich because the standard of affluence cannot be definitely prescribed.

"It is his income from the land which is to be accounted towards fixing the rate. Has the Finance Member considered the disabilities of a landholder during the course of the year, the vicissitudes of the seasons, calamities of weather, etc.? Has he considered these points in taking as his basis the income which a landholder on the average derives from the land? I beg to say, Sir, that the income of a landholder is not what it used to be 30 or 40 years ago. His expenses have enormously risen in farm management; the expenses of husbandry have enormously risen, and it cannot be said that he enjoys the same means as he did 40 years ago.

"There is one point which I want to impress upon the Council and that is this, that the landholder is very unfortunately situated as regards professional men or traders. Professional men under stress of adverse circumstances add to their fees and charge enhanced rates to their clients; the trader can add to his prices which the purchaser must pay in order to live a comfortable life. In this manner the professional man as well as the trader both escape the burden which the agriculturist pays. Would it, therefore, be fair to say that the landholder escapes, with the smallest amount of payment, the burdens of the State. Now, taking the political aspects of the question into consideration may I urge on the attention of the Council that this class have supplied the men who have served the Empire under these dire conditions. They have contributed towards the expenses of the war. It is the land-holding class whose relatives have died for the Empire in East Africa, in Flanders, in Gallipoli, in Mesopotamia and elsewhere. I can say with feelings of pride, as regards my own province, that we, Punjabis, have supplied men and money for the Empire to an extent that no other province has so far done. I cast no aspersion on other provinces. I believe they are doing well in other spheres, but what I beg to urge is this that the landholding classes all over the country are doing all that they can to forward the cause of the Empire. British officials in India in the past have produced men of remarkable talent, it is they who have built up the Empire by winning the love of the people by their tactful and generous treatment, and I have every reason to

[14TH MARCH, 1918.] [Khan Zulfiqar Ali Khan; Mr. Khaparde.]

believe that they are animated by the same spirit now. I hope that in the treatment of this question an exhibition of this spirit towards the people who have served the Empire with their blood and money will be given."

The Hon'ble Mr. Khaparde.—"I did not speak in the early part to this debate, because I have an amendment in my own name on the same point. After hearing this whole debate it appears to me that I had better state briefly what I have to say on the subject, taking care not to reiterate the arguments that have been urged. What few arguments are left I shall urge now. Before doing so I shall attempt to define my position. As regards being a landlord, my position or my claim may be regarded as strong or as weak as that of the household fly to be called a bird. It has got wings and it can fly, but it all depends on the investigator to class it along with birds or with land worms. I am in the position not exactly of that of a landlord and not exactly not a landlord. I have a few fields. The difficulty in my position is, therefore, one of classification. In this Council there are landlords and progressives. I think that anyone acquainted with me will not hesitate to put me among the progressives, and perhaps a little further. Anyhow I take it that I am a progressive. On the other hand, I am a little bit of a landlord myself. I earnestly believe that the second part of this clause 4 is really very objectionable. It is for this reason and for no other that I support the present amendment. There are two points which appear to have been forgotten, one of them fortunately has been brought up in the opinions coming from Bombay, a very high officer brings that up; he has had long experience of income-tax administration in the city of Bombay and the mofussil. That is a very important point. In India, rightly or wrongly, there is an inherited idea that a man's income ought never to be disclosed. As is said in the South, nine things ought never to be disclosed. Among them 'one's own income' comes very high.

"This rule has come into existence for centuries, and it is followed at the present time. Just as in English life nobody speaks of anything, but the weather on first acquaintance and it takes a long time to make a reference to matters of a private nature, so in India you make inquiries of all kinds, but you never allude to the income of a person. That is an inherited notion, and it is a deep-rooted notion. I firmly believe that by calling upon every one to declare his income you create a hardship. A large number of people, I am not one of them, trade on their credit, as is done in England also, and for them to have to disclose their incomes and their various means of livelihood is a real hardship.

At this stage the Chair was resumed by His Excellency the President.

"There is another point about this, my Lord. It has been pointed out in a book which I procured from the Imperial Library—I take it that this book is a standard work of some kind—it has been pointed out in that book that income-tax even in America and elsewhere, in fact wherever it has been imposed, has led to a great deal of hard swearing. People do not want to disclose their incomes: sometimes they do not keep their accounts; oftentimes they have not got a clear notion of it themselves, but anyhow they go on, and try to avoid mentioning their income. In India, unfortunately, it is believed that this kind of temptation should not be thrown in the way of the common people, more especially when their inherited instinct of not disclosing one's income will be working upon them. There is also a third trouble about them which, I am glad to find, has found strong support from an experienced gentleman like the Hon'ble Sir John Campbell. He knows the difficulties that the revenue authorities would experience, and the Bombay people have complained of them. There is a fourth one, and it has not been mentioned up to this time, and that is that in agriculture, as I have found it from personal experience, the closer the supervision that a man can give to the management of his farm the better is the income from it, and then as you hire services more and more you get less and less, and so that, in course of time, becomes ruinous, if you go beyond a certain point in acquiring land, and this accounts for the proverbial indebtedness of the peasant class. I have seen in my province there are some *jahagirdars* who may be deemed

[*Mr. Khaparde; His Excellency the President; [14TH MARCH, 1918.]*
Sir William Meyer.]

as large zemindars, there are peasant proprietors and *ryotwari* tenants, and I am one of those *ryotwari* tenants—that in agriculture as your business extends your expenses also correspondingly increase. You begin with a field or two, and then you go on adding to the number of your fields and so every acre that you cultivate increases the cost of cultivation. Later on supervision costs a great deal. Lastly, it comes to this, that if you go beyond a certain point you will see that agriculture does not pay. Practically people stick to fields, not because it pays them, but because it gives them a social status. If a man has no land in my part of the country he is looked upon more or less as an outsider; he is not considered as a local citizen; and so, in order to keep up his position, to hold up his head among his people and to sit in the village *Chowdi* to have the gossip of the day, it is quite necessary for him to have some agricultural lands. Now, it will be said that these small people will be excluded. I humbly submit that these people will not be excluded for this simple reason that these poor people, though they have got a few fields, are the descendants of large and ancient families and they have enough of lands so as to appear as rich people in the world, but as a matter of fact they are not, and their farms do not pay. But if you go into their accounts, will you deduct their expenses of cultivation, will you deduct their expenses of supervision, will you deduct also the diverse changes and fluctuations in the market? If those are all deducted I think the inquiring officer will come to the conclusion that agriculture does not pay and that the tenants have nothing to pay, and he will get absolutely nothing out of these landholders. So it comes to be that agriculture is one of those industries, if industry it really is, in which a man does appear opulent: he appears to have capital; he appears to have fields; he appears to have servants; but as a matter of fact he really has got no capital, and if you look into his accounts you will see that he never had much cash at all and lives by borrowing. That accounts for the zemindars in my part of the country being indebted. *Jahagirdar* is another name for a respectable person who may be very near the brink of being declared insolvent or somewhat in that difficult position. So these are considerations which weigh a great deal, and I hope the Council will kindly take all these facts into consideration before voting on this amendment. I of course support this amendment though I have another amendment standing against my name."

His Excellency the President :—"With the indulgence of the Council I am sure Hon'ble Members will wish to hear what the Hon'ble Sir William Meyer has to say."

The Hon'ble Sir William Meyer :—"I thought I had a right to make a final speech."

His Excellency the President :—"Only with the indulgence of the Council."

5-54 P.M.

The Hon'ble Sir William Meyer :—"I do not want to trespass on the time of the Council at this hour. I do not want to go back on what I said in the opening part of this long debate that, so far as Government is concerned, we leave it to the Council. I just want to correct a few misstatements that have been made, particularly by the Hon'ble Khan Zulfikar Ali Khan. In the first place, he tried to rouse the commiseration of the Council for the poor landholders of the Punjab. He said the Government took 50 per cent. of the net profits of their assessments. The Hon'ble Member knows perfectly well that that is only theoretically so, but that, as a matter of fact, the Government takes much less than that.

"Then he talked of the landholders of the Punjab, the cultivating classes being much worse off now than they were 40 years ago. I challenge that as a direct misstatement of facts. If the Hon'ble Member will take the trouble to study the prices of land sales in the Punjab he will see that land sells many, many times above its assessment, and that the prices are increasing. That shows that the cultivators instead of getting worse off are infinitely better off..."

[14TH MARCH, 1918.] [*Khan Zulfikar Ali Khan ; Sir William Meyer ;
Rai Sita Nath Ray Bahadur.*]

The Hon'ble Khan Zulfikar Ali Khan:—"May I rise to a point of order. What I meant was this, that the expenses of agriculturists in the Punjab as regards the management of their farms and their own personal expenses are increasing, and not that they are getting poorer."

The Hon'ble Sir William Meyer:—"If the cultivator's expenses are increasing, it is perfectly obvious from the sale figures of land that his net profits are increasing in far greater proportion, and if the cultivator is poor then the case does not apply; he has not got any money to lay out on investments and produce 'other sources' of income. If he is well off then the case comes under clause 4.

"I should like to remind the Council exactly what the position is. We will take the case of a land-holder who is, as my Hon'ble friend Mr. Shafi has informed us with a certain amount of pardonable pride as regards himself making Rs. 25,000 and upwards outside the land. The position is not altered in the least by clause 4. He pays one anna on his income outside the land, and he will pay that in any case. Then, again, if a man is making nothing out of the land, or if he is making less than a thousand rupees out of the land, the operation of clause 4 does not come in. It only applies when people are making money out of the land, when their net agricultural income exceeds Rs. 1,000, and at same time is within the gradation scale rising from 4 pies to 9 pies of Schedule I. As regards the net agricultural income in excess of Rs. 1,000 you add that simply for the purpose of seeing whether, having regard to his income as a whole, the man should pay 4 pies, 6 pies or 9 pies or whatever it may be, and on Rs. 25,000 in any case it will be one anna.

"As regards Sir John Campbell's argument that there would be an enormous amount of work thrown on him and his officers by this clause 4, as I think Mr. Monahan said, I always understood that the United Provinces officials prided themselves on knowing all that there was to know about the circumstances of their agricultural people. It appears that this is no longer, if Sir John Campbell's statement is to be accepted. But I would observe that the Government of the United Provinces took no such argument, so that either the Lieutenant-Governor did not agree with the view taken by Sir John Campbell, or, without disagreeing with him, he thinks Sir John Campbell and his officers might safely undertake more work.

"I do not wish to dwell on the arguments *pro* and *con* and the general arguments of principle because they have been sufficiently dealt with by other people."

The Hon'ble Rai Sitanath Ray Bahadur:—"My Lord, after 6 r.x. the warmth and heat displayed by some of the official Members and their new-born partizans, and the language used even by men who have hitherto been credited with the possession of a reasonably sweet temper, I really hesitate in giving a reply, or to return the compliment in the same spirit as has been used by some of my Hon'ble Colleagues. If it were entirely left to me, I would have, to speak the truth, retired from this unequal contest. But having given notice of the amendment in question, I cannot now withdraw it without stultifying myself and prejudicing the case of the zemindars very seriously. However, I am really surprised and grieved to find that because some of us thought fit to oppose this section, our loyalty should be questioned or we should be charged with unnecessarily obstructing the Government in its attempt to find more money.

"However, I beg to say that I witnessed a unique spectacle this day on the one hand of an attempted rapprochement between some of the official Members and the so-called progressive party, who have hitherto been called the party of Home Rulers, if not something worse, and of extending the right hand of fellowship to them for the purpose of enlisting their sympathy and capturing their votes, and on the other hand of decriing and condemning the very zemindars, who have always been called loyalists and who have hitherto always stood and will always stand by the Government and who have always been at the beck and call of Government, and who have in different ways contributed very liberally and generously to all the funds raised within the last four years for war purposes and subscribed liberally to the War Loan.

[*Rai Sita Nath Ray Bahadur* ; *Mr. M. A. Jinnah.*] [14TH MARCH, 1918.]

"The Hon'ble the Finance Member has expressed some surprise at my assuming a new rôle, but I may say for his information that, though not possessing such large estates as are possessed by my Hon'ble friend the Maharaja of Kassimbazar, I am the possessor of a few acres of land here and there, and I have spoken in that capacity in Bengal several times, and have always taken a prominent part in the discussion of questions affecting zemindari. And I beg to add for the purpose of relieving his anxiety about myself, that I champion not the cause of any particular class, but the cause of equity and stand up for a principle which has been recognised by Government in all previous enactments. I have not raised a cry over the inviolability of the Permanent Settlement, but must say that the principle so long recognised should not be ignored.

"I congratulate the Hon'ble Mr. Jinnah on his assuming the rôle of the official Member in this matter, but I refrain from ascribing any motive to him as he always does in this Council. Agricultural income was only once included in the scope of the income-tax. I wish to correct a mistake which crept into the speech I made first. The first Income-tax Act was passed in 1860, and amended in 1862, when agricultural income was first taxed, with the consent of the Maharaja of Burdwan who was at that time the representative of the zemindars. That was done as an emergency measure to meet the expenses of the Mutiny. But it was repealed in 1867 and since then agricultural income has never been taxed....."

The Hon'ble Mr. M. A. Jinnah:—May I rise to a point of order, my Lord. I do not think the Hon'ble Member is quite correct. There was an Act passed in 1869, which included agricultural income.

The Hon'ble Rai Sita Nath Ray Bahadur:—After this I have nothing further to say. I leave the question in the hands of the Council.

The motion was put and the Council divided as follows:—

<i>Ayes—30.</i>	<i>Noes—25.</i>
H. E. the Commander-in-Chief.	The Hon'ble Sir W. Meyer.
The Hon'ble Sir G. M. Chitnavis.	Sir C. Hill.
" Mr. S. N. Bannerjea.	" Sir S. Nair.
" Sir John Campbell.	" Sir G. Lowndes.
" Pandit M. M. Malaviya.	" Sir G. Barnes.
" Sir John Wood.	" Sir R. Gillan.
" Mr. H. Sharp.	" Dr. T. B. Sapru.
" Major-General A. H. Bingley.	" Sir J. DuBoulay.
" Sir Hamilton Grant.	" Mr. A. H. Ley.
" Mr. C. H. Kesteven.	" Sir E. Maclagan.
" Surgeon-General W. R. Edwards.	" Mr. R. A. Mant.
" Colonel A. J. Caruana.	" Mr. H. F. Howard.
" Mir Asad Ali Khan Bahadur.	" Mr. G. B. H. Fell.
" Sir Robert Clegg.	" Mr. F. C. Rose.
" Rai Sita Nath Ray Bahadur.	" Mr. A. P. Muddiman.
" Maharaja Sir Manindra Chandu Nandi.	" Mr. S. Sastri.
" Nawab Ali Chaudhri Khan Bahadur.	" Mr. B. N. Sarma.
" Rai Krishna Sahai Bahadur, the Raja of Kanika.	" Sir D. Wacha.
" Mr C. A. Kincaid.	" Mr. M. N. Hogg.
" Khan Bahadur Allahando Shah.	" Mr. M. A. Jinnah.
" Sir J. S. Donald.	" Mr. F. J. Monahan.
" Rajah Sir Rampal Singh.	" Mr. E. H. C. Walsh.
" Khan Bahadur Mian Muhammad Shâfi.	" Sir James Walker.
" Khan Zulfikar Ali Khan.	" Mr. A. W. Botham.
" Sardar Sunder Singh.	" Lt.-Colonel S. L. Aplin.
" Mr. P. J. Fagan.	
" Mr. G. S. Khaparde.	
" Rai B. D. Shukul Bahadur.	
" Mr. K. K. Chanda.	

The amendment was accordingly accepted.

[14TH MARCH, 1918.]

[His Excellency the President ; Mr. Khaparde ;
Sir William Meyer ; Rao Bahadur B. N.
Sarma ; Mr. K. K. Chanda.]

His Excellency the President :—“ I think it would be for the convenience of Council if I were to state that I propose to sit in this Chair until this Bill is finished.”

The Hon'ble Mr. Khaparde :—“ After the result of the voting on ^{0.5 p.m.} the previous amendment, I shall withdraw my* amendment.”

