

5th July, 1923

THE
LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

VOL. III

PART VI

(2nd to 12th July, 1923.)

THIRD SESSION
OF THE
LEGISLATIVE ASSEMBLY, 1923

Chemical Fumigated... 18.10.73.



SIMLA
GOVERNMENT CENTRAL PRESS
1923

LEGISLATIVE ASSEMBLY.

The President.

The Honourable Sir FREDERICK WHYTE, KT.

Deputy President.

° Sir JAMSETJEE JEEJEEBHOY, BART., K.C.S.I., M.L.A.

Panel of Chairmen.

° Maulvi ABUL KASEM, M.L.A.

° Sardar Bahadur GAJJAN SINGH, M.L.A.

° Mr. N. M. SAMARTH, M.L.A.

° Colonel Sir HENRY STANYON, KT., C.I.E., V.D., M.L.A.

Secretary.

° Mr. L. GRAHAM, M.L.A., I.C.S.

Assistants of the Secretary.

Mr. W. T. M. WRIGHT, I.C.S.

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

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

Marshal.

Captain SURAJ SINGH, Bahadur, I.O.M.

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LEGISLATIVE ASSEMBLY.

Thursday, 5th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

FAILURE OF ALLIANCE BANK : SPEECH OF MR. GAZDAR.

137. ***Mr. Pyari Lal :** Has the attention of the Government been drawn to the proceedings of the Creditors meeting of the Alliance Bank of Simla, held at Calcutta on the 1st June 1923 ? If so, has the Government noted the speech of Mr. H. B. Gazdar ?

The Honourable Sir Basil Blackett : The answer to the first part of the Honourable Member's question is in the affirmative, and to the second part in the negative.

FAILURE OF ALLIANCE BANK : FEELING OF INSECURITY.

138. ***Mr. Pyari Lal :** Are the Government of India aware of the strong sense of insecurity that at present exists in India, consequent on the failure of the Alliance Bank of Simla and the disclosure thereon ?

The Honourable Sir Basil Blackett : The Government do not believe that there is any general sense of insecurity. On the contrary they believe that the action taken by the Government and the Imperial Bank has been largely instrumental in obviating the dangers of a loss of public confidence which the failure of the Alliance Bank threatened.

Mr. Harchandrai Vishindas : Are the Government aware that some other banks have failed as a consequence of the failure of the Alliance Bank ?

The Honourable Sir Basil Blackett : The Government are aware of the failures of certain small banks.

Mr. Harchandrai Vishindas : Do the Government propose to adopt any measures of relief in respect of these banks ?

The Honourable Sir Basil Blackett : Not of the individual banks which have failed, which are all small concerns, not affecting the general confidence in banking in this country.

Mr. S. C. Shahani : Will the Government be pleased to state if there are any objections to the Government helping in the supervision of the liquidation of the Alliance Bank, and, secondly, if the reply be in the

negative, will the Government be pleased to take early steps to render that help ?

The Honourable Sir Basil Blackett : I think, if the Honourable Member will wait for the answer to some further questions which are down on the paper, he may get the answer to his question.

Mr. K. B. L. Agnihotri : May I ask, Sir, whether any public money was deposited in the Alliance Bank and if so, what was the amount ?

The Honourable Sir Basil Blackett : So far as I am aware, no public money in the sense of money belonging to the Government of India was deposited with the Alliance Bank. There were certain charitable funds, in which the Government of India were indirectly concerned, which were deposited.

Mr. K. B. L. Agnihotri : Were the charitable funds deposited in this Bank under instructions from the Government of India ?

The Honourable Sir Basil Blackett : I should like to have notice of the particular question, but, so far as I am aware, no funds for which the Government of India were directly responsible were deposited with the Alliance Bank. The answer, therefore, to the question just put would undoubtedly be that the Government were not responsible for the deposit.

Mr. N. M. Joshi : Were the Government of India responsible for the charitable funds placed at their disposal ?

The Honourable Sir Basil Blackett : I did not say they were charitable funds placed at their disposal. They were charitable funds in which they were indirectly interested.

Mr. N. M. Joshi : May I know the meaning more clearly ?