The Hon'ble Sir William Meyer :—“ I would only point out that, strictly speaking, as the Hon'ble Mr. Sita Nath Ray's amendment did not cover sub-clause (2) of clause 4 of the Bill, sub-clause (2) stands. But, of course, in view of the voting just now, we will withdraw that sub-clause.”

The Hon'ble Mr. Khaparde :—“ I will withdraw my amendment, because it is probable that sub-clause (2) will be dropped now, in view of the voting that has taken place on the amendment of the Hon'ble Rai Sita Nath Ray Bahadur.”

The Hon'ble Sir William Meyer :—“ Quite so that is what I said.”

The motions were by leave, withdrawn.

The Hon'ble Rao Bahadur B. N. Sarma :—“ My Lord, I withdraw my amendment.

‘That in clause 4, sub-clause (2) be omitted, and in clause 43, sub-clause (2), the words ‘subject to the provisions of section 4’ be omitted, and after the word ‘income’ the following words be inserted, namely :—

‘but in making any such rule for any area in which a basis has been definitely laid down by or under any enactment for the ascertainment of the annual value of the land regard shall be had to that basis.’”

The motion was by leave, withdrawn.

The Hon'ble Mr. K. K. Chanda :—“ My Lord, I beg to move as ^{6.10 p.m.} an amendment.

‘That in clause 8, after the words ‘Income derived from house property in respect of the’ the words ‘net rent actually received or when there is any doubt about the actual rent the’ shall be inserted.

“ My Lord, the position is this. The clause as it stands in the Bill says :—

‘The tax shall be payable by an assessee under the head ‘Income derived from house property’ in respect of the *bona fide* annual value of any house property of which he is the owner.’ And for the purposes of this section ‘annual value’ is defined as follows :—

‘annual value’ shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year.’

“ I submit, my Lord, that the clause as it stands means that I shall be taxed not on the actual income I derive from the house, but on the income which the assessor thinks I ought to get from the house or ‘the sum for which the property might reasonably be expected to let from year to year.’ I think, my Lord, that is hardly fair. House rent is not a thing that is fixed for ever. It depends upon many circumstances that vary from time to time and the position of the parties sometimes. Therefore, if I am to be taxed not on the actual rent I receive but on the rent which the assessor thinks that I ought to receive, I submit that I shall be taxed for a thing which I do not get or it may be for less than I actually get. Sometimes it may be that I may get more and sometimes less. I shall give one instance that occurred in this very city. Last year I wrote to my Hon'ble friend Mr. Muddiman asking him kindly to let me have a separate house as I intended to bring my family here. He replied that all the houses available had been disposed of and he sent me a list of house owners. So I wrote to these parties, and one reply I received was a telegram from a lady, which said ‘House available at rent of Rs. 3,000 for ten days, payable in advance.’ I sent the telegram to Mr. Muddiman in original ...”

* That in clause 4 (1) for the words from ‘but the net amount’ to ‘under this Act’ the following shall be substituted :—

‘and shall not be taken into consideration directly or otherwise in determining the rate at which the tax shall be levied on any income chargeable to income-tax under this Act.’

† ‘That sub-clause (2) of clause 4 be omitted.’

[Mr. A. P. Muddiman ; Mr. K. K. Chanda ; Sir William Meyer.] [14TH MARCH, 1918.]

The Hon'ble Mr. A. P. Muddiman :—" I hope the Hon'ble Member does not suggest that I was a party to that proposal. "

The Hon'ble Mr. K. K. Chanda :—" I beg the Hon'ble Member's pardon ; I did not mean that. Ten days afterwards I received another telegram from the lady saying that she had made a mistake. She thought I was attending the Princes' Conference, and evidently she thought I was a Prince of Assam, the Raja of the Khasia and Jaintia Hills probably. When she discovered her mistake she brought the rent down to Rs. 250. Suppose that I was able to pay the rent she demanded, how would she be taxed ? Not on the amount of rupees three thousand she would get, but what should be the rent according to the assessor which would probably be in the neighbourhood of rupees two hundred and fifty monthly.

" It is obvious that there would be no reason to tax her on, a lesser amount : but that will happen according to the clause as it stands.

" My submission is, my Lord, that the assessment ought to be not on, the annual value of the house to be assessed by the assessor, but on the net rent which I derive from it if that can be found out. Where there is no means of finding that out, of course you may fall back on the definition given of ' annual value ' in the clause. In this matter, my Lord, I am fortunate to find that I have the support of the Hon'ble Mr. Hailey. In his minute to the Government of India on this matter he says the same thing. He says :—

' This section introduces a new principle in that it bases the assessment on annual value instead of income. ' Annual value ' as experience in Municipal house-tax assessment proves, is a matter of very great difficulty to determine, and the effort of the Municipal Committee to do so leads to constant appeals. "

" I submit, my Lord, this amendment to the acceptance of the Council. "

6-18 P.M.

The Hon'ble Sir William Meyer :—" The objection to the Hon'ble Member's proposal, which has a certain specious air about it, is that it would enable a house-owner who rents his house at a nominal sum to a relative to evade income-tax. A man may let his house at what we call a peppercorn rent in England to his nephew, his second cousin and all the rest of it, and next to no rent will be shown. The Hon'ble Member says he wants by his amendment to substitute net rent. That apparently would leave all the other clauses in action. The remaining clauses are to temper the full rent in respect of certain matters.

" I think it is absolutely the sound system—the system in England, the system everywhere I know—that in calculating house-rent you disregard these *benami* transactions, and you take the rent at what it is likely to be on a commercial basis. For these reasons I cannot accept the amendment. "

The motion was put and negatived.

6-16 P.M.

The Hon'ble Mr. K. K. Chanda :—" My Lord, the next amendment that I propose also relates to the same clause to which I wish to add the following proviso :—

' Provided that where the property is in the occupation of the owner the amount to be assessed as annual value of such property shall not exceed 10 per cent. of the aggregate income of the owner of the property. '

At this late hour I shall not detain the Council by any lengthy remarks of mine, but I should like to read to the Council the opinion of the Punjab Government on the subject of this amendment which I adopt. They say :—

' In some of the older cities and towns there are descendants of families formerly of good position but now decaying, who live on meagre incomes in capacious dwellings, occupying large and valuable sites and representing the last relics of their former splendour. The annual value of such houses would maintain them in a proper state of repair. The Lieutenant-Governor considers that some special powers should be given for dealing with cases of the nature described. Possibly a rule on the lines of rule 7 of the Government of India, Finance and Commerce Department, Notification No. 2763, dated 6th June 1890, as subsequently amended, limiting the amount to be assessed on account of the building occupied by the owner to 10 per cent. of the aggregate income of the owner from all sources might meet the case. '

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“There is also the testimony to the same effect in the Census Report of Volume I, Pt. I of 1901, of Sir Edward Gait at page 23 where he speaks of decayed ancient families.

‘Struggling to keep up appearances in an ancestral house built in more prosperous times.’

With these words, I submit, my Lord, this amendment to the acceptance of the Council.”

The Hon'ble Sir William Meyer:—“As the Hon'ble Member ^{6-18 P.M.} says, this limit that he wants to impose was brought in by the Government of India departmentally in a Notification of 1890. He now wants to stereotype it in the law. Well, having regard to the opinion expressed by the Punjab Government and other authorities that we consulted, that we owe consideration to decayed families living in their old ancestral homes, I accept this amendment.

The motion was put and agreed to.

The Hon'ble Rao Bahadur B. N. Sarma:—“My Lord, I beg ^{6-20 P.M.} to propose that at the end of clause 8, the following words shall be inserted:—
‘Where the tenant undertakes to pay the land-revenue, local rates or municipal taxes in respect of the premises.’

With this addition the clause will stand thus:—

‘For the purposes of this section and section 9 the expression ‘annual value’ shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year, where the tenant undertakes to pay the land-revenue, local rates or municipal taxes in respect of the premises.’

“The position I wish to have clearly expressed by means of my amendment is this: that you should tax the income really at the disposal of the assessee. If a thousand rupees is his income and he pays Rs. 160 in the shape of taxes, the income at his disposal is really Rs. 840. Of course he cannot plead any private expenses in the way of abatement; but I think these are just deductions, and on the faculty theory on which the income-tax is based, I think he ought to be taxed on the amount at his disposal. To a certain extent it may be contended that the language of the section as it stands supports that contention, because if the tenant agrees to pay a certain amount of rent after paying the taxes, then certainly under this section, as it stands, the owner of the house will not be liable to taxation except to the extent of the rent that he receives from the tenant. But it might be contended that inasmuch as there is a specific exemption in section 9, and there is no exemption in section 8, that it was not the intention of the legislature to exclude the taxes under section 8. I wanted to make that perfectly clear. There is no real difference in principle between income derived for purposes of section 8 and for purposes of section 9. I therefore hope that the Government will be able to accept the amendment.”

The Hon'ble Sir George Lowndes:—“My Lord, I am afraid ^{6-23 P.M.} this is an amendment which the Government cannot accept. Personally I find some difficulty in understanding it. So far as it refers to land-revenue, land-revenue is already deducted before income-tax is assessed. So far as local rates and municipal taxes are concerned, it is a thing which is never allowed off house property in England or, I believe, anywhere else. Municipal taxes are a purely personal expense. You may have a house with water laid on, municipal water, and if you pay rates for it, that is paying for something in addition to the house. Supposing you have no water laid on you have to provide it otherwise. The man who gets water from a municipality will be allowed the municipal tax; the other who does not get it will receive no allowance. As far as I can understand it that is what my Hon'ble friend means. It is almost an absurdity. These local rates are just like personal expenses for which we do not allow abatement of income-tax. They are like the expenses for servants, motor cars, clothes, or anything of that sort. Expenditure on such things as municipal scavenging,

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etc., are treated as purely personal expenses and are not allowed in England. We do not propose to allow it out here."

The motion was put and negatived.

6-27 P.M.

The Hon'ble Mr. K. K. Chanda:—"My Lord, this amendment is a small one.

'That in clause 12 (2), after the words 'the life of his wife,' the words, 'or his children or to make provision for their education or marriage expenses,' shall be inserted.

"In clause 12(2) provision is made for excluding from the computation any sum paid by the assessee to effect an insurance on his own life or on the life of his wife or in respect of a contract for a deferred annuity on his own life or on the life of his wife. My amendment seeks to insert after this 'or his children or to make provision for their education or marriage expenses.' We find there is a similar provision in clause 6(1)(ii) in favour of Government servants. I submit, my Lord, that provision should be made with regard to children in the case of the other sections of the community also."

6-30 P.M.

The Hon'ble Sir George Lowndes:—"My Lord, this is a point that was very carefully considered in Select Committee, and the Select Committee were unanimously of opinion that we ought not to make allowance for insuring children. Here, again, we had before us the English practice where provision for the education of children is not allowed. It is quite obvious why. A man can, of course, put aside a considerable portion of his income in this way which escapes taxation. We have followed the English practice; we considered the point and thought it ought not to be allowed."

6-31 P.M.

The Hon'ble Mr. K. K. Chanda:—"May I say one word, my Lord, in reply? I find in clause 6 (1) (ii) the following:—

'any sum deducted under the authority of Government from the salary of any individual for the purpose of securing to him a deferred annuity or of making provision for his wife or children provided that the sum so deducted shall not exceed one-sixth of the salary.'

"It does not appear why this has been made in favour of Government servants and not in favour of other people."

6-32 P.M.

The Hon'ble Sir George Lowndes:—"My Lord, I think I may be allowed to tell the Hon'ble Member why. It was because in the one case it is a compulsory deduction; the man does not get it. Government deducts something from his salary, and therefore he does not get it; therefore it is not his income and therefore we have to allow it. When it is a purely voluntary payment as in the case of a provision for children's education, etc., the money is his own property which he can deal with as he likes, and the case is quite different."

The motion was put and negatived.

6-33 P.M.

The Hon'ble Rao Bahadur B. N. Sarma:—"My Lord, I beg to propose the amendment which stands against my name, and that is an addition to clause 14. The amendment runs thus:—

'That at the end of clause 14 the following proviso shall be inserted —

'Provided further that, subject to such rules as may be framed in this behalf as to the return to be made where the assessee is an undivided Hindu family the tax payable by an undivided Hindu family on the aggregate taxable income of that family, shall be the total of the sums which would be payable by the several members of the family entitled to a share of such income if the family became divided on the 1st April of the year of assessment.'

"It might seem formidable when read, but I think the principle underlying it is very simple, and I think there is justice in support of it. I have briefly described in my note of dissent the reasons which urged me to record that note in favour of the amendment which I now propose. It seems to me, my Lord, that we depart widely from the principle on which we have based the whole Act, in treating for all purposes a Hindu family as a unit for purposes of assessment. I say we have departed from the faculty theory or from the

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ability theory completely thereby doing injustice to Hindus, and I shall explain how it is so. If four brothers constituting a Hindu family have an income of Rs. 1,000 and are treated as a unit, they will be taxed at 4 pias in the rupee. If they are separate each one gets an income of only Rs. 250 and none of the brothers is therefore liable to taxation. If a person gets an income of Rs. 999 he is not liable to taxation whether he be a separated Hindu, Muhammadan or Parsi, but if he happens to be a member of an undivided Hindu family getting Rs. 1,000, when he is less able to pay the tax, his share of the income being only Rs. 250, if he happens to be one of four brothers and when four members have to be supported on that income of Rs. 1,000, he is liable to taxation. As the family will be taxed, I do not think the framers of the Bill ever intended such consequences. Then, again, in the matter of the grade of taxation also the Act works injustice. If a family described above is getting an income of Rs. 8,200 it has to pay at the higher rate, but will escape taxation altogether if it be divided, each getting only Rs. 800. It may be said that for some purposes a Hindu family has got advantages, and consequently it must be reconciled to certain disadvantages also in being treated as a unit. I submit for purposes of taxation there are no advantages whatsoever, and the doctrine of survivorship that is generally invoked in favour of the family being a unit and a corporation, does not apply generally to all Hindu families. In the case of a Bengal Dayabhaga family that doctrine does not apply; its members are tenants in common and each one is entitled to a share; they are tenants in common in the eye of the law and their heirs succeed, there is no survivorship. In the case of others let us see how far they are benefited by this doctrine of survivorship. A death may occur in a generation. In the case of persons who have to pay probate and administration duties that is a ground on which a distinction has been sought to be drawn; the duty is $2\frac{1}{2}$ or 3 per cent. That will have to be paid, say, once in 15, 20 or 30 years. Well, a Hindu family where the doctrine of survivorship applies is supposed to escape that. Not always but apart from that, the family has to pay at the lowest rate 2 per cent. every year and in general it will have to pay without including interest 60 per cent. in 30 years. Consequently, my Lord, the argument that families which are not Hindus are subjected to certain forms of taxation has no force. I submit, therefore, that on grounds of justice, as well as on the principle of income-tax administration, Hindu families ought to be treated exactly on the same footing as Muhammadan families or Parsi families or Christian families. My Lord, it is said that for administrative purposes there might be inconvenience in ascertaining what shares the several members of a Hindu family may be entitled to at any particular moment, that it would necessitate an annual inquiry. In the first place, we have provided in the case of firms an inquiry, of course where the firms are registered. Similarly, there can be no difficulty whatsoever in ascertaining who are the members of a particular Hindu family at the moment you want to tax them. But I would go further and state that the provisions enabling the Government to make rules render the administration of the Income-tax Act perfectly easy. I have provided that Government should take power to compel members of a Hindu family who wish to be treated for the purposes of taxation as a firm to make returns showing the number of shares each person is entitled to, and how many have to sign returns before any benefit can be obtained from the provisions of this clause. If Government should say that where there is a doubt as to what each member is entitled to, where there is any dispute, they would treat the whole family as a unit for the purposes of taxation, there would be perfect justice; and rules can provide as to the signing of returns by adult members showing exactly how the position stands at any particular moment. There is absolutely no administrative reason whatsoever why a Hindu family should be treated on a different footing from a Muhammadan family or a Parsi family. One word more. There are very delicate inquiries that would have to be instituted if a Hindu family is to be treated as a unit for all purposes; there is the question of self-acquisitions in the case of undivided families; there are questions of salaries and professional earnings of individual members. Those would have to be decided if the whole family is to be treated as a unit;

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whereas under my amendment there would be no such inquiry needed. The law as it stands would lead to the disruption of Hindu families and would penalise the Hindu family system. It may be said that the Act of 1886 has worked without any great hardship for a number of years, and a question may be asked why objection should be raised now. The answer is clear; we have introduced a graduated system of heavy taxation, and therefore several inconveniences which were not so obvious in the earlier state of the law would become accentuated under the law as it is to be enacted. Besides the fact of people bearing an evil for a long time is no justification whatever for injustice being done to them, especially when the injustice is pointed out. I hope the Hon'ble the Finance Member and the Council will be in a position to accept the amendment."

6-43 P.M.

The Hon'ble Sir George Lowndes:—"My Lord, this raises a very debatable question which we have talked about in this Council on the Super-tax Act. It is impossible to accept this amendment, but we are quite willing that the Hon'ble Member's proposal should be circulated to Local Governments, and when we know what their views are, to reconsider the section. We cannot accept the amendment at present; it has never gone to Local Governments in connection with the Income-tax Bill, and it is a point which requires very careful consideration before it can be accepted. This course may very well meet my friend Mr. Sarma's views. Government are quite willing to give a promise that if the clause is carried in its present form, the question will be reconsidered when the next occasion arises. If necessary, an amendment can be made in the Act next Session."

The Hon'ble Rao Bahadur B. N. Sarma:—"I accept that and beg to withdraw the amendment."

The motion was by leave withdrawn.

The Hon'ble Mr. K. K. Chanda:—"My Lord, I am sorry to detain the Council at this late hour, but this is the last amendment I shall propose....."

His Excellency the President:—"Is that an undertaking, Mr. Chanda?"

6-44 P.M.

The Hon'ble Mr. K. K. Chanda:—"Yes, my Lord, I propose an amendment—

'That in clause 15 (3) for the words from 'deduct income-tax' to 'specified in Schedule I' the words 'deduct such income-tax, if any, which the owner of the security may be liable to pay and at such rate as the Collector of the place where he resides or has his place of business may have determined' shall be substituted.'

The matter stands thus: any person whoever he may be, no matter what his income may be, who presents a security for getting interest shall be assumed to be the possessor of an income of Rs. 25,000 a year, and income-tax is deducted from that interest. The maximum rate is one anna on the rupee and it is payable on Rs. 25,000 and above. What is the effect of that? I can give one case and could give others. There is a Bengali lady residing in Benares, her whole income is the interest on Government securities of Rs. 500 which her husband left her. That is her income for the whole year. What will be the effect of the clause as it stands at present? She will present this to the Treasury officer at Benares, income-tax will be deducted at one anna in the rupee, assuming that she is worth Rs. 25,000 a year. This is a typical case and I could give others from my experience as other Hon'ble Members could also give. That is enough to show the hardship. No doubt there is a remedy provided for in this Bill. Clause 37 says 'If the owner of a security from the interest on which income-tax has been deducted in accordance with the provisions of section 15 satisfies the Collector that his total income in the previous year was less than any one, as the case may be, of the amounts specified in Schedule II, he shall

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be entitled to a refund of a sum calculated on such dividend, share of profits or interest at the rates specified in the same Schedule against each such amount.

"Now what does the remedy amount to? The lady after having had the amount deducted from the interest has to satisfy the Collector, and what does this involve? She must move the Collector and engage a lawyer, and her lawyer must produce evidence and prove a negative, that is to say, that she is not worth Rs. 25,000. She will have to produce evidence in Benares and also from the district from which she came. The Council can easily imagine what that means. Therefore the remedy provided in the Bill comes to nothing. My submission is that there is great hardship to poor people. Let her be taxed if she is really liable to be taxed, but my amendment proposes the words 'deduct such income-tax, if any, which the owner of the security may be liable to pay and at such rate as the Collector of the place, where he resides or has his place of business, may have determined.' I do not dispute that tax on securities should be deducted at the source that is the place where interest is secured at such rate as the Collector may determine.

"I submit, my Lord, this amendment for acceptance by Council."

The Hon'ble Mr. S. N. Bannerjea :—"My Lord, I mentioned 6-47 P.M. this matter to the Hon'ble Sir William Meyer and pointed out that it was a real grievance. It is felt very largely by a number of poor Hindu widows who have securities of Rs. 500 to Rs. 1,000. Interest is deducted and they have to apply for a refund; they have not the means of doing so, and that is really hard. I hope the Government will see their way to accept the proposal."

The Hon'ble Sir William Meyer :—"I cannot accept the 6-48 P.M. amendment as it stands. It would cause, as far as Government and other securities are concerned, a great amount of trouble and it is quite impracticable. It would prevent the Public Debt Office from paying over any interest due to the individual holder of a security unless and until it was ascertained from the Collector the rate of tax leviable. As a method of facilitating the system of refunds, it is thus impracticable. Its only result would be to hold up the payment of interest on securities for an indefinite time, while throwing upon the Public Debt Office a volume of work which they would rightly refuse to undertake. The Hon'ble Mr. Chanda has also entirely ignored the case of bearer bonds, as regards which no information as to the actual holder would be available to the person paying interest.

"As regards the question of facilitating refunds under our present system, I have interested myself in this matter for a couple of years, and I will read the gist of some of the rules which the Bombay Government framed on the subject, and which we commended to other Local Governments. As we have had no complaints on the subject since, I take it that the system now works smoothly.

"In the case of a promissory note, debenture stock or other security of the Government of India, the owner of a security claiming a refund on the ground that his total income warrants a lesser rate than one anna, must present to the Collector an application showing his income from all sources, and a statement showing the details of the Government of India securities held by him. On receipt of that application and the statement, the Collector, after making such inquiries as he may deem necessary as to the total income of the applicant, can issue a certificate of refund, if he is satisfied that the applicant is liable to tax at less than one anna in the rupee.

"If the applicant hands over the certificate of refund to the person empowered to pay the interest on the security of the Government of India, that is the Public Debt Office, then the Public Debt Office will deduct as income-tax from the interest due on such security, only the amount which follows on what the Collector has adjudged to be the rate of income-tax, the man has to pay, and will refund any previous over-payment.

"If an applicant fails to go to the Collector and get a certificate of refund in this way, then he can get a refund later on, but after some delay which the

[*Sir William Meyer*; *Sir George Lowndes*; *His Excellency the President*; *Mr. K. K. Chanda*; *Rao Bahadur B. N. Sarma*.] [14TH MARCH, 1918.]

other system would have obviated. Special rules have also been made in the case of *pardanashin* ladies.

"As I have said, we have had no complaints of late. There used to be complaints before. So I submit that such valid grievances as there were, have been rectified by these rules, whereas the amendment proposed, of course with very good intentions, by the Hon'ble Mr. Chanda would, if I may use a slang expression, put the fat in the fire again."

6-54 P.M.

The Hon'ble Sir George Lowndes :—"I should like to assure my Hon'ble friend, Mr. Bannerjee, that I have personally taken great interest in this question in order to devise some means of remedying the hardship to which he referred. I am satisfied, after a good deal of consideration, that the only possible way of dealing with it is the way my Hon'ble friend, the Finance Member, has proposed. If people will not go to the Collector and get a certificate, we cannot help them. They must do that. But I think that any Member interested in this question will see that it is quite impossible to have a sort of preliminary assessment every time when any is to be paid by the Public Debt Office. I can only say that this is not possible."

The motion was put and negatived.

His Excellency the President :—"Does the Hon'ble Member want to move the next amendment?"

The Hon'ble Mr. K. K. Chanda :—"I do not want to move the next *amendment.

The motion was, by leave, withdrawn.

6-57 P.M.

The Hon'ble Mr. Rao Bahadur B. N. Sarma :—"My Lord, the next amendment that I wish to move is in clause 18, and it reads thus :—

After clause 18 the following clause shall be inserted :—

'18-A. The Local Government shall from time to time appoint in each district or part of a district two or more persons who are not Government servants, who shall be styled assessors, for the purpose of assisting the Collector in any inquiry under section 18. It shall be optional to any person, who has been served with a notice under section 18, to require that his cause shall be adjudged by the Collector and assessors, and on such application the Collector and two assessors selected in the prescribed manner, where more than two have been appointed, shall, after examining such accounts and documents as the Collector may require and hearing any evidence the assessee may produce and such other evidence as the Collector may require by an order in writing, determine the amount of the assessment. In the case of a difference of opinion the opinion of the majority shall prevail.'

"The object of this amendment is to associate with the Collector two or more assessors for the purpose of determining the amount at which an assessee is to be assessed to income-tax where the assessee requires that such a procedure should be adopted. This procedure is not novel to India and it obtains in several countries including the United Kingdom. The object of it is to interpose an authority between the tax gatherer and the assessee so that a balance may be preserved and nobody's interest may suffer. The criticism that can be levelled against the present administrative methods provided for India is that the representative of the State is also a judge both in the original stages as well as in appeals, and howsoever honestly a person may strive to do his duty, under those circumstances, it cannot always be possible for him to do

* That after clause 16 the following clause shall be inserted :—

'16-A. (1) The person responsible for paying any income chargeable under the head 'Interest on securities' shall within fifteen days from the 31st day of March in each year deliver or cause to be delivered to the Collector of the District a return in the prescribed form showing all persons who are owners of securities earning interest in his district and the amount of interest respectively payable to them.

(2) After receipt of the above return the Collector will proceed to inquire, in accordance with the provisions of clause 17 (2) or clause 17 (3) and clause 18, and determine the total income of the assessee for the previous year and assess the sum payable by the assessee for the year in which the return is made on the basis of such determination and inform the person responsible for paying the interest on the securities the rate at which income-tax, if any, is to be deducted from such interest.'

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so, and even if he does so there is some suspicion in the mind of the assessee that the authority has been biased against him and in favour of the tax-receiving authority. There were numerous complaints in the earlier stages of the Income-tax Act administration that there was absolutely no chance of justice being obtained when once the Collector or assessing authority determined as to what the amount of the income was. All sorts of questions were put to the assessee who was asked to prove a negative. Of course, it is impossible for the assessee to do so, and it was felt useless to do so, and that the inquiry was a farce. Of course, complaints were not so numerous when the assessed limit was raised. But we have to foresee, as a legislative assembly, the dangers ahead especially in view of the fact that income-tax is becoming a very important source of revenue and is being more and more largely looked forward to as a source from which the exigencies of the State are to be met.

"It was only a million and odd a few years ago. It is now 6 millions and odd, and in troublous times it may be a source of temptation for getting a large revenue. Officers may not yield to the temptation, but still there would be legitimate suspicion in the minds of the assessees. I said therefore it will be respecting the elementary notions of justice to interpose an authority between the Collector and the assessee. It was by way of a compromise that I have arrived at the scheme which I propose in this clause. I want to follow the analogy of the Land Acquisition Acts, where along with the judge assessors are associated for the purpose of determining the amount of compensation that has to be paid. I will cite a few passages as to the law in other countries to show that what I am seeking here is not an unreasonable proposition, is not a visionary proposition. At page 250, Seligman on Income-tax, the position in the United Kingdom is described as follows:—

'The original assessment of the tax, it will be remembered, is placed in the hands of appointees and the Land Tax Commissioners, and these Land Tax Commissioners are non-salaried representatives of the local gentry, the tax-payers feeling that their interests are looked after by their own representatives and yet the interests of the State are guarded by careful supervision on the part of representatives of the Central Government. On the one hand, too much bureaucracy is eliminated, and on the other the risk of inadequate yield is averted.'

"Then in Germany, a country in quoting from which I shall stand at a disadvantage, the position is very nearly the same:—

'The majority of the Assessment Commission are elected, while the minority, including however the Chairman, are appointed by the Government.'

"And then appeal is permitted to a special Commission, one of which exists in every governmental district. This Appeal Commission is composed of members partly appointed by the Government, partly elected. In the case of the smaller tax-payers, that is up to 3,000 marks, no declaration is required, but an additional administrative body known as the Preliminary Valuation Commission is introduced. This Commission is also composed partly of appointed and partly of elected members, and is presided over by the village head or an appointee of the officials. The Assessment Commission is composed of a President named by the Minister of Finance, and of the members half are elected and half are appointed by the Government. The same thing obtains in Italy and other places, and, in 1860, a provision analogous to this provision was made by the Government of India in this country. I therefore submit, my Lord, that it is in the interests of the Government themselves, in order that they may not be misunderstood, that their motives may not be misconstrued, that they should interpose a body independent of their executive, to inspire confidence in the people that the Act will be administered justly and equitably."

The Hon'ble Sir William Meyer:—"The object the Hon'ble 7-4 P.M. Member has in view recalls to my mind a Resolution moved in the Legislative Council by a Madras representative, my friend the Hon'ble Mr. Rayaningar. Mr. Rayaningar, in January 1914, moved a Resolution recommending that Local Governments should be consulted as to the desirability of establishing Advisory Boards, nominated by the Revenue heads of districts, to assist

[*Sir William Meyer.*] [14TH MARCH, 1918.]

officials in the work of assessments under the Income-tax Act. At the same time some of the other Indian Members, those engaged in high commerce for instance, were very emphatic in their opposition. I remember Sir Ibrahim Rahimtoola opposing the idea very strongly. However, we accepted the Resolution on the ground that it was advisable to consult Local Governments, and through them public opinion, as to the practicability and expediency of adopting this method of assessment. Now I will read parts of the Government of India Resolution issued in August 1915 after the views of all the Local Governments had been received :—

‘ The Government of India have now received the views of all Local Governments and Administrations on the subject, and it is found that the proposal has been widely canvassed and unhesitatingly condemned by practically all who were consulted. The general conclusion arrived at is that the creation of formal Advisory Boards would not improve the accuracy of assessment and would tend to make the tax more unpopular. ’

“ The chief objections advanced are summarised below :—

I. ‘ It is widely felt that business men would have the strongest objection to the disclosure of their accounts, and consequently of information regarding their financial credit and methods of business, to a Board composed of their neighbours and possibly including trade rivals. It is an accepted principle of Income-tax law that information of this kind, while necessary for purposes of assessment, should be regarded as absolutely confidential as between the State and the tax-payer, and the maintenance of this principle would be seriously endangered by the proposed system of assessment.

II. ‘ The principal utility of the proposed Boards would by hypothesis lie in their local and personal knowledge. It would therefore be necessary to appoint a special Board in each area of assessment. ’ That is what the Hon’ble Member who moved the present amendment proposed. ‘ The authorities consulted anticipate the utmost difficulty in obtaining men possessing the requisite standing and sense of public responsibility. This difficulty would be especially great in rural areas. It is also urged that, apart from other considerations, the frequent prevalence of local factions would enhance the difficulty of securing a Board which would command the confidence both of Government and the assesseses.

III. ‘ The proposed Advisory Boards would be exposed to conflicting influences, the sense of their duty to Government on the one hand and, on the other, pressure implied or expressed on the part of the assesseses, with many of whom they would necessarily have some personal or business relations. The position would be most difficult to sustain, and it is generally believed that qualified men would be reluctant to undertake the task.

IV. ‘ It is represented that private individuals are often found by experience to be unwilling to take the responsibility of tendering advice in a formal and public way.

V. ‘ The introduction of Advisory Boards would tend to weaken the sense of responsibility of the official Income-tax Collector. The duties which he performs are necessarily of an inquisitorial and somewhat distasteful nature, and it would not be an altogether unnatural result if he should display a tendency to throw as much responsibility as possible on the shoulders of the Advisory Boards.