The Honourable Sir Basil Blackett : If a clear question is put, Sir, I shall be able to give a clear answer.

Mr. S. C. Shahari : Will the Finance Member be pleased to state if the present Government would be prepared in similar circumstances to intervene and guarantee that any other bank than the Imperial Bank of India that undertakes to pay the creditors in the case of any other banking failure will be compensated for any loss incurred by the payments ?

The Honourable Sir Basil Blackett : I would refer the Honourable Member to the answers given to questions on Monday and about to be given to-day.

Dr. Nand Lal : May I ask the nature of the guarantee which was given by the Government of India ?

The Honourable Sir Basil Blackett : I would refer the Honourable Member to the answers given to questions on Monday and about to be given to-day.

Dr. Nand Lal : May I ask whether some sort of embezzlement is suspected ?

FAILURE OF ALLIANCE BANK : INVESTIGATION.

139. ***Mr. Pyari Lal :** With a view to reassure the business community and the public generally does the Government contemplate any such measure as appointing an official committee to investigate the

position of and reasons for the failure of the Alliance Bank ; and the prosecution of the delinquent Managers, Directors and Auditors ?

The Honourable Sir Basil Blackett : The Government are not satisfied that there is any further action which they can usefully take in this matter unless and until further facts are disclosed. Should the information disclosed in the course of liquidation, or otherwise, coming to the knowledge of the Government of India, justify such a step, they will not hesitate to take suitable action forthwith.

Rao Bahadur C. S. Subrahmanayam : Sir, I would like to ask the Honourable the Finance Member about the Alliance Bank, whether he will explain the difference between the communication addressed to the Indian Merchants' Chamber, Bombay, and the statement made here on Tuesday.

The Honourable Sir Basil Blackett : I think that again is a question which arises out of a subsequent question. I shall be happy to endeavour to give an answer to it in its proper place.

AUDIT OF ACCOUNTS OF REGISTERED COMPANIES.

140. ***Mr. Pyari Lal :** Are the Government of India prepared to consider the question of introducing the necessary changes in the Indian Companies Act regarding the auditing of the accounts of the Registered Companies, so as to make the appointment of Government Auditors to work in co-operation with the Auditors appointed by the shareholders, obligatory for all companies with a subscribed capital of ten lacs and over ?

The Honourable Mr. C. A. Innes : As at present advised the Government are not prepared to amend the Indian Companies Act in the proposed direction.

FAILURE OF ALLIANCE BANK : ACTION BY GOVERNMENT.

141. ***Sir P. S. Sivaswamy Aiyer :** Will the Government be pleased to state :

- (1) Whether the Alliance Bank of Simla suspended payment on the 28th of April 1923 ?
- (2) (a) Whether on the 27th April 1923 the Financial Secretary to the Government of India wrote to the Managing Governors of the Imperial Bank of India authorising them to repay 50 per cent. of the amounts due to the depositors in the Alliance Bank and conveying the guarantee of the Government of India to make good to the Imperial Bank of India any losses incurred in making such payments ?
- (b) When did the Government become aware of the likelihood of failure of the Alliance Bank and who set them in motion to take action as indicated in the letter of the 27th of April ?
- (c) Whether by the letter of the 27th of April the Government intended to borrow the money required for payment to depositors or only to guarantee the Imperial Bank against losses ?
- (d) Whether the guarantee referred to in the said letter refers to the principal amounts to be paid to the depositors or also to

the loss of interest to be incurred by the Bank on the amount of such payments ?

- (3) Whether the Financial Secretary to Government wrote to the Managing Directors of the Imperial Bank on the 1st of June 1923 hypothecating the Government balances as security to meet outstandings which would become due to the Imperial Bank in consequence of payments to be made by them to depositors in accordance of the letter of the 27th April ?
- (4) Whether by notice of the letter of 22nd May 1923 to the Secretary to the Committee of the Indian Merchants' Chamber, Bombay, the Financial Secretary to the Government stated or suggested that the action of the Imperial Bank of India in offering to make payments to depositors was a spontaneous act of public spirit ?
- (5) Whether on in any previous occasion of failures of Indian Banks involving losses to the extent of crores the Government of India ever came forward to the rescue with any similar undertaking of guarantee ?
- (6) Whether the Government is prepared to formulate the principles and conditions on which they will extend similar relief to other banking concerns in future ?
- (7) Whether it is a fact that the depositors of the Alliance Bank include a very large number of Government Officials and Europeans ?

The Honourable Sir Basil Blakett : Perhaps I might explain for the information of Honourable Members that these questions were put down on the notice paper two or three days ago with the request that the answer might be expedited and the answer has, with the consent of the Honourable the President, been expedited. I was not aware in answering the earlier questions that Honourable Members had not got these further questions in front of them and it was for that reason that I deprecated answering certain supplementary questions. I have already dealt with most of the points raised in the Honourable Member's question in my replies to previous questions in this House and shall endeavour therefore to reply succinctly. The answers are :

- (1) Yes.
- (2) (a). Yes.
- (b) For several weeks before the date of failure the Government were aware that in the absence of a successful result of negotiations in which the Bank were engaged in England the failure of the Bank was probable. It was not until the 26th April that they learned that failure was inevitable. The Government acted on their own initiative.
- (c) The letter of the 27th April contemplated a loan to the Government.
- (d) The guarantee refers to the principal amounts to be paid to depositors.
- (3) Yes.

- (4) The letter in question did not describe the action of the Imperial Bank as spontaneous, but as public-spirited—as in fact it was. The letter did not profess to deal with the circumstances under which the Bank was put in a position to take action.
- (5) No.
- (6) The Government cannot undertake to formulate principles and conditions of universal application ; in answer to the question asked by Mr. Manmohandas Ramji I endeavoured to put before the House the principles which guided Government in the present instance and the financial conditions at the time which were an important factor in determining the action of Government.
- (7) Yes. The depositors in the Alliance Bank also include a very large number of Indians.

Dr. H. S. Gour : May I ask the Honourable the Finance Member whether in view of the subsequent disclosure, i.e., the announcement made by the Honourable Member in this House, Mr. McWatters' letter to the Indian Merchants' Chamber and Bureau in Bombay describing the action of the Imperial Bank as out of public spirit was not a terminological inexactitude ?

The Honourable Sir Basil Blackett : I think terminologically it was entirely exact.

Sir Deva Prasad Sarvadhikary : With reference to the charitable institutions in which the Government are indirectly connected, as the Honourable the Finance Member has told us, were those funds withdrawn in time ? If so, when ?

The Honourable Sir Malcolm Hailey : Perhaps I might be allowed to answer that question. I am connected with so many of these institutions in different capacities that I have perhaps a more intimate knowledge of the question than the Honourable the Finance Member. The institutions to which Sir Basil Blackett referred just now are institutions such as the Lady Dufferin Fund, the Lady Minto Fund, the Lady Chelmsford League, certain funds held by the Soldiers' Board, and taking a different category, funds held by such institutions as the Silver Wedding Fund, Indian Red Cross Society and the St. John Ambulance Association. If the deposits which were held by the Bank on behalf of such funds were to disappear entirely, nevertheless, there would be no loss to Government at all ; the loss would be entirely to those funds. When it is said that Government was indirectly concerned with them, it is only to this extent that various Government officers, some of them Members of Council, some of them Secretaries, some of them in other capacities, have at different times given their services to the management of these funds, and they are interested purely to that extent. Sir D. P. Sarvadhikary asked if these funds were withdrawn.

Sir Deva Prasad Sarvadhikary : In time.

The Honourable Sir Malcolm Hailey : In time. I have myself at different times had under my control, in my capacity as President or

Chairman of the Executive Council of a number of these Societies, considerable sums of money deposited in the Alliance Bank. I as a Member of Council was aware of the circumstances in which the Alliance Bank stood. I of course felt myself unable to take advantage, either on my own behalf or on behalf of the Societies in which I was interested, of knowledge which came to me as a Member of Government. It might have been unfair to other depositors. I have had conversations with other Members of Government equally interested in these Societies, and I may say with perfect confidence that no single case has come to my knowledge in which any officer of Government connected with any of these Societies felt himself entitled to take advantage of his knowledge of the affairs of the Alliance Bank to withdraw their deposits. I should like to go just a little further. I have heard of cases of men in our Secretariat, clerks not officers, who in their position as confidential shorthandwriters and the like, knew also what was happening in the Alliance Bank, whose whole savings and whose families' savings were in the Alliance Bank, and yet they themselves have not issued a word of warning to their friends or availed themselves of the information which came to them in the course of their official duties.