‘ These opinions, ’ the Resolution went on to say, ‘ appear to the Government of India to be conclusive, and they do not therefore propose to take any further steps in the direction of requiring Local Governments to constitute formal Advisory Boards for the assessment of the tax. ’

‘ The Government of India, however, do not desire to interfere with the existing practice by which non-official agency is widely employed in an informal manner in connection with income-tax assessments. It appears from the recent correspondence with Local Governments that in every province the assessing officer is required to seek information from persons likely to be acquainted with the circumstances of those already on the assessment roll, or who might be brought on it. In towns municipal commissioners and leading representatives of the different communities and of commercial and industrial interests are consulted; and in rural areas headmen, *saidars*, and village *panchayats* where these exist. In one or two provinces small committees consisting of influential citizens, representative traders and manufacturers, are informally associated with Government officials in the work of assessment. The information thus collected is recorded confidentially by the Government assessing officer, and a farther feature of the arrangements generally obtaining is that in each case efforts are made to obtain information from a number of independent sources with the object of correcting or eliminating as far as possible biased or inaccurate statements. Or, again, where questions of accounts

[14TH MARCH, 1918.] [*Sir William Meyer ; Mr. S. N. Banerjea.*]

are concerned, the assessee may be permitted, if he so desires, to have his books examined by a non-official commission and care is taken to select for such commissions gentlemen well qualified by their knowledge of business, their familiarity with systems of accounts, and by a reputation for trustworthiness.'

It will be observed that the non-official commission is merely advisory, and the Collector is the final authority subject to such appeals as lie against his decision.

'These expedients,' the Resolution continued, 'are legitimate and suitable, and it is understood that they have proved of material assistance in the work of assessing the tax. The matter, however, is one with which Provincial Governments are competent to deal, and it is unnecessary for the Government of India to do more than indicate their general approval of the methods employed, leaving it to Local Governments to maintain and develop the existing procedure on practical lines suited to the varying circumstances of the communities with whom the assessing officer has to deal.'

"Well, I stood by the policy enunciated in 1915 and I entirely stand by it now. We want, as far as possible, to get non-official association with the Collectors' assessments, but it must be of an informal and elastic character. At the present stage, having regard to the unanimous condemnation expressed of Mr. Rayaningar's proposed Advisory Boards, I cannot be a party to putting any hard and fast instructions into the Bill. Mr. Sarma would say that it is only optional. If the assessee does not like his accounts getting too well known, he need not apply for the services of assessors; he can deal with the Collector only. If he does not mind his circumstances being more widely known, then he can apply for assessors. But the assessors are not to be advisory, as assessors in a Sessions Court are. They are actually a commission of equal rank with the Collector, who would merely be *primus inter pares*, because I understand if the two assessors outvoted the Collector they would carry the day. Well, we cannot lay down any hard and fast rule of that description in the Bill. I am quite ready, as I said, to stand by the instructions issued in 1915, to emphasize them if need be; but not to have this cut and dried scheme."

The Hon'ble Mr. S. N. Banerjea:—"My Lord, I am able to confirm a good deal of what my Hon'ble friend the Finance Minister has said with reference to the practice which is now followed in some parts of the country. I have some experience in the matter. Well, the Income-tax Deputy Collector comes to the representatives of the village and makes inquiries as to the financial position of those persons in regard to whom there might be some doubts, and the local gentry are always too willing to give the Deputy Collector such assistance as may lie in their power. I am in a position to say that that is done, and I myself have sometimes been asked by the Deputy Collector of the 24-Parganas to give information—not as a spy certainly—with reference to various persons who live in the same place where I live, especially with reference to those who claim exemption. That is the point upon which they especially want information. My suggestion would be, my Lord, to have that principle, which is already in operation, extended and whether it might not be possible in places where there are men capable of giving information to obtain this sort of information upon a more extended and systematic scale than is done at present. It would be quite an informal matter, but still if it is done informally I think the principle would be at work, and eventually it might lead to the creation of the Advisory Boards for which my friend contends. I desire to throw out this suggestion for the consideration of the Hon'ble the Finance Minister."

The Hon'ble Sir William Meyer:—"I just want to be quite sure of the Hon'ble Member's meaning. Do I understand the Hon'ble Member to suggest that we should inquire again of Local Governments, with reference to the part of the Resolution I read out about the informal employment of non-official agency. That, when the new law comes into operation, we should refer to this Resolution and ask them whether they can take any further steps?"

Mr. S. N. Bannerjca ; Sir William Meyer ; His Excellency the President ; Rao Bahadur B. N. Sarma ; Rao Bahadur B. D. Shukul ; Mr. K. K. Chanda ; Mr. Khaparde . [14TH MARCH, 1918.]

The Hon'ble Mr. S. N. Banerjca :—“ That is my suggestion.”

Th Hon'ble Sir William Meyer :—“ I should be quite ready to meet the Hon'ble Member in that way.” *

His Excellency the President :—“ Does that meet you, Mr. Sarma ?”

7-15 P.M.

The Hon'ble Rao Bahadur B. N. Sarma :—“ Well, my Lord, I may say that I have no option but to accept what little concession may be shown. All that I may be permitted to state is, that possibly this Advisory Board system may lead sometimes to abuses and difficulties attendant on espionage, and, consequently, it may not always be possible to form Advisory Boards in the manner that is sometimes advocated. I quite see that. But the proposition that I have suggested is not for the formation of Advisory Boards, whose assistance it is open to the Collector to seek if he pleases, and whose advice it is optional with him to accept or reject. What I wanted was the association of assessors and commissioners in the position of judges, in the manner which obtains in other parts of the world. If the Local Governments were unable to accept the suggestions with regard to Advisory Boards I respectfully submit that the question of my proposition does not fall on the authority of the Local Governments, because they were never consulted on the question as to whether it would be possible to appoint commissioners to perform the functions which are being performed in other parts of the world. It may be that the Governments would say emphatically 'no.' I can quite understand that. The Local Governments may disagree with the suggestion that I have made ; I have not much hope there. Still the opinions that have been quoted do not go to support that.

“ Then the Hon'ble the Finance Minister has already noticed the other point, namely, that it is optional with the assessee and so objection might sometimes be taken that commercial men would not care to have their accounts looked into. That objection would not prevail. But having regard to what has been said by the Hon'ble the Finance Member I shall leave it there, in the hope that he will see his way to asking Local Governments whether the suggestion made in this amendment is capable of practical adoption.”

The motion was, by leave, withdrawn.

His Excellency the President :—“ Do you wish to press your amendment, * Mr. Shukul ?”

The Hon'ble Rai Bahadur B. D. Shukul :—“ No, I do not wish to press it.”

The motion was, by leave, withdrawn.

The Hon'ble Mr. K. K. Chanda :—“ I withdraw the next two amendments† standing in my name.”

The motions were, by leave, withdrawn.

7-16 P.M.

The Hon'ble Mr. Khaparde :—“ This is a very small amendment‡. I believe it is implied in the section and I only want to make it clear.”

7-17 P.M.

The Hon'ble Sir William Meyer :—“ I am ready to accept that amendment.”

The motion was put and agreed to.

* That at the end of clause 18 (3) the following words be added, namely :—

‘with the aid of two or more non-official local assessors appointed in accordance with the rules framed under section 43 of this Act.’

† That in clause 23 the word ‘enhancement’ be omitted, and that the following proviso be added to clause 23 :—

‘Provided that where the Commissioner enhances the assessment the assessee will have a right of appeal to the Chief Revenue Authority.’

‡ That at the end of the proviso to clause 23 the following shall be inserted :—

‘either in person or by pleader.’

[14TH MARCH, 1918] [*Rai Bahadur B. D. Shukul ; Mr. Khaparde ; Sir William Meyer.*]

The Hon'ble Rai Bahadur B. D. Shukul :—“ My Lord, I withdraw my amendment which runs as follows :—

‘ That in clause 30 (1), for the words ‘ to the best of his judgment ’ the words ‘ with the aid of two or more non-official local assessors appointed in accordance with the rules framed under section 43 of this Act ’ shall be substituted. ’ ”

The motion was, by leave, withdrawn.

The Hon'ble Mr. Khaparde :—“ This also, my Lord, is I submit a very small amendment.* There is in the existing law section 31 which empowers the Collector to compromise any claims for such time as he chooses to, and I think this section is very useful. In working the Act there may be contentious matters ; there may be accounts to be gone into and all that sort of thing, and the Collector, if such questions arose, might reasonably be allowed to settle them provisionally until they are adjudicated upon. That is part of the existing law, and I wish it to be retained as section 30-A. It will facilitate the working of the Act.” 7-10 P.M.

The Hon'ble Sir William Meyer :—“ Well, we have not wiped out section 31 altogether as my Hon'ble friend appears to think, but we have changed its position in the Bill. After all this composition clause is not part of the primary machinery of the Act. It is merely a convenient method, an expediency method. Instead of making an assessment on A. or B. or C. every year, you say ‘ If your circumstances do not change very much, as a matter of convenience to you—and incidentally as a matter of convenience to the State—I will compound with you for three years or whatever it may be. ’ I say that is a relatively minor question of machinery, and so we thought it better to put it in the Miscellaneous Chapter under the rule-making powers. If my Hon'ble friend will turn to clause 43 of the Bill, sub-clause (2), he will find that such rules may provide for a system of composition of assessments and prescribe the conditions under which a Collector may enter into composition with assesseses as to their assessment. So that I think the spirit of his amendment is really met.” 7-21 P.M.

The Hon'ble Mr. Khaparde :—“ I was aware of that. My idea of it is that if the provision was embodied in the Act itself it would work better than if it was left to the rules. As it stands, it may happen that in some parts composition will be put in the rules, while in other parts it may not be put in the rules, and it was to obviate this that I brought forward my amendment.”

The Hon'ble Sir William Meyer :—“ Then my answer is that we thought over all that before the Bill was introduced, and we came to the conclusion, as I said, that composition was a matter of pure expediency, and it was desirable to relegate it to a minor place. For instance, when we enhanced the rates of taxation under the existing Act, two years ago we found that a certain number of people had been hurriedly entering into compositions in the sure and certain hope that they would thus be able to escape the effects of the increased assessment that intelligent anticipation showed them might be hanging over them. Well, it was not a sure and certain hope, because we had a special amending section, stating that section 31 should not apply, should be null and void, when there were alterations in the rates of assessment. That showed us among other things the inconvenience of having a purely expediency procedure put on the same level as the principal factors in the Act ; and so I stand by our method of relegating it to the rule-making powers.”

The Hon'ble Mr. Khaparde :—“ Then in that case I withdraw the amendment.”

The motion was, by leave, withdrawn.

* That after clause 30 a clause reproducing the provisions of section 31 of the Indian Income-tax Act, 1886, shall be inserted as clause 30-A.

Mr. K. K. Chanda ; Rao Bahadur B. N. Sarma ; [14TH MARCH, 1918.]
His Excellency the President ; Sir George
Lowndes ; Mr. Khaparde ; Sir William Meyer.]

The Hon'ble Mr. K. K. Chanda :—" My Lord, I withdraw my amendments."*

The motions were, by leave, withdrawn.

The Hon'ble Rao Bahadur B. N. Sarma :—" I withdraw my amendment† as section 4 has been amended and this is a consequential amendment."

His Excellency the President :—" Is that so ?"

The Hon'ble Sir George Lowndes :—" That is so, my Lord. The Hon'ble Mr. Sarma's last amendment falls under the undivided family head."

The motion was, by leave, withdrawn.

7-24 P.M. **The Hon'ble Mr. Khaparde** :—" This also is a little verbal amendment. I want to omit in clause 51 (1) the words ' unless it (that is, the Chief Revenue-authority) is satisfied that the application is frivolous or that a reference is unnecessary ' which seem to me to be wrong. I submit, my Lord, that if power is given to the Court to assess and fix the costs on a man needlessly insisting on a reference, I believe these words may be omitted. That was my object. Where punishment is to be provided against a person who proposes to make a reference without any cause, the punishment comes naturally by the Court awarding costs against him. With these words I hope my amendment will meet with the approval of the Hon'ble Member."

7-25 P.M. **The Hon'ble Sir William Meyer** :—" We considered this matter very fully in Select Committee, and we came to the conclusion that this condition was a very proper and reasonable one. We do not want to bar any reasonable application to the High Court from the Chief Revenue-authority; this was an idea which originated really with the Government in the original Bill; but we do want to save the time of the High Courts from being wasted by frivolous and unnecessary applications. Any lawyer who is in this Council, as well as any person who has had a certain amount of worldly experience, will know that unfortunately there are certain people who are absolutely bent on making frivolous and vexatious applications, who have not the sense of due proportion. I may perhaps tell the Council a little story in this connection which happened many years ago. I was quite a young officer and a military man, a much older man than myself, was in the same station. He asked me to come with him to *chota hazri* one day and he consulted me about a case in which he had some property at Ootacamund, and in regard to which a suit he had brought had been thrown out by the local Subordinate Judge; and he said to me ' Can I appeal ? ' ' Well, ' I said, ' I do not know much about civil matters, but looking at the Civil Procedure Code I do not think you can : the judgment is final. ' ' Oh ' he said, ' cannot I appeal to the High Court on the ground that the Subordinate Judge was corrupt ? ' I said, ' No doubt the High Court would take a petition into account on those grounds, but it is a very serious charge to make : what evidence have you against the Subordinate-Judge ? ' ' Oh, ' he said, ' he must be corrupt or he would not have given the case against me ! ' Well, you have a certain number of men of that class to take into account, and it is not sufficient, as my Hon'ble friend the mover suggests, to have costs given against them. They do not mind costs very often. They enjoy the litigation, and in the meantime the time of the High Court has been wasted. So I must decline to accept this amendment, and I consider that the Bill should remain as it stands, and that the Chief Revenue-authority should have discretionary power to reject frivolous or unnecessary references. By an unnecessary

* 1. ' That in clause 85 after the words and figures " section 21 " the words " the Commissioner may in his discretion direct the Collector to and " shall be inserted ' and

2. ' That in clause 37, sub-clause (c) and the words " or please see formula interest " shall be omitted. '

† That after sub-clause (f) of clause 43 (2), the following sub-clause shall be inserted :—

' (g) prescribe the manner in which a return is to be made, and the person by whom it should be signed, where the assessee is an undivided Hindu family. '

[14TH MARCH, 1918.] [*Sir William Meyer ; Sir George Lowndes ; Pandit M. M. Malaviya ; His Excellency the President.*]

reference I mean—to give an obvious instance—a reference in regard to which the matter has already been decided quite clearly, or sufficiently clearly by analogy to render it an absolute waste of time to go up to the High Court again.”

The motion was, by leave, withdrawn.

The Hon'ble Sir George Lowndes:—“ My Lord, there is a small 7-27 P.M. amendment standing in my name which runs as follows :—

“ That in clause 53 after the existing proviso, the following shall be inserted, namely :—

‘ Provided, further, that such repeal shall not affect the Super-tax Act, 1917, and any provisions of the said enactments which have been applied or incorporated by reference in the said Act shall, for the purposes of that Act, continue to be in force.’

We had hoped to have been able to bring in an amending Super-tax Act this year, but the Income-tax Act has been such a serious labour and we are getting so near the end of the Session that this will not be possible. We are therefore compelled to keep alive the old Income-tax Act, upon which the Super-tax Act is based, for another year. The amendment which I have the honour to move is to prolong the life of this antiquated and hoary Act for one year more for this special purpose only.”

The motion was put and agreed to.

The Hon'ble Sir William Meyer:—“ My Lord, I now move that 7-30 P.M. the Bill as amended be passed. I should like to say how much we are indebted, in regard to the framing of this Bill and the consultations that had previously arisen as to its scope, to Sir George Lowndes and Mr. Muddiman, I cannot exaggerate the assistance, the ready and willing assistance, they have given us.

“ I think that, whatever difference of opinion there may have been between individual Members and ourselves as to particular clauses of this Bill, we may take credit to ourselves as a Council that the Bill, with its amendments, which is about to be passed is a great improvement on the existing Act, and that it will be a matter of great comfort to the assesses as well as to those who have to assess them. I move that the Bill be passed.”