Mr. K. B. L. Agnihotri : What is the total amount of deposits made by the Members of the Executive Council in the Alliance Bank ?

The Honourable Sir Basil Blackett : I am afraid I did not catch the question.

Mr. K. B. L. Agnihotri : What could be the total amount of money deposited by the individual Members of the Executive Council in the Alliance Bank ?

Mr. President : Order, order. That is a matter in which the Governor General in Council has no concern.

Dr. H. S. Gour : May I ask the Honourable the Finance Member or the Honourable the Home Member whether it is not a fact that under the rules of the Government of India, all trust deposits are to be made with certain approved banks, and whether the Alliance Bank was one such approved bank ?

The Honourable Sir Basil Blackett : I should like to have notice of that question, because I am not confident of giving a completely accurate answer spontaneously.

Dr. Nand Lal : Will the Honourable the Finance Member enlighten this Assembly whether the Government of India is in receipt of any information that embezzlement was committed in the Alliance Bank ?

The Honourable Sir Basil Blackett : The answer is in the negative.

RUPEE LOAN.

Rao Bahadur C. S. Subrahmanayam : Sir, I shall be obliged if the Honourable the Finance Member can give us any information as to the progress which the rupee loan has made up to date.

The Honourable Sir Basil Blackett : I am very happy to be able to inform the House that over Rs. 16 crores out of the Rs. 24 crores for which we asked was subscribed on the first day.

The Honourable Sir Malcolm Hailey : Poor bankrupt India !

UNSTARRED QUESTIONS AND ANSWERS.

CONNECTION OF BADRINATH WITH RAILWAY.

97. **Lala Girdharilal Agarwala** : 1. Are the Government aware that Badrinath (District Garhwal) is the most sacred place of Hindu pilgrimage where H. H. Jagat Guru Shankracharya established Jotin (or Joshi) Math ?

2. How far is Badrinath from the nearest Railway station and what proposals have been made to connect it by rail and by what time is it likely to be so connected ?

The Honourable Mr. C. A. Innes : 1. Government are aware of the sanctity attached by Hindus to Badrinath.

2. Badrinath is about 130 miles from Rikhikesh Road, the nearest railway station.

A preliminary survey for a line of railway from Hardwar to Karanprayag on the way to Badrinath was carried out in 1920 but the financial prospects of the line were not sufficiently favourable to justify its construction.

TEA AND COFFEE ROOM AT MEERUT.

98. **Mr. Pyari Lal** : Are Government aware that the sign board of the " Tea and Coffee room " Cantonment station, Meerut, bears the words " for Europeans only " and that there exists no separate refreshment room for Indians, at all ? Are there any reasons for this special reservation under the circumstances ?

Mr. G. G. Sim : Yes. There are no reasons for this special reservation. The wording on the sign board is being altered to " Tea Room " only.

MEMBERSHIP OF ADVISORY PUBLICITY COMMITTEE.

The Honourable Sir Malcolm Hailey (Home Member) : With your permission, I wish to make a motion in regard to the membership of the Advisory Publicity Committee. The House will remember that at the close of the last session they agreed that Members should be elected by the Assembly for this Committee in such manner as the Honourable the President should direct. An election is a somewhat cumbrous process, and I have thought it well to collect a number of names with the assistance of various friends in the House, with a view of suggesting that instead of holding an election it should agree to the Members I propose to mention as Members of the Advisory Publicity Committee. The names I suggest are :

Mr. T. V. Seshagiri Ayyar,
 Dr. H. S. Gour,
 Mr. Ahmed Baksh,
 Sir P. S. Sivaswamy Aiyer,
 Mr. J. N. Mukherjee,
 Maulvi Abul Kasem, and
 Lieut.-Colonel H. A. J. Gidney.

[Sir Malcolm Hailey.]

Seven names were required and I merely put these forward, as the House will understand, for the convenience of the House in order to avoid the trouble of an election.

Mr. President : The question is :

“ That Mr. Seshagiri Ayyar, Dr. H. S. Gour, Mr. Ahmed Baksh, Sir Sivaswamy Aiyer, Maulvi Abul Kasem, Mr. J. N. Mukherjee, and Lieut.-Colonel H. A. J. Gidney be elected to serve on the Publicity Advisory Committee.”

The motion was adopted.

THE INDIAN NATURALIZATION BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I beg to move :

“ That the Bill to consolidate and amend the law relating to the naturalization in British India of aliens resident therein, be referred to a Select Committee consisting of Mr. Samarth, Mr. P. E. Percival, Mr. J. N. Mukherjee, Dr. H. S. Gour, B. N. Bahadur C. S. Subrahmanayam and myself, with instructions to report on or before the 17th July 1923.”

As the original motion stood it was proposed to ask that the name of Mr. Abul Kasem be on the list of members of the Select Committee, but I am not certain whether he will arrive in Simla in time, and therefore without Mr. Samarth's permission I have substituted his name ; but I have done so as Mr. Samarth is a Chairman, and in that capacity he is, I am sure, glad to render us this service.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : May I suggest that the name of Sir Henry Stanyon be added to the list proposed by the Honourable the Home Member ?

The Honourable Sir Malcolm Hailey : I have no objection.

The motion that the name of Colonel Sir Henry Stanyon be added to the said Select Committee was adopted.

Mr. W. M. Hussanally (Smd : Muhammadan Rural) : I propose the name of Mr. Harchandrai Vishindas.

The Honourable Sir Malcolm Hailey : I have no objection.

The motion that the name of Mr. Harchandrai Vishindas be added to the said Select Committee was adopted.

Mr. President : The question is :

“ That the Bill be referred to that Select Committee as increased by these two names.”

The motion was adopted.

THE MOORSHEDABAD (AMENDMENT) BILL.

Mr. Denys Bray (Foreign Secretary) : I beg to move :

“ That the Bill to modify certain provisions of the Indenture confirmed by the Moorshedabad Act, 1891, be taken into consideration.”

The Bill is so simple that it is unnecessary to add to the remarks contained in the Statement of Objects and Reasons or to the few remarks I

made in introducing the Bill. It is wholly non-contentious in character. It is designed merely for the better development of the estate and the better safeguarding of the interests of succeeding heirs.

The motion was adopted.

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

Mr. Denys Bray : I move that the Bill be passed.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : I wanted to ask one question on this subject. I am told that the Nawab of Moorshedabad has already entered into negotiations and borrowed money. If so, will this Bill affect those transactions and those from whom he has already borrowed large sums of money on the understanding that he will give leases on *Salami*. Of course, I do not know the particulars and I want to know the real facts.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Sir, may I stand and object to my friend's remarks ? What have the Government of India got to do if the Nawab Bahadur of Moorshedabad is arranging for loans or has borrowed money on the understanding that he will lease out his property ? There is his power of course, to grant 21 years' lease. He is entitled to do it and of course to get *Salami* also—that is the object stated in the Bill. I do not think that any Member of this House will be justified in getting up and asking whether the Government will be pleased to make a statement with regard to the internal matters of the Nawab Bahadur of Moorshedabad. Certainly not. This Bill seeks to modify the Moorshedabad Act of 1891, and the Statement of Objects and Reasons gives the full explanation why the Governor and Executive Council Members' sanction is necessary in granting leases, and I think that is enough.

Mr. Denys Bray : I am not quite sure whether I understood the question aright, but I would draw the Honourable Member's attention to the proviso :

“ Provided that nothing herein contained shall affect anything done, or any right or liability which has accrued or been incurred, under any such lease or demise before the commencement of this Act.”