The Hon'ble Pandit M. M. Malaviya:—“ My Lord, I join the 7-31 P.M. Hon'ble the Finance Member in what he has said. I think we can take credit that this Bill has been passed in the form in which it has been. There is only one matter to which I should like to draw attention, and it is one which should give special satisfaction to our friend, the Hon'ble Sir George Lowndes, and that is an analysis of the voting which took place on clause 4 to-day. The result should gratify him, and every one who is interested in the future work of this Council. My Lord, the official Members of this Council were told that they were free to vote on that clause according to their judgment. The result has been that among the 30 Members who voted in favour of the amendment to clause 4, 12 were officials and of the 18 non-officials.....”

His Excellency the President:—“ I do not wish to stop the Hon'ble Member, but this is hardly germane to the motion that we have before us, moved by the Hon'ble Sir William Meyer.”

The Hon'ble Pandit M. M. Malaviya:—“ I bow to your Lordship's ruling, but I submit that on a motion that a Bill be passed we are entitled to comment on matters which arise out of the Bill. I will of course bow to your Lordship's ruling, but that has been the practice, my Lord.”

His Excellency the President:—“ I have expressed my wish to the Hon'ble Member ; the Hon'ble Member can see the clock.”

[*Pandit M. M. Malaviya ; Mr. Jinnah ; Mr. S. N. Bannerjea ; His Excellency the President ; Mr. M. N. Hogg.*] [14TH MARCH, 1918.]

The Hon'ble Pandit M. M. Malaviya:—"I bow to your Lordship's wish."

7-33 P.M.

The Hon'ble Mr. Jinnah:—"My Lord, I congratulate the Government in consolidating the various Acts on the subject that were separate and scattered till now, because it will be most convenient for the public as well as everybody concerned with it that this law should be consolidated in the form of one Act. My Lord, before this Bill is passed, I should like to say a few words, and I cannot allow the Bill to be passed without saying a few words. The Hon'ble Mr. Sita Nath Ray, said that I played an official rôle, in opposing his amendment and he congratulated me upon it. Well, my Lord, I differ from him in that opinion....."

The Hon'ble Mr. S. N. Bannerjea:—"I rise to a point of order, your Excellency. The motion is that the Bill be passed. Is it open to any Hon'ble Member to reply to observations which have been made in the course of the debate. I rise to a point of order because my friend, Mr. Sitanath Ray is not here. Is it relevant to the motion that is before the Council that the Bill be passed to refer to a discussion which has already taken place and to recriminations which I think ought to be....."

His Excellency the President:—"The Hon'ble Member has risen before recriminations had begun. I am sure Mr. Jinnah will refrain from them."

The Hon'ble Mr. Jinnah:—"I was not going to indulge in any recriminations at all. All that I was going to say was this, and I am sure that my friend Mr. Bannerjea will endorse it, that it would be a matter of regret that any representative of the people in this Council should 'play an official role.' It is not a matter for congratulation, but I think that Mr. Sita Nath Ray has judged me, my Lord, by his own standard."

7-35 P.M.

The Hon'ble Mr. M. N. Hogg:—"My Lord, owing to the lateness of the hour I will not take up the time of the Council by making any remarks about the changes that have been made in the Bill in Select Committee; but I just wish to take this opportunity of acknowledging the very fair and accommodating spirit in which the views of those whom I represent have been met by Government in Select Committee."

The motion was put and agreed to.

The Council adjourned to Monday, the 18th March, at 11 A. M.

A. P. MUDDIMAN,

*Secretary to the Government of India,
Legislative Department.*

DELHI :

The 25th March, 1918.

APPENDIX A.

[*Referred to in answer to Question No. 7.*]

Correspondence with the Secretary of State for India on the subject of the separation of the functions of the Comptroller and Auditor-General.

Copy of despatch to the Secretary of State for India No. 186, dated the 11th July 1912.

As your Lordship is, no doubt, aware we have had under our particular examination for some time various questions relating to the improvement of audit and financial control in this country. The whole subject has for various reasons assumed of late a peculiar importance. The financial powers of the Government of India, for instance, have been defined with a new precision, and the issue of the Audit Resolution has added considerably to the powers and responsibility of our Accounts officers. The amalgamation of the Public Works with the Civil accounts again, by bringing into an immediate comparison two systems which had long developed in practical independence, has introduced new ideas of audit which are certain to have far-reaching consequences. Nor is the interest in the subject which has been aroused in this and in other ways confined to official circles; it has shown itself, as your Lordship will see from the records of the last two sessions, in the debates of our Legislative Council. We are convinced that we are on the threshold of a complete re-organisation of our audit system which, inasmuch as it will not only reinforce financial control in its different stages, but will re-act on every administrative department in India, may be described as perhaps the most important and urgent of the reforms which now press themselves on our attention. To clear the way for this reform and ensure for it a lasting effect the first and essential step is to provide a full-time and highly efficient head of the audit and accounts department. Our present Comptroller and Auditor-General is not only an auditor: he is a financial officer, burdened with many treasury functions of an executive nature. It is high time that these divergent duties should be divided and at the same time that the status of our chief audit officer should be enhanced in full proportion to the importance of his functions, and it is with a view to securing these objects that we have now the honour to address your Lordship.

2. In order to explain the exact position now occupied by the Comptroller and Auditor-General it is desirable, in the first instance, to refer briefly to the previous history of his department. Up to the time of the Mutiny the system of audit and account was wanting in cohesion. Each Presidency had its own system and its own staff, and, in the absence of uniformity of classification in the accounts prepared in each Presidency, there was, apart from other defects, no proper system for compiling the general accounts for India as a whole. The first reform of this system was initiated by a despatch from the Court of Directors in 1856, and consisted in an assimilation of the procedure prevailing in the different Presidencies, the formation of a general department of audit and account, and the creation of a post of "Accountant-General to the Government of India." In 1860 a Board of audit was formed, of which the first Member and President was the Accountant-General to the Government of India, who was to be known as Auditor-General of India. This Board, however, had a short existence. The audit system also continued to be very confused, and in 1865 a fresh inquiry into the whole matter was undertaken. As a result of this inquiry, the respective responsibilities of the administrative and the accounts departments were more clearly defined: accounts work was divided, the primary stage being assigned to treasuries, and the final stage to the Accounts office; and, in short, the department took on very much the shape which it retains to the present day. Its head was then styled Comptroller-General of Accounts, his duties being—

- (1) the management of the public debt, pending the transfer of the duty to the Bank of Bengal;

- (2) supervision of the accounts of treasuries under officers immediately subordinate to the Government of India; and
- (3) administration of the central office of account, this item covering the whole duties of the Auditor-General as exercising the appropriation audit.

3. In 1870 the management of the Paper Currency was transferred from the officers of the Mint Department, to whom it had formerly been entrusted, to the Accounts Department, and it was resolved that the Comptroller-General of Accounts should be Head Commissioner of the Department of Issue of the Government Paper Currency. In 1880, on the introduction of a system of test audit to the offices not only of Civil but also of other accounts, it was arranged that this should be conducted through officers of the Comptroller-General, designated Deputy Auditors-General; the present form of the appropriation report was at that time introduced, and the title of Comptroller-General was changed to Comptroller and Auditor-General. Since then the status and title of the office have remained unaltered, but various changes have taken place in the duties attaching to it. Thus the detailed work of the Public Debt Office has been made over to the Bank of Bengal, though the general supervision and control of this work remain with the Comptroller-General, and new duties have been imposed by the Indian Securities Act, the Administrator-General's Act and the custody of securities lodged with Government officers. Under orders of 1882 he is associated with the Financial Secretary in the work of checking and compiling the budget and Financial Statements. And finally the scope of his duties as an Accounts Officer has been very greatly increased. The main addition to his work and responsibilities has resulted from the amalgamation of the Public Works with the Civil Accounts to which we have already referred; but he has further to audit the books of Government Presses and he is at present in charge of the accounts of the Military Works Services.

4. Apart therefore altogether from audit and accounts the Comptroller-General has at present multifarious duties to perform. They are :—

- (1) The administration of the currency department,
- (2) The administration of coinage,
- (3) Control of Ways and Means including public loans,
- (4) Custody of securities and disposal of public debt questions,
- (5) Association with the Financial Secretary in the work of estimates, etc.,
- (6) Submission to the Finance Department of opinions on questions of exchange, money market, purchase of silver, gold and silver reserve etc.,
- (7) Preparation of Financial Statistics, Resource Estimates and other monthly returns,

and his audit and account functions are growing in extent, in complexity and importance day by day.

5. The position seems to us to be a very serious one. To take first the financial side of the question, we are impressed with the fact that, in almost every branch of what we may call our treasury business, important problems are awaiting attention and investigation which it is a physical impossibility for the Finance Department and the Comptroller-General, as at present equipped, to afford to them. Thus in the case of our annual loans it is highly probable that a treasury expert in close touch with the chief markets throughout India would enable us to make our flotations in this country more elastic and more profitable, thereby reducing the amount to be borrowed in sterling at tangibly higher rates. The management of our Public Debt again is a matter in which we feel the need of an expert advice. There is every indication that it will soon be necessary for Government to take a much more active part in the direction of the Public Debt offices, unless they are prepared to agree to give to the Presidency Banks a higher remuneration for the work and the accompanying liabilities which are thrown upon them. Further we have not yet been able to take in hand the question of simplifying the form of the Promissory notes which we issue as security for our loans, though this matter is one which vitally affects the popularity of our

Government paper. In connection with our Currency notes also there is much to be studied, with special reference to the effect of our new universal notes (and incidentally of our currency transfers) on the mechanism for private trade remittances inside India—a subject of which a more detailed knowledge than we are at present in a position to obtain is essential. Of the problems which may at any one time be indicated; it is true no doubt that some are only of temporary importance. But fresh problems are always coming forward. In matters of currency and finance these are of exceptional complexity. They have to be studied not only theoretically but on the basis of inquiry into actual conditions. For any thoroughgoing investigation of this kind we feel that at present our Finance Department is very inadequately equipped: it is not given the necessary material, and we feel it to be essential to give it further assistance.

6. The audit side of the question is, if possible, of even greater importance. The defects of our present system are obvious. There is a fundamental difference, we may premise, between the organisation in England and in this country. In England control is largely departmental; that is to say, there is in each department an accounting officer with a proper establishment whose duty it is to secure financial regularity and see that the expenditure of the department proceeds in accordance with Parliamentary sanctions, while the Comptroller-General with a comparatively small staff re-checks to an extent which varies in different cases the departmental accounts. In this country, on the other hand, the whole work of accounting and audit may be said to be extra-departmental and is conducted by a separate set of officers, independent of departments and subordinate only to the Government of India in the Finance Department. It is true that treasuries, which are our units of account and are under the revenue authorities, effect a certain classification of receipts and disbursements; but after this rough preliminary sorting the matter is taken in hand by the accounts department. It collects practically all the primary documents; it arranges, classifies and compiles the whole of the Government accounts; it audits at the same time against vouchers and certificates, against sanctions and against budget grants. The bulk of the work is enormous, and it has gone on increasing from year to year. To cope with it our establishments have been enlarged and it is possible that in the process the necessity of preserving a due proportion in the supervising and gazetted ranks has not sufficiently been borne in mind. It is certain at any rate that at the present time the department is overburdened with the mass of men of comparatively small intelligence in the lower grades. At the same time, and perhaps in consequence of this fact, the complexity of our codes has gone on increasing. Every trivial point has to be provided for by a set rule; nothing is left to discretion or judgment. The whole tendency of this evolution is mechanical. Everyone from the low paid auditor to the gazetted officer is swamped with work, and in a system of this kind it is work of a peculiarly uninteresting and deadening description. The auditor so far has undoubtedly paid too much attention to his title of mint and anise and cummin, and has neglected the weightier matters of the law. He is regarded therefore at the present time with irritation rather than with respect. The continuance of this state of things cannot be tolerated. Audit must be restored to its proper position; a new spirit must be infused into the department; it must be brought more into touch with realities; it must abandon unnecessary details; and at the same time develop the range of its activities and strengthen its position in various directions in which its work, while of very much greater importance, has been seriously neglected.

7. It will be obvious that for thoroughgoing reform of system which we contemplate it will be necessary to have a full-time officer at the head of the audit department. But the need of such an officer will not disappear when the reform has been accomplished; the need will be permanent. In comparing the position of the Comptroller-General under past conditions and in the future the first point no doubt to be made is the great increase in the volume of his work; the amalgamation of the Public Works with the Civil accounts in itself has raised the number of officers under his orders from 72 to 140. But more important than the increase in the volume of work is the change in its character. Even in the past it is true that the Comptroller-General has been nominally the head of all the accounts, but in reality his supremacy was established only

over the Civil side of the department, and his connection with the great spending departments the accounts of which were under independent officers, such as the Accountant-General, Public Works Department, was very slight. All this has been changed by the amalgamation and by the new movement in audit to which it has given rise. Already the Public Works accounts have been added to his charge and this includes the Railway Department, the audit of which presents problems of first-class importance and great complexity. Here we have made a beginning. The Army has still to be dealt with. But, whatever may be the exact form given to the organisation in the different departments, it may be accepted as certain that the Comptroller-General of the future will be the final and effective authority in all matters of accounts and audit. The change in the conception of his position is fundamental.

8. We have no hesitation therefore in saying that for the proper performance of the duties now allotted to the Comptroller-General two experts are required. We require an expert financial adviser to Government and an expert in audit and accounts. The interests involved are on both sides of the most serious importance, and it is false economy to entrust them all to a single officer, who, it is perfectly certain, will be incapable of covering the whole field with the thoroughness, the grasp of principle and at the same time the detailed knowledge which are essential in matters of this importance. We should like to add as a subsidiary but none the less important point that under present conditions the Comptroller-General is inevitably tied down to his headquarters in Calcutta. Whichever side of his duties is regarded, the result is unfortunate. The financial adviser to Government should move freely about India; he should be known to all the prominent commercial men; he should have every opportunity of making himself familiar with local conditions all through the country. Similarly the chief accounts officer should not depend for his knowledge of local offices, as he must do at present, on the reports of his Deputy Auditor-General. He should himself be in touch with the wishes, the complaints, and the views of his subordinate officers. Much also we are sure would be gained if he were in a position to know and discuss matters with the administrative officers in different provinces. In all questions of this kind, whether of pure finance or of audit and accounting, the advantage to be gained by personal intercourse is none the less substantial if its results do not admit of accurate statement, but under present conditions it is an advantage which is impossible of attainment.

9. It is worth while perhaps to point out that even forty years ago when the administration of the Paper Currency was transferred to the Accounts Department, the arrangement was not regarded as an ideal one. Even then the Government of India recognised that it was desirable to have a separate head of the Currency Department, but the state of their finances at the time was such that they found it impossible to incur the expense of new appointment and it may have been in this view that the appointment of the Comptroller-General as Head Commissioner of Paper Currency was declared to be until further orders. In any case what in 1870 was regarded as desirable has to-day clearly become inevitable, and we think that the whole of the purely financial business which the Comptroller-General transacts at present must be taken over by the Finance Department. This would involve the transfer of the following branches of work, so far as they are conducted in India:—

Mint and Assay ;

Paper Currency Department including the Currency offices and the management of the Currency Reserve ;

Council Bills and all questions connected with Exchange, including the management of the Gold Standard Reserve ;

Rupee Loans ;

Public Debt Offices ;

Resource (or Ways and Means) ;

Treasury transfers ;

Deposit and custody of securities.

To assist us with this extra work, we propose to appoint a special officer, who will make these subjects his own, who will be in steady touch with the Indian money market and financial opinion, and who will undertake the detailed executive work which is not at present referred to the Finance Department. He would be an officer of that department, either an accounts officer with special aptitude for this class of work, or of the Indian Civil Service, preferably with previous training in our Secretariat acquired in the post of Under or Deputy Secretary; and he would be assisted by a junior officer, either of the Indian Civil Service or of the Accounts Department. He would take over the sections of the Comptroller-General's office which at present deal with the class of work that we have mentioned. We consider that a suitable designation for this officer would be "Comptroller of Currency," though this does not connote all the functions that he will exercise. Thus it will be necessary to appoint him to be 'Head Commissioner of the Paper Currency' under Act II of 1910, and he will be specially empowered under the Charitable Endowments Act. In regard to pay, it will, we think, suffice, if the incumbents are accounts officers, to give them their grade pay in the Department, with local allowances of Rs. 200 and Rs. 100, respectively; if they are not in the graded list of the Finance Department, we suggest that their emoluments may suitably be fixed at Rs. 2,500—100—3,000 and Rs. 1,000—50—1,250, respectively.