I may also explain that the necessity for this Bill arose out of the case of certain house properties in Calcutta. The property had been leased out on a 21 years' lease. The buildings, unfortunately, were destroyed by fire and the Nawab Bahadur has failed to secure any offer for a building lease for the short period of 21 years. Hence one of the main reasons for the Bill. He has now received an offer for a lease for a term of 42 years, the rent already paid in advance on the twenty-one-year lease being treated as *Salami* or 'fine' for the 42-year lease. I think that is a sufficient explanation for the Honourable Member.

The motion that the Bill be passed was adopted.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I move :

“ That the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, be taken into consideration.”

[Sir Malcolm Hailey.]

The Bill is before the House. I explained its objects when I introduced it, and it is of so simple a nature that I think no further comment on my part or commendation is necessary.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadan) : I beg to move :

“ That the Bill be circulated for public opinion.”

At the time of the introduction of the Bill.....

The Honourable Sir Malcolm Hailey : Might I interrupt for one moment ? I have looked through the papers on my desk and I find no notice of this proposal on the part of the Honourable Member.

Mr. K. B. L. Agnihotri : Might I take the objection that the Bill cannot be taken into consideration to-day under standing order 38 because three days' time has not been allowed ?

Mr. President : Three days have elapsed.

Mr. K. B. L. Agnihotri : No, Sir.

Mr. President : Order, order. Two and three make five.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : To my mind this Bill seems to be a very useful measure and I give credit to the author of this Bill. Some of the Government servants, who are very poorly paid, are troubled, to a great extent, by the relentless creditors.....

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Why should there be creditors ?

Dr. Nand Lal : I am very glad that this measure has been introduced and it deserves universal commendation and support. I support it wholeheartedly.

The motion that the Bill be taken into consideration was adopted.

Clause 1 was added to the Bill.

Mr. President : Clause 2.

Mr. N. M. Joshi (Nominated : Labour Interests) : I only want to know why the Government have restricted the use of this section to Government servants and public officers and not to other people serving in private offices.

After all the principle is the same—that the poor man should not be deprived of his bread by the usurious sowcars and if that is the principle of the Bill the necessity for protecting the servants of the private companies and of private individuals against usurious practices is as great as the necessity for protecting Government servants. I should therefore like to know from Government why the scope of the Bill is restricted.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : I think I may answer Mr. Joshi's point. While the emoluments received by Government servants can be ascertained from the record you cannot ascertain the emoluments received by private men. A man who appears to be very rich may be very poor, while a man who appears very poor may be very rich and have treasures.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : May I ask why **Mr. Joshi** has not sent in an amendment ?

The Honourable Sir Malcolm Hailey : The answer to **Mr. Joshi** is a simple one. I have only to repeat what I said when introducing the Bill, that is to say, that the Bill is not intended as any safeguard against the extension of usurious practices, nor is it in itself in any way directed against the operations of the money-lender or the shop-keeper. The motive which influenced the legislature when they first introduced this measure was simply the protection of the State. As I stated before, it is clear that if a Government servant, I said before the low paid Government servant, but in modern times I must add even the high paid Government servant falls into debt, and is pressed by his creditors to such an extent that the whole of his salary is attached, then he becomes practically useless to the State, for, when he is deprived of his means of subsistence, either he cannot carry on his duties at all or he is subjected to temptations to receive gratifications which must be injurious to his employer, the State. This regulation is quite in line with the rest of our legislation on the subject of preservation from attachment. As the House is aware, we preserve the articles of primary necessity in the case of certain classes from attachment. We preserve necessary wearing apparel, cooking vessels of a judgment debtor, his wife and children. We preserve the tools of artisans. We preserve the house and other buildings of an agriculturist, and we do so for the reason that if a man falls into debt, it is not right to allow the law to press him to such an extent that he is deprived of his means of subsistence; in the case of Government servants we go somewhat further and lay down the exact limits which we attach to the meaning of subsistence. May I add one word regarding this motion. I say with perfect truth to the House that I had no intention of trying to press this forward as a matter of urgency or in any way to deny the full consideration which Honourable Members wish to give to it. I was quite unaware that **Mr. Agnihotri** would desire to move the circulation or would desire to move any amendment. If he had given me warning I should have been glad to put the Bill down for another day. But the matter is so simple and I believe is so generally approved by the House that I would suggest that the House can proceed to the consideration of it.