10. If this separation of functions is accepted, it remains to consider the position of the chief audit officer in India when he is left with nothing but the semi-judicial functions of audit and accounting to perform. In the past the Auditor-General and his staff have been under the executive control of the Government of India in the Finance Department, but while that position was intelligible when these were largely financial officers with large and responsible duties in the realm of resource, currency and other branches of pure finance, it will cease to be either intelligible or defensible when those duties fall from the Auditor-General and leave him a pure and simple auditor and account officer. We are prepared also, and indeed we consider it essential, to increase substantially the status of our chief audit officer. We propose therefore—

- (1) That the Auditor-General should be appointed by the Governor-General, and that he should be removeable from office only by the Governor-General. This is already the practice, but we think it right that it should be definitely and permanently recognised as one of the conditions of the appointment;
- (2) that he should have the right of direct access to the Governor-General; and
- (3) that he should draw a consolidated pay of Rs. 5,000 per mensem without Exchange Compensation Allowance.

11. In making these proposals we have not overlooked the fact that we had some difficulty in 1907 in persuading your predecessor to accept a proposal to raise the pay of the Comptroller and Auditor-General from a fixed pay of Rs. 3,500 to a pay of Rs. 3,500—100—4,000. The conditions, however, have been radically changed since that time. We have pointed out that the work of the chief audit officer has been greatly increased, and it is not an answer to this argument to say that he will now be relieved of his treasury duties, for it is plain that this relief will do no more than place him in a position to give to his audit work the attention which its high importance demands but which in the past has been impossible. We have noted also the change in the quality of his work; but we should like to supplement what we have already said on this point by a reference to the character of the Appropriation Report. In the past this report has been confined practically to a laborious comparison of figures, and though this comparison secured one of the principal requirements of audit by checking expenditure against budget grants, it is admitted that the report has not been of much authority and has received little attention. Our intention is that in future it should deal in a much more direct manner with audit objections of all kinds which seem to the Comptroller-General to be of sufficient importance to be brought prominently to the notice of superior authority, and we think that it should be addressed to the Secretary of State, being forwarded through the Government of India for the record of any observations

which they may desire to make. The writing of the report under these new conditions will be a difficult and delicate task. But the broadest and most general ground on which we base our proposals is the high importance of improving and strengthening audit in India, and the first and essential step is to confer on the head of the department, from whom it cannot fail to take its general tone, a status commensurate with the important and difficult duties which he will have to perform. In England we understand that the post of Comptroller and Auditor-General is one of the most highly paid and most esteemed in the Civil Service, and in this country where the position of our Finance Department is by no means so strong as that of the Treasury at Home, while the extra-departmental influences, the force of public opinion and the strict examination of accounts by a Parliamentary Committee which re-enforce the efforts of the auditor in securing financial regularity are absent, the case for strengthening the position of the chief auditor is even more conclusive. Yet at present our Comptroller and Auditor-General draws a pay which is less than the pay of the Secretaries to the Government of India; he ranks as a matter of precedence only just above Commissioners of divisions (in their respective charges) and Chief Secretaries to Local Governments, and he is in fact a subordinate of the Finance Department. The position thus assigned to him appears to be in a high degree inadequate. We have proposed therefore to make it plain that in future the Comptroller-General is to be subordinate only to the Governor-General, and to give him the right of direct access to His Excellency. It is necessary also to enhance his pay, and, as we consider that he should be recognised as one of the highest officials in India, we cannot recommend any pay of less than Rs. 5,000 a month as sufficient. We should like to add, as we have pointed out in the first paragraph of this despatch, that the subject which we have been discussing is one which engages much public attention; and as it has been raised already in resolutions and questions in the Legislative Council, it is almost certain that it will again be pressed on us in the coming cold weather. We mention this, however, merely as an additional argument for deciding the matter without delay. Our proposals are in no way a concession to pressure from without. They have been gradually evolved after a searching examination of the merits of the case. They are essential in our judgment for the reform and proper maintenance of our audit system, and we sincerely trust that they will commend themselves to your Lordship.

12. Two minor points remain for consideration. The first is what title should be given to the new chief audit officer. He might be called simply "Auditor-General," and it is true that there is not in this country the same historical justification or meaning in the term Comptroller-General which exists in England. On the other hand, it is not the case as might be supposed that in India the double title refers to the combination in the same appointment of executive or financial and of audit functions. There is no special reason therefore for making a change, and on the whole we should prefer that the chief audit officer should continue to be known as Comptroller and Auditor-General. The second point is concerned with the sources of recruitment for the post. At present the appointment is generally restricted to members of the Indian Civil Service employed in the accounts department; but it may be given to a non-civilian officer of that department, in which case the approval of the Secretary of State is necessary, or occasionally to an Indian Civil Service officer outside it. No change in the field of recruitment is therefore necessary, but we think it must be recognised that if the status of the post is raised, as we propose, the chances of an accounts officer being selected may be considerably reduced. The result is one which we regret. It will be noted however that the department will gain whenever one of its members is appointed. It will gain further by the new appointment of Comptroller of Currency for which its members will be eligible. It is doubtful therefore whether on the whole its prospect will be unfavourably affected, and, as the prizes of the service will be increased, recruitment should be aided rather than embarrassed. In any case we cannot undertake even ordinarily to make our selections within the department; indeed it may be suggested that there would be a distinct danger of the work again becoming stereotyped unless fresh blood were occasionally brought into it. But apart from this the whole of our case rests on the conviction that the work is of first-rate importance and responsibility. Our proposals will, we believe, enable us to obtain the services of a first-class officer,

and it would be wasteful to employ one of mediocre capacity when better men are available. Experience of the actual work will always be a point in favour of officers employed in the department; but ability and other qualities will have to be considered, and the appointment must go to the man, wherever he may be found, who is best fitted for it.

13. The financial effect of our proposals would be as follows. At present the office of the Comptroller and Auditor-General consists, apart from that officer, of a Deputy Comptroller-General, two Assistant Comptrollers-General and a Chief Superintendent. After the proposed division of duties, we think that the Comptroller-General should retain a Deputy Comptroller-General and a Chief Superintendent, while, as already explained, the Comptroller of Currency should have an Assistant. The comparison will then be—

Present Scale.

	Rs.	Bs.
Comptroller-General	3,500—4,000	3,833½
Deputy Comptroller-General	1,500—1,800	1,700
Assistant Comptroller-General	300—1,250	847½
Ditto ditto	300—1,250	847½
Chief Superintendent	450—600	562½
Total	7,790½

Proposed Scale.

	Minimum cost.		Maximum cost.	
	Rs.	Bs.	Rs.	Bs.
Comptroller-General	5,000	5,000	5,000	5,000
Deputy-Comptroller-General	1,500—1,800	1,700	1,500—1,800	1,700
Chief Superintendent	450—600	562½	450—600	562½
Comptroller of Currency	Pay as an Accountant-General, Class III, Rs. 2,250 plus a local allowance of Rs. 200.	2,450	2,500—100—2,000	2,833½
Assistant to Comptroller of Currency	Pay Rs. 300—1,250 plus a local allowance of Rs. 100.	947½	1,000—50—1,250	1,166½
Total	10,660	...	11,269½

The net increase in cost will thus amount to Rs. 34,430 per annum as a minimum or Rs. 41,660 as a maximum.

Copy of telegram from the Secretary of State for India, dated the 9th October 1913.

Please see your despatch No. 186 of the 11th July. I am in favour of the separation of functions while reserving judgment as to salaries; but in view of what was said by your Finance Member in the Imperial Legislative Council Debate on the 22nd March last, it is necessary for me to consider further the question of independent status. I doubt advisability of making him subordinate to the Governor-General as distinct from Governor-General in Council. Please let me have your views on the merits of the proposal that he should be appointed and removable only by the Secretary of State. Objection in correspondence ending with your letter No. 300, dated 19th September 1901, was largely on ground of expense which will no longer apply if additional posts are to be created in any case. It will be necessary, whatever be the decision, to define his functions carefully and especially to decide whether he shall continue to take part in the compilation of estimates and accounts. I doubt whether this would be compatible with the position of an officer not under the orders of the Government of India. I shall be glad to have your views by despatch on these points.

Copy of despatch to the Secretary of State for India, No. 31, dated the 7th February 1913.

We have the honour to reply to Your Lordship's telegram of the 9th October last, in which, with reference to our despatch of the 11th July 1912, you ask for an expression of our further views on the question of the position and duties of our Comptroller and Auditor-General. You were in favour, you said in that telegram, of the separation of functions which we had proposed, though you reserved judgment as to the salaries of the two new posts to be created; but you desired to have our opinion on the proposal that the chief Audit officer should be appointed and removable only by the Secretary of State; you doubted whether it was advisable to make him subordinate to the Governor-General as distinct from the Governor-General in Council, and you referred to the necessity of carefully defining his functions with reference more particularly to the compilation of estimates and accounts, a duty which you thought might not be compatible with the position of an officer not under the orders of the Government of India.

2. The main question now for discussion, which may be described briefly as the question of the independence of the Comptroller and Auditor-General, is one of which, we need scarcely assure Your Lordship, we recognised the importance and to which we gave our most careful consideration before we addressed to you our despatch of July last. Our position in this matter is as follows. We do not fail to recognise that, since the Secretary of State is the final authority for the sanction and control of Indian expenditure, there is some theoretic force in the contention that the Auditor-General should be independent of the Government of India and subordinate only to Your Lordship. An arrangement on this basis would place our Auditor-General in an analogous position to that occupied by the corresponding officer in the United Kingdom. But there are such serious differences in the respective circumstances that we consider this analogy to be in a large degree misleading. In the first place, it has to be remembered that, while in England the system of accounting is departmental, and the Comptroller-General is only an auditor, in India audit and accounting are combined. The characteristic of the English system is that the departmental auditor is subordinate to the head of his Department; he cannot give a reference to an outside authority. In India the officer who corresponds to the English departmental auditor is an Accounts officer directly under the Finance Department and independent of the Department whose accounts he audits. He has also, if an Accountant-General, power, without reference to any higher authority, of requiring a reference to the Secretary of State. Again, in England, the Comptroller-General is an original auditor and applies his audit direct through his own staff: whereas in India the original audit is delegated to a number of local officers and the duty of the Comptroller-General is chiefly supervision. The Indian system in fact is based on the independence of the departmental officer in relation to the Department whose accounts he audits, while in the English system there is no independent officer until we reach the Comptroller-General at the summit. It follows that the case for independence of the English Comptroller-General rests on quite different and on much stronger grounds than the case for independence of the Indian Comptroller and Auditor-General. If the latter were made independent of our Government, the Audit Department as a whole would be subject to far less control by the executive than is the case in England. Not only would this be so, but there would be the further very serious practical objection that the Comptroller and Auditor-General would be separated by so great a distance from the only authority to whom he would be responsible. He would be subject to no control by the Government of India. At the same time the control exercised over him from London by the Secretary of State could be neither immediate nor effective. It would be exceedingly difficult for the Secretary of State to decide the merits of cases in which the Government of India might have cause for complaint against an attitude of excessive meticulousness or a tendency to unnecessary interference on the part of the Auditor-General. Such an attitude has been one of the conspicuous defects of our Audit Department in the past, and we cannot but feel that should our Comptroller and Auditor-General be made altogether independent

of our Government, the tendency might well be for this spirit to increase rather than to diminish. We do not for a moment suggest that the Secretary of State would wish to encourage such an attitude on the part of the Auditor-General, but he would naturally feel it incumbent on him to support his officer unless a very clear case were shown against him and the situation would be one with which it would be peculiarly difficult to deal by correspondence. The same may be said in a lesser degree in regard to the Auditor-General's performance of his general administrative duties and the routine of daily business. These could hardly come to the notice of the Secretary of State and yet might well be of importance in forming an opinion regarding the administration of the Department. Apart from actual misconduct, it would be difficult for the Government of India to prove to the satisfaction of the Secretary of State that the condition of the Audit Department was so seriously defective as to call for the appointment of a new Comptroller and Auditor-General. Bearing these possibilities in mind we venture to think that should it be eventually decided to make the Comptroller and Auditor-General independent of the Government of India, it would be necessary at the same time to introduce into our administration a system of Audit officers under the control of the Department whose accounts they audit analogous to that in force in England. We recognise the objections to this course on the ground of expense, but we see no other method of adequately meeting the situation which would be created. There is also the further difficulty that it would appear necessary for our Comptroller and Auditor-General to continue, as at present, to be concerned in the compilation of our estimates and accounts, a point to which Your Lordship refers in your telegram under reply. He would in this capacity be under the orders of the Government of India, while in the performance of his audit functions he would be entirely independent of his Government. We cannot consider that such an arrangement would be either logical or likely to work satisfactorily.

3. The defects of our present system of audit were fully explained to Your Lordship in paragraph 6 of our despatch of July 11, 1912, and we need not detail them again here. The immediate necessity, to our mind, is that those defects should be remedied, and it is clear that the essential factor for the attainment of this object is that our Auditor-General should be able to devote his whole time to audit estimates and accounts only, and that he should be the best man we can secure for the work. The reform of the Department is a work of great magnitude and difficulty. It will require for its completion both an intimate knowledge of the details of the work and great abilities. For these reasons we have urged on Your Lordship the separation of the functions of the Comptroller-General and Auditor-General from those of the Comptroller of Currency and have suggested a large salary for the former officer. Even when, as we hope, the reform of the Comptroller and Auditor-General's Branch will have been achieved, it will still be a matter of great importance to have a large area of choice for the post of Auditor-General. But should the Auditor-General be made independent of the Government of India, with the corollary that he is to look for no further promotion or appointment at our hands, it is obvious that our area of selection will be seriously narrowed. Our ablest financial officers who may legitimately entertain hopes of promotion to the highest posts in our Government may not be tempted even by a high salary to accept the post on such terms. On the other hand, we see no reason to suppose either that lack of independence has contributed to the present defects of our system or that its removal would aid in their improvement. In so far as the independence of the Auditor-General would have any influence on the question it would rather tend, for the reasons we have given above, to retard the process of reform which we wish to initiate.

4. We are not aware of any evidence to show that the Comptroller-General has in the past been embarrassed by a sense of dependence on the Government of India, or that his position has militated against the proper discharge of his audit functions. If such had been the case we agree that there would have been strong grounds for making him independent of our Government. What we propose, however, will greatly raise his status and position. We propose, a point with which we deal more fully further on in this despatch, that he should be appointed by, and removable only by, the Governor-General, and that he

should have the right of direct access to His Excellency. We also propose that his salary should be raised to Rs. 5,000 and we greatly hope that Your Lordship will be able to agree to this suggestion. We consider that if these proposals are accepted, the Comptroller and Auditor-General will occupy a position which should remove all fear of his being impeded by improper pressure in the exercise of his duties.

5. Lastly, we feel constrained to invite Your Lordship's attention to the political aspect of the case which to our mind cannot be left out of account. Whatever may be the theoretical arguments in favour of an independent Auditor we cannot help feeling that such independence will inevitably be interpreted as an admission that the Governor-General and the Government of India either have proved themselves incapable of controlling, or that doubts are entertained regarding their desire or ability to control, expenditure in India. The implication is one no doubt which Your Lordship would repudiate; but we have to consider how the matter will appear to the outside world, and on the broadest grounds we doubt the expediency of appointing in India any officer whom it is declared to be necessary, for the reasons we have indicated, to place outside the control of the Government of India. The step, it is clear to us, would be derogatory to the position both of the Government of India and especially of the Governor-General, and we need not emphasise to Your Lordship the very serious objections to the adoption of a measure which might produce so unfortunate a result. For all these reasons we adhere to the opinion which we formed when the matter was first considered by us. Our Hon'ble Colleague, Sir Guy Fleetwood Wilson, is, however, unable on this question to subscribe to the views of the majority of the Council; and we have accordingly to append to the despatch a Minute of Dissent which he has recorded.