Dr. H. S. Gour : I do not think the Honourable Member has answered the Honourable **Mr. Joshi's** objection. If reasons of State prompt the Government to protect their clerical servants, reasons of public utility should equally dictate a measure of protection to be extended to railway servants and other servants in public employ, private companies, the large public corporations, industrial concerns, mining concerns and so forth. The reasons which the Honourable the Home Member has given—that a servant if he is overwhelmed with creditors is not able to discharge his public functions with the same degree of diligence as he would otherwise do and that if his property and his salary is attached, his financial resources being crippled, he might be exposed to other temptations, are perfectly true and in that view I support the Bill. But I hope the Honourable Member will not understand this House to endorse the proposition that that Bill and the principle underlying it cannot be extended

[Dr. H. S. Gour.]

to other public servants and other private servants of corporations and companies, receiving small salaries of the nature described in the Bill.

The Honourable Sir Malcolm Hailey : If I may be allowed to intervene again, it is mainly for the sake of information. The Honourable Member will realise that the servants of the railway companies under the Act already stand exactly in the same position as Government servants proper. He will also remember that the wages of labourers and domestic servants are also protected from attachment, though we do not of course give the same sort of protection as we have given to Government servants. The reason why we hold that we can justifiably single out Government servants in this connection, apart from the reason I have already given, is perhaps clear. In the first place they are very much easier to define than the servants of public utility companies and corporations. The servants of corporations which are local bodies are already protected in the same way as Government servants ; but with regard to other utility services it might be somewhat difficult to define in an Act exactly the extent to which it is suitable to protect them. There is a further point and that is that all Government servants, whenever they fall into debt and are pursued by debtors, must produce an account of their affairs to their employer, the State. That rule does not apply to other cases. But, Sir, the Honourable Member has raised a question of general principle. I could not support a wide amendment of the Code in this direction without a general reference to all interests concerned on that point. If he wishes to take the point up, it had better be treated as an entirely separate question and not connected with this specific piece of legislation, which only seeks to amend certain figures already contained in the Act.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, the point raised by Mr. Joshi is one which will commend itself to every lover of justice. If this Bill becomes law as it now stands the clerk of a railway drawing Rs. 40 a month will have his entire salary exempted from attachment, but if I have a clerk on Rs. 40 a month, his salary will not be protected. That seems anomalous and unjust. I do not think it could rightly be said that it will be any easier to get half the salary from the railway than it will be to get half the salary from me. But the logical reason for the form of this Bill—and as to that I have been anticipated by the Honourable the Home Member—is this. That the particular clause of the Civil Procedure Code which it is framed to amend only with regard to certain figures, is itself a clause of limited application, and what we are here to do is merely to amend that clause as it stands. It is a very much wider question as to whether that clause of the Civil Procedure Code itself shall be extended. I do not think that in a small Bill like this a very much larger question like that, which no doubt was taken up at the time when the Civil Procedure Code was prepared for enactment, should be gone into. For that reason, and that reason only, I do not think that the suggestion of Mr. Joshi can prevail. I would support the Bill as it stands.

Dr. Nand Lal : Sir, this protection to my mind should not be extended to the servants of private companies or firms. My reason for opposing

Mr. Joshi is that the servants of private companies and the employees of private men have no restrictions put upon them in regard to their engaging in other business. They can make money from different sources ; there is no obstacle in their way. To support my position I may give an illustration. A is a Government servant drawing Rs. 40 a month. He cannot enter into trade or do any other business. Now let us take the case of B, employed in a private company. He gets also Rs. 40 a month from that company but he is not debarred from opening any other business or shop. (*Dr. H. S. Gour* : " That depends on the terms of his employment.") I beg your pardon. Kindly do not interfere. He can make money from various sources, but the Government servant, as I have already submitted, cannot. The object at the back of his Bill is to protect the salary of the Government servant, so that he may not be tempted to stoop low, to go to this man and that and place himself under obligations which are sure to be impediments in the proper performance of his duties. But in the case of a private servant, there is no clog in his way. That is the object which has prompted the author of this Bill and for that reason I thank him highly for the service he has rendered. Why should we be hard on poor Decree holders indiscriminately ? We are giving this special concession only to Government servants whose salary is rupees forty a month, for a very noble reason and a very honourable cause, which reason and which cause cannot come to the assistance of a servant who is employed in a shop or private firm or company, for the reason that section 161 of the Indian Penal Code is not applicable to private servants, whereas the poor public servant, if he stoops so low on account of the inadequacy of his salary or on account of temptation, will be hauled up. The private servant may accept any gratification without coming within the clutches of the law. There are, therefore, a number of reasons why this Bill ought to have the unanimous support of the House, and it has pained me to see so many Honourable gentlemen of light and learning opposing a measure of this kind.....