6. As regards the relationship of the Comptroller and Auditor-General to the Governor-General, we regret that we appear to have conveyed to Your Lordship a wrong impressions of our intentions. We did not mean to propose that this officer should cease to be under the orders of the Government of India. Our substantial proposals were two in number. We desired in the first place to have it recognised as a definite and permanent condition of the appointment that the Comptroller and Auditor-General should be appointed by the Governor-General and should be removable from office only by the Governor-General; secondly, we wished to give him the right of direct access to His Excellency. These matters are indeed within our own powers, but we thought it desirable to mention them in order to show the manner in which, apart from the pay of the appointment, we proposed that the position of the Comptroller and Auditor-General, which we regarded as inadequate, should be improved. It will be necessary to examine in detail the division of functions between the Comptroller and Auditor-General and the new Comptroller of Currency which we gave in broad outline in paragraph 9 of our despatch of 11th July 1912, and this work we shall undertake as soon as we have Your Lordship's final orders. As we have explained in an earlier paragraph of this despatch, we consider that special difficulties would arise in regard to the accounts work of the Comptroller and Auditor-General if he were made independent of the Government of India; but should Your Lordship be able to accept the proposals contained in our despatch of July 11th last, we think it will be clear from the explanation we have now given that in the assignment of duties to the Comptroller and Auditor-General, no difficulty of a constitutional nature, such as that referred to in your telegram, need be anticipated in connection with the compilation of accounts and estimates.

7. To sum up. Our whole proposals, as set forth in our despatch of July 11th, were based on the necessity of improving audit methods as now practised in this country. The defects of these methods, we consider, have no connection with the dependence or independence of the Comptroller and Auditor-General; the important factor has rather been his want of time, because of the other heavy work with which he has hitherto been charged, to supervise that audit sufficiently and to purge it of its tendency, if not to swallow camels, at least to strain at gnats. Our proposed reforms are calculated to give our Comptroller and Auditor-General higher authority and more leisure; while, as a result of the larger salary and better status offered to him, we shall be able to command a

higher standard of ability for the post. By these means we shall hope to secure those results which your Lordship and ourselves alike desire. On the other hand, we cannot but consider that to make the Comptroller-General independent of our Government would be to confer no additional facility for securing the reforms of which we are in need, but would rather have the opposite effect; while in some quarters it might be interpreted as indicating that the change made was required to obviate defects, which have not been shown to exist, and which have no relation to those which actually do exist and which we are endeavouring to remove.

Minute of dissent by the Hon'ble Sir Guy Fleetwood Wilson.

I regret to be in opposition on this question to the majority of the Council; but a principle of paramount importance is involved, and the duty of supporting it leaves me no option but to record my dissent.

2. This principle is that the Auditor-General should be subordinate to no other than the authority finally responsible for the sanctioning of the expenditure which he audits. An auditor is a judicial officer. Primarily his duty is to determine what authority should sanction the expenditure involved. It is essential that the conditions of his office should enable him to discharge this duty without fear or favour, and this he is not in a position to do, so long as he is dependent on an authority whose orders, under the rules prescribed for his guidance he may have to challenge.

3. The validity of this principle is admitted by all, but the conclusions reached are different because of the varying degree of importance which is attached to it. My Hon'ble Colleagues seem ready to depart from it because of certain inconvenience which they foresee in its application to Indian conditions. I deny that there is any real inconvenience; but even if there be and it is far more serious than it is alleged to be, in view of the enormous importance of the principle at stake, that inconvenience should be faced.

4. This is not a serious objection. Control from a distance is an incident common to many service appointments, and experience shows that it can be made fully efficient. What evidently is feared is an audit not too facile but too meticulous and severe. An unreasonable audit would immediately reveal itself as such in the reports and audit objections, and the Secretary of State, as responsible finally not only for the expenditure but for the whole administration of India, would be the first to take exception to his chief auditor assuming the attitude of mere obstruction. The objection taken approximates a suggestion that the Secretary of State will be unable to restrain his subordinate or adjust a truly independent audit to the necessities of Indian administration.

5. It is alleged that the political effect of the proposal has to be considered, but I cannot admit that the argument is weighty. If a limitation of powers is derogatory to the position of the Government of India, it exists already. Their financial powers are derived from the Secretary of State and extend no further than he authorises. From this position, the constitutional validity of which cannot be denied, the independence of the Comptroller-General follows as a necessary and inevitable consequence.

6. We cannot ensure that the head of the Government of India will always be determined to uphold the purity and independence of financial criticism. The combination of a Governor-General impatient of financial control and a complaisant Auditor-General is a contingency which, under the scheme preferred by my Hon'ble Colleagues, is as possible as it is certain to result in the imposition of Parliamentary control to a degree which may render Indian Administration well high unworkable.

7. I record this minute primarily as head of the Finance Department and responsible therefore for financial regularity; but I write it none the less as a member of the Government of India. As such I wish to consolidate our position. It is not sufficient that we should have a conscience void of offence; it must be made patent that we are above suspicion. It is wholly in our own interest to strengthen and insist on the independence of audit, and we must be

able to point to an audit authority over which we have no executive influence or control.

8. It is not only wrong to postpone the issue presented to us; it is dangerous. If the reform of audit is our objective, the first essential is to remove an admitted and serious weakness in the position of the chief officer of the department from whom the whole of the audit work must take its tone and quality. Indian expenditure is now exposed to the fierce glare of hostile criticism in India and at home. Honest and sound finance has become essential to our very existence, and the only way to insure honest and sound finance is to subject the expenditure to the search-light of independent audit.

GUY FLEETWOOD WILSON.

4th February 1913.

Copy of telegram from the Secretary of State for India, dated the 10th September 1913.

Please refer to your despatch of February 7th, 1913, No. 31, I am still considering questions relating to Chief Officer of Audit and decision may for some time be delayed. Meantime, I sanction appointments of Controller of Currency and Assistant and, as recommended in your despatch No. 186 of July 11th, 1912, abolition of two appointments of Assistant Comptroller-General. Functions of Controller of Currency to be as in paragraph 9 of same despatch subject to any modifications necessary after examination mentioned in paragraph 6 of your despatch of February 7th, No. 31.

Copy of despatch from the Secretary of State for India, No. 149-Financial, dated the 28th November 1913.

I have now to communicate to you the result of my consideration of the *Comptroller and Auditor-General and Controller of Currency.*

* Letter from Government of India, No. 186, dated the 11th July 1912.

Telegram from Secretary of State, dated the 9th October 1912.

Letter from the Government of India, No. 31, dated the 7th February 1913.

proposals regarding the position of the

Comptroller and Auditor-General discussed

in the correspondence noted in the margin.*

2. In your letter of the 11th July 1912, you submitted a series of proposals of which the most important may be summarised as follows:—(A) that the Comptroller and Auditor-General should be relieved of part of his present duties which would be transferred to an officer to be known as Controller of Currency; (B) that the branches of work to be transferred to the new officer should be those connected with Mint and Assay, Paper Currency, Council Bills, Exchange, Gold Standard Reserve, Rupee Loans, Public Debt Offices, Resource (or Ways and Means), Treasury, Transfers, and Deposit and Custody of Securities; and that the duties to be retained by the Comptroller and Auditor-General should be those of Audit and Account; (C) that in order to improve the status of the Comptroller and Auditor-General, he should be appointed by the Governor-General (not the Governor-General in Council) and removable from office only by him, should have the right of direct access to the Governor-General, and should draw consolidated pay of Rs. 5,000 per mensem, without exchange compensation allowance; and that his annual Appropriation Report should be addressed to the Secretary of State, being forwarded through the Government of India with their observations.

3. The ground for proposal (A) is the growth of the duties now performed by the Comptroller and Auditor-General and the desirability of relieving him so that he may have time to prepare proposals for necessary reforms and to arrange for their introduction. I am convinced of the importance of this, and I so informed you in my telegram of the 9th October 1912.

4. I felt it necessary, however, to consider further the question of the status of the Comptroller and Auditor-General, with special reference to his dependence on, or independence of, the Government of India, and the closely connected question of his retaining the duties of an accounts officer—duties which must necessarily be performed under the orders of the Government of India. The reasons necessitating special consideration of these questions are that, as is observed in your letter of the 7th February 1913, there is some theoretic force—I should have preferred to say “considerable force”—in the contention that that chief audit officer should be independent of the Government whose accounts he audits, and that this view has been to a considerable extent countenanced in the public utterances of high officers speaking on behalf of the Government. I would specially refer to the remarks made by Sir G. Fleetwood Wilson in the Imperial Legislative Council on the 25th January 1912, to his reply to Mr. Gokhale's question on the 22nd March 1912, and to the remarks by the Parliamentary Under Secretary of State for India in the House of Commons on the 30th July 1912.

5. In your letter of the 7th February 1913, you submit to me the result of your consideration of questions (B) and (C), you are against any change which would make the Comptroller and Auditor-General independent of the Government of India. You, therefore, adhere to the proposals made in your letter of the 11th July 1912, regarding the method of his appointment and the retention by him of the duties of an account officer in addition of those of audit. Your reasons may be summarised as follows:—(1) You consider that the appointment of an auditor independent of the Government of India would involve the corollary that he was to look for no further promotion or appointment by the Government of India, and would thus narrow the area of selection and be detrimental to efficiency. (2) You are not aware of evidence to show that the dependence of the Comptroller and Auditor-General on the Government of India as in the past militated against the proper discharge of his audit functions. (3) You are impressed by the political objections to the appointment of an independent auditor which you say would “inevitably be interpreted as an admission that the Governor-General and the Government of India, either have proved themselves incapable of controlling, or that doubts are entertained regarding their desire or ability to control, expenditure in India.” (4) The appointment of an independent Chief Officer of Audit would, or might, necessitate the creation, at considerable expense, of a separate audit staff, whereas duties of account and audit are now performed by one staff. Your views are not shared by Sir Guy Fleetwood Wilson, who has recorded a dissent in which he expresses the opinion that a condition essential to the proper discharge of the duties of audit is wanting so long as the officer responsible for those duties “is dependent on an authority whose orders under the rules prescribed for his guidance he may have to challenge,” and that the Government of India in their own interest ought to be in a position “to point to an audit authority over which they have no executive influence or control.”

6. The arguments summarised in the preceding paragraph seem to me to be of unequal force. The considerations mentioned by Sir Guy Fleetwood Wilson are of the highest consequence, while the inconvenience that might result from carrying out the reform that he advocates is, to my mind, somewhat overstated.

I grant the value of a large field of choice in the selection of an Auditor General, but I consider that this will be secured by the status and salary proposed for the post. The post will necessarily be one where exceptional continuity of tenure will be expected, and which will not ordinarily be regarded as a stepping stone on the path of official advancement. This must equally be the case, and the possibility of exceptional promotion of an Auditor-General will equally exist, whatever be the authority by which he is appointed.

As regards the absence of distinct evidence that any evil results or shortcomings have resulted from the past subordination of the Auditor-General to the Financial Department, the argument is at best inconclusive, and I am unable to attach much weight to it.

More serious are the apprehensions, if they are well founded, that the political authority and prestige of the Government of India would suffer from

the appointment of a Chief Officer of Audit wholly independent of that Government and accountable only to the Secretary of State. But I confess myself unable to share your view that the prestige of the Government of India would be affected in the manner suggested. There are other high officers in India who are neither appointed nor removable by the Government of India, but whose independence in these respects of that Government is not detrimental to its dignity and authority. Independence, in fact, in this connection is not absolute, but is relative to the proper discharge of certain duties. I think that the independence of the Auditor-General should be secured to such extent as is required for the proper discharge of the special functions, and as satisfies the criterion expressed in the words quoted from your late Finance Member; and I am satisfied that this is compatible with the most scrupulous maintenance of the position and respect due to the Government of India. I desire, accordingly, to make such arrangements regarding the conditions of appointment to the post and of its tenure, as will harmonise with this intention, and also with the retention, for the present at any rate, of the existing system, under which Audit duties and Accounts duties are performed by the same staff, and the chief Audit Officer in India is also the chief Officer of Accounts and is necessarily under the orders of the Government of India in respect of the latter branch of his duties.

7. The best method of dealing with the question subject to these governing principles appears to me to be that the Comptroller and Auditor-General shall, like a Lieutenant-Governor, be appointed by the Governor-General subject to the approval of higher authority. In the case of a Lieutenant-Governor, the higher authority who gives approval is the Sovereign, but in the case of a financial appointment of this character it will be more appropriate that the approving authority shall be the Secretary of State in Council. I have accordingly decided—

- (1) to sanction the appointments proposed in paragraph 13 of your letter of the 11th July 1912, No. 186, at the salaries there stated. (In my telegram of 10th September, I conveyed to you my sanction to the creation of the appointments of Controller of Currency and Assistant Controller, and to the abolition of two appointments of Assistant Comptroller-General;)
- (2) to approve the division of functions between the Comptroller and Auditor-General and the Controller of Currency proposed in that letter, subject to the decision by you (the result of which would be reported to me in due course) of the questions of detail mentioned in paragraph 6 of your letter of the 7th February, No. 31;
- (3) that the Comptroller and Auditor-General shall be appointed by the Governor-General, subject to the approval of the Secretary of State in Council;
- (4) that he shall not be promoted, transferred, punished or dismissed, except with the approval of the Secretary of State in Council; and that, failing promotion, transfer and dismissal, he shall hold office until required by the rules of his service to retire or until he resigns or is invalidated;
- (5) that the annual Appropriation Report shall be addressed to the Secretary of State in Council and shall be forwarded to him by the Government of India, with any observations that they may wish to make, within a period to be specified;
- (6) that the relative precedence shall be reconsidered with reference to his enhanced salary and status.

8. The duties of the Comptroller and Auditor-General in his capacity as Chief Officer of Audit will be generally the same as now, but it may at any time hereafter be necessary to require him to take part in the audit of revenue as well as in that of expenditure, just as the corresponding officer in the United Kingdom may be required by the Treasury under 29 and 30 Victoria, chapter 89, section 33, to examine and audit the account of the Revenue Departments. It should be made clear that the duty of initiating

improvements and of carrying out all approved extensions of audit control is part of the ordinary duties of the post of Comptroller and Auditor-General, as now reconstituted.

9. I shall be glad to receive in due course a recommendation as to the officer to be appointed in pursuance of the decision above, and your proposals as to paragraph 7 (5) and (6).

Copy of telegram to the Secretary of State for India, No 2297-A., dated the 22nd December 1913.

Your despatch No. 149 of 28th November. Comptroller-General. It is doubtful how far exact distribution of functions between Auditor-General and Controller of Currency previously proposed by us can be fully adhered to with due regard to certain indirect results of constitution of two appointments, e.g., effect on budgetting, etc. This question is now being examined in detail and, pending submission of proposals regarding exact range of transferred work, we ask permission to refrain from immediate action on foregoing despatch.

Copy of telegram from the Secretary of State for India, dated the 6th January 1914.

Your telegram, dated 22nd December. Comptroller-General. I agree.

Copy of despatch to the Secretary of State for India, No. 210, dated the 25th June 1914.

In our telegram of the 22nd December 1913, we asked your Lordship's permission to refrain from taking immediate action on the orders contained in your despatch No. 149, dated the 28th November 1913, regarding the position and functions of the Comptroller and Auditor-General. We explained that it was doubtful how far the previous proposals for the distribution of work between this officer and the Controller of Currency could be fully adhered to, and we promised to submit further recommendations regarding the exact range of the work to be made over to the latter. This was agreed to in your Lordship's telegram of the 6th January 1914.

2. In the original proposals contained in our despatch No. 186, dated the 11th July 1912, regarding the splitting up of the functions then performed by the Comptroller and Auditor-General, we gave a broad indication of the nature of the work which would be transferred to the new officer. As soon, however, as the Controller of Currency took up his appointment, and the question arose of putting the scheme into practical effect, the necessity became apparent for a more exact delimitation of the functions to be assigned to the two officers. We then made a careful examination, in consultation with the present Comptroller-General and Controller of Currency, of the details of all the branches of work hitherto performed by the former, and we now state the conclusions at which we have arrived.

3. The whole question turns upon the issue as to which of these two officers should give the Government of India that assistance in budget matters which has formerly been supplied by the Comptroller-General. It is recognised that accounts work must be entirely in the hands of the Comptroller and Auditor-General, and what may be called resource work entirely in the hands of the Controller of Currency. That being so, it is obvious that the latter officer must have at any rate some part, even if it be only in supplying the necessary data, in the examination of our estimates from the point of view of the ways and means arrangements for the year. In some respects, indeed, his share must be the more important, for, though it will be theoretically possible to leave to the Comptroller-General the task of dealing with some of the departmental estimates, such as those relating to the Army, on the basis of data supplied by

the Controller of Currency, it is clear that the general ways and means estimate is one for which the latter officer must undertake practically the entire responsibility. Further, there is another important standpoint from which the Controller of Currency can give the Government of India valuable advice during the preparation of the budget, namely, as an expert officer in touch with trade conditions; in that direction his assistance would in any case be required in dealing with such heads as the railways and customs estimates, and to some extent with those relating to savings bank deposits and opium.

4. For these reasons it is, we think, clear that in any event a large share of the budget work must fall upon the Controller of Currency, and while it might still be possible to assign the remainder to the Comptroller-General, the line of demarcation would be difficult to define, and there would be some loss of economy in regard both to establishments and to the time and work of the two officers. We conclude, therefore, that the only practicable course is to relieve the Comptroller-General entirely of functions connected with the budget, and to transfer them to the Controller of Currency.

5. If this decision meets with your Lordship's approval, we are of opinion that it will necessitate some re-adjustment in the salaries to be assigned to the two officers. As regards the Controller of Currency, the present sanctioned pay is Rs. 2,500—100—3,000 when the post is held by an officer of the Indian Civil Service, while an incumbent drawn from the Accounts Department is to receive his grade pay in the department with a local allowance of Rs. 200 a month. For the following reasons, we propose that in the former case the pay should now be raised to Rs. 3,000—125—3,500 a month. In the first place the transfer of duties proposed above will throw on the Controller a good deal of additional and responsible work which was not contemplated when we put forward our original proposals, and will involve his residence for at least two months in Delhi during the winter season. Secondly, we are now of opinion that the pay originally proposed was in itself hardly sufficient. The duties of the post will necessitate extensive touring; it will be necessary at the same time for the incumbent to maintain a residence at his actual headquarters in Calcutta; and the conditions generally will be expensive. Thirdly, the duties already definitely assigned to the Controller of Currency, and those which we now propose to transfer to him, are highly responsible, and, in particular, they will bring him into a relation of some administrative superiority to other officers whose pay is in excess of that now sanctioned for himself. Accountants-General, for example, rise to a pay of Rs. 2,750 a month, with a possible local allowance of Rs. 250, while a senior Mint Master can rise to a pay of Rs. 3,000 a month. Finally, an officer of the capacity and special experience required for this important post will usually be found to possess a standing and prospects for which the pay at present sanctioned is hardly a sufficient equivalent.

6. We should also prefer, on a reconsideration of our previous proposals, to allow the same pay to an incumbent drawn from the Accounts Department. It will be obvious that the arguments in favour of a higher rate apply with hardly less force in this case, and any officer of the Accounts Department appointed to the post is sure to be of high standing and of quite exceptional merit.

7. The pay of the Comptroller and Auditor-General himself was fixed by Your Lordship at Rs. 5,000 a month on our recommendation, and with reference to our previous proposals as to the distribution of work. We have now proposed that he should be relieved of an important portion of the work which it was previously proposed to assign to him. We think that this consideration justifies a somewhat lower rate of pay, and we suggest for Your Lordship's consideration the rate of Rs. 4,500 a month. We would add that while the Comptroller-General will also be a touring officer, he will have a permanent headquarters at Delhi and will thus be to a large extent free from the heavy social obligations and other expenses usually attaching to the highest paid appointments in India.

8. We have also found it necessary to re-examine in detail, and from a practical standpoint, the question of the establishments to be allotted to the Comptroller and Auditor-General and the Controller of Currency, respectively,

in consultation with the present Comptroller-General, whose conclusions are embodied in the memorandum* which forms an appendix to this despatch.

* Not printed.

We regret to find that the previous proposals were unduly sanguine in respect of the staff and establishments required. Even under the old system, the work was growing at a rate which it was unlikely that the then existing staff could cope with, and, with the creation of the new Currency appointment and the greater attention that will now be given to Currency and connected matters, the work must inevitably grow. We are satisfied that the revised proposals, which Mr. Gauntlett has worked out in considerable detail and with great care, and after consulting the Controller of Currency in so far as the latter is concerned, have been framed as economically as possible, and we commend them to Your Lordship's approval. They may be summarised as follows, the comparison being made with the staff and establishment which existed when the proposals made in our despatch No. 186, dated the 11th July 1912, were placed before Your Lordship:—

	Cost per month.					
	Rs.	A.	P.	Rs.	A.	P.
<i>Increase—</i>						
1 Superintendent on Rs. 450	450	0	0			
1 local allowance of Rs. 150	150					
2 local allowances of Rs. 100 each	200					
				350	0	0
3 Assistant Superintendents on Rs. 150	450	0	0			
1 Clerk on Rs. 150	150					
2 Clerks on Rs. 100	200					
1 Clerk on Rs. 80	80					
4 Clerks on Rs. 60	240					
2 Clerks on Rs. 50	100					
1 Clerk on Rs. 40	40					
1 Clerk on Rs. 60—8—100	90					
				900	0	0
Menial establishment				51	12	0
						2,201 12 0
<i>Decrease—</i>						
1 Chief Superintendent on Rs. 450—30—600	562	8	0			
2 local allowances for Superintendents, Rs. 50 each	100	0	0			
						662 8 0
Net increase	...					1,539 4 0

9. If the foregoing proposals be accepted the total cost of the re-organisation scheme will be Rs. 5,672 $\frac{7}{12}$ a month, as shown below:—

	Rs.
Increase of pay of Comptroller and Auditor-General from Rs. 3,500—100—4,000 to Rs. 4,500 a month	666 $\frac{1}{2}$
Increased cost of establishment (as shown in paragraph 8 above)	1,539 $\frac{1}{2}$
Pay of Controller of Currency (average)	3,366 $\frac{1}{2}$
Local allowance to Assistant Controller of Currency	100
Total	5,672 $\frac{7}{12}$

10. It is probable that, on taking over the full-budget work from the Comptroller-General, the Controller of Currency will require, during the first year or two, the assistance of an expert officer of the Accounts Department during the greater part of the cold weather. We propose to provide for this by placing an officer of the existing cadre on special duty, from time to time, as may be necessary.

11. In conclusion we desire to advert to certain general aspects of the important change which is about to be introduced. The foregoing proposals, so far as they affect the functions of the Comptroller and Auditor-General, will relieve him of duties not strictly connected with audit and accounts in the

discharge of which he would have been subject to the control and criticism of the Government of India. They are thus, we think, entirely in the spirit of Your Lordship's previous decisions, the aim of which is to guarantee his independence and enhance his prestige. We accept these decisions cordially and with every desire to secure from them the maximum of administrative advantage; and, from this point of view, we think it would be beneficial if, at the outset of the new arrangements, Your Lordship would formulate some general pronouncement as to the manner in which the Auditor-General's functions are to be performed under the new conditions. We are reluctant to assume that nothing further is contemplated than a scale of pay and a relationship to the Secretary of State such as will serve to dispel any vague—and as we believe unfounded—idea that the Auditor-General is exposed to undue influence from the executive authorities in this country. This, in our view, would be a very narrow interpretation of the spirit of the new departure. Some indication of the attitude which we should like to see adopted has already been given in

* Despatch to the Secretary of State, No. 44-Financial, dated the 19th February 1914.

Despatch from the Secretary of State, No. 86-Financial, dated the 20th March 1914.

Despatch to the Secretary of State, No. 95-Financial, dated the 27th March 1914.

Despatch from the Secretary of State, No. 60-Financial, dated the 15th May 1914.

our recent proposals,* to which you have assented, for the grant of larger powers to audit officers in regard to objections on trifling matters, and also for the grant of authority to the Auditor-General to waive petty references to the Secretary of State in certain classes of cases. Underlying all the strictness which is admittedly necessary to the due performance of audit functions, there should, we think, be a constant appreciation on the part of the audit officer himself of the fact that efficient audit is only valuable as an instrument of efficient and economical administration, and that methods of interpretation and procedure, which may convert audit into an actual impediment to administration, should either be relaxed in the exercise of such discretion as Your Lordship may be prepared in the future to confer upon the Auditor-General, or be brought to notice with a view to the introduction, under proper sanction, of a better practice. Audit, again, should not confine itself to externals, but should bring to light those defects and possibilities of improvement which are beyond the scope of mechanical rules. On such lines, the rulings of the Auditor-General, as the final appellate authority on audit matters, and his right of addressing Your Lordship freely in his annual appropriation reports may well become the means of working gradually to a broader practice and tradition than now prevail; and in order to secure Your Lordship's full knowledge and concurrence at every stage, we propose, when the new appointment has been created, to transmit half-yearly a complete printed record of the Auditor-General's rulings in the preceding six months.

12. As regards his relationship to ourselves, the Comptroller and Auditor-General will now, in the capacity of an Audit officer, be an independent authority, and will check and bring to notice all real irregularities, and, in particular, all matters in which the sanction of the Secretary of State is required. We shall welcome any added protection which may be obtained from increased efficiency in this direction, though at the same time we should deprecate the adoption of a captious and critical attitude, which would lead to trouble and irritation outweighing the advantages to be expected from the new arrangements. As an officer of account, the Comptroller and Auditor-General remains an officer of the Government of India, and it will be his duty as hitherto, to give the utmost possible assistance in this direction. As the administrative head of a large department, the duties of which are not solely confined to audit, he will recognize that his department is still subject to the ultimate and on occasion the detailed control of the Government of India in regard to all matters of personnel, postings, discipline, and so forth. We, on our part, shall recognize the weight which must be attached to his position as the head of the department and as the officer responsible for audit efficiency.

13. We must explain, however, that, in making these remarks, we have no intention of reflecting on the present Comptroller and Auditor-General, whose action has not been in any way open to criticisms and apprehensions of the kind indicated above. But we think it advisable, on the initiation of the new system, to have clear understanding which will tend to prevent in the future

an undue and exaggerated formalism which would not be in the ultimate public interest.

14. We shall address Your Lordship later, with reference to paragraph 9 of your despatch of the 28th November 1913, in regard to the definite selection of an officer for the Comptroller and Auditor-Generalship (Mr. Gauntlett who now holds the post is at present substantive *pro tem.* only) and shall at the same time communicate His Excellency the Viceroy's views as to the relative precedence to be assigned to him.

Copy of a despatch from the Secretary of State for India, No. 82-Financial dated the 31st July 1914.

I have considered in Council your letter in the Finance Department, No. 210, dated the 25th June 1914, regarding the pay, status, and duties to be attached to the post of Comptroller and Auditor-General and Controller of Currency.

Pay, status and duties of the Comptroller and Auditor-General and the Controller of Currency.

2. On further consideration you have come to the conclusion that it will be necessary to assign to the latter appointment a larger share of the duties hitherto discharged by the Comptroller-General and Head Commissioner of Currency than was at first contemplated, especially as regards budget work, and you accordingly recommend for the Controller of Currency a higher salary and for the Comptroller and Auditor-General a somewhat lower one than you proposed in your Finance despatch No. 186 of the 11th July 1912.

3. I recognise the force of the reasons given for these modifications of your original proposals, and sanction a salary of Rs. 4,500 a month, without exchange compensation allowance, for the Comptroller and Auditor-General and one of Rs. 3,000—125—3,500, without exchange compensation allowance, for the Controller of Currency, to be drawn by that officer whether he be a member of the Indian Civil Service or an officer of the Accounts Department.

4. I may remark that in view of the many subjects to be dealt with by the latter officer besides Currency, including matter so little akin to it as budget work, the title of Controller of Currency seems hardly to express adequately the scope of his duties. You may perhaps think it worthwhile to devise a more comprehensive designation.

5. In paragraph 11 of your letter you ask me to formulate some general pronouncement as to the manner in which the Auditor-General's functions are to be performed under the new conditions. The objects to which you attach importance are, as I understand, first, that discussion arising out of audit objections in petty cases should be as far as practicable avoided, and in any event not unduly prolonged; secondly, that the work of the Auditor-General and his department should not be confined to raising objections to expenditure or financial procedure on the ground that they are not covered by, or at variance with, the sanctions, or rules that should have been observed, but should also be directed, within suitable limits, to making suggestions tending towards economy in the expenditure of public money. I am in sympathy with both objects.

6. With a view to attaining the first, what is necessary appears to be the grant under proper regulations of discretion to the Auditor-General and officers under him to refrain from raising, or to withdraw, objections which might be sustained to particular items of expenditure on the ground of insufficient sanction or minor irregularity. I appreciate the value of the reduction that can in this way be made in the number of references on unimportant cases to myself, the Government of India, or Local Governments; and, as you remind me, I willingly agreed in two recent decisions to the grant of discretionary powers intended to have this effect in particular classes of cases. I have no doubt that it will be found from time to time that further reduction of petty references can be advantageously effected by enlargement either of the sanctioning powers of administrative authorities or of the discretionary powers of the Auditor-General and other Audit officers. I shall always

be prepared to give careful consideration to recommendations made by you for action in this direction ; and I regard it as within the functions of the Auditor-General to submit, for your consideration, suggestions, based on his experience, that appear likely to be of use to you in formulating such recommendations.

7. The second object that you have in mind is connected with duties falling outside the scope of audit work in its narrower sense. It has been authoritatively recognised in this country that such duties should not be excluded

*See "Eptome of the Reports from the Committees of Public Accounts, etc." Ordered by the House of Commons to be printed 9th February 1911, page 207; and Report from the Select Committee of the House of Commons on Public Expenditure, 1903, page v.

from the province of the Chief Officer of Audit.* It has also been recognised that their discharge requires very great discretion since there is a risk that, in bringing to light what you appropriately describe as "defects and possibilities of improve-

ment which are beyond the scope of mechanical rules," an Audit Officer may trench on the province of administrative authorities. With regard to India, I have come to the conclusion that I cannot with advantage say more at the present stage than that I regard the Chief Officer of Audit as at liberty to go beyond the sphere of audit work in its narrower sense when by doing so he can call the attention of the Government of India or the Secretary of State to the possibility of economy or financial regularity in the disbursement of public money, and that I rely on him, when doing so, to exercise the judgment needed to avoid the risk mentioned above. From your letter under reply, I anticipate that the Government of India will not desire that his discretion should be too closely fettered: but, if in any case they hold that he has allowed himself too wide a scope, it will be open to them to represent their views to the Secretary of State, for his comments and decision.

8. If, in your opinion, the above statement gives sufficient and suitable guidance regarding the matter to which it relates, you are at liberty to communicate it to the Auditor-General. Otherwise, you will doubtless consult me further on the subject.

APPENDIX B.

[Referred to in answer to Question No. 8.]

Issues in Imperial Gallons.

	Rectified spirits.		Denatured spirits.	
	1915-16.	1916-17.	1915-16.	1916-17.
Madras	27,874	1,082	17,794	24,813
Bombay	20,107	23,324	8,002	9,461
Bengal	84,303	17,299	55,610	56,321
Burma	179	154	119	161
Bihar and Orissa	(a)	25	(a)	2,635
United Provinces	3,607	4,524	10,858	14,562
Punjab	646	585	17,462	16,800
North-West Frontier Province	152	125	2,071	2,213
Central Provinces	65	63	2,141	2,333
Assam	(a)	2	1,390	1,330
Delhi	23	28	7,623	6,847
Baluchistan	20	20	830	1,124
Ajmer-Merwara	38	136	7	414
Coorg	(a)	(a)	74	89

(a) Figures not available.