Mr. President : I am very loth to interrupt the flow of eloquence on behalf of the private employee, but I must point out that this debate is becoming rather disorderly. It will not be in order to move any amendment except one relating to the figures dealt with in clause 2. Honourable Members must therefore confine themselves to the terms of clause 2, which are very narrow indeed.

Mr. K. B. L. Agnihotri : Sir, as no amendment can be moved at this stage of the Bill, there is no other alternative but to oppose the passing of this clause 2.

The Honourable Sir Malcolm Hailey : I will not object to any amendment that the Honourable Member wishes to put forward ; I merely opposed the proposal for circulation on the ground of lack of notice.

Mr. K. B. L. Agnihotri : I must thank the Honourable the Home Member for his kindness in allowing me to move an amendment. Though I have given notice of an amendment of a different nature still, in the light of the suggestion made by the Honourable Mr. Joshi and if I be in order and be permitted, I would move the amendment :

" That clause 2 shall apply equally to private servants as well,"

Mr. President : I have just pointed out to the House that that is precisely the kind of amendment that cannot be moved. An amendment may be moved altering the figures. As this Bill is concerned solely with figures, therefore the amendment must be solely concerned with figures.

Mr. K. B. L. Agnihotri : I had already said, Sir, that if I was in order I would move that amendment. As the Chair has ruled me out of order in respect of that amendment, I beg now to move :

“ That in clause 2 of the Bill the figure 30 be substituted for the figure 40 and the figure 60 for the figure 80.”

It has been said that owing to the increase in the cost of living and the rise in prices the amount of salary for exemption from attachment should be raised and Rs. 40 should be substituted for Rs. 20. I do not think that the pay of the subordinate staff was increased by Government in a corresponding proportion. If I remember aright, there is not a single case in which the initial pay of any subordinate has been doubled. I therefore do not understand the necessity for raising the amount from 20 to 40. I do realize that the cost of living has gone up and the amount for exemption should be raised and I am therefore willing to extend the exemption to the extent of 50 per cent. For a similar reason I also suggest the substitution of 60 in place of 80. While we are here giving protection to Government clerks, we should not lose sight of the rights and position of the money-lenders or the creditor-decree-holders. Why should the decree-holder be deprived of his right of recovery of his amount by attachment in the execution of his decrees. His case should equally be considered by the House. I therefore submit that an increase by 50 per cent. in the salary exempted from attachment is quite sufficient. There is one more point. If we except the pay of clerks drawing Rs. 40 from attachment, the result will be that many of these men will lose their credit. The creditor will consider that he cannot attach the clerk's pay or get any return in satisfaction of his debt ; and so he will not advance him any money and it will result in greater hardship to the poor and low paid Government servants and for these reasons I commend my amendment to the House.

Mr. President : Amendment moved :

“ In clause 2, line 5, substitute the word ‘ thirty ’ for the word ‘ forty ’ and the word ‘ sixty ’ for the word ‘ eighty ’.”

Dr. Nand Lal : I oppose this amendment. I do not know why the Honourable Mr. Agnihotri is so unkind to the poor Government servants who are poorly paid. A, a Government servant, has a wife and son, taking a hypothetical case. A Government servant, a clerk, draws a salary of Rs. 40. According to Mr. Agnihotri's suggestion, the amount should be reduced to Rs. 30, so far as protection goes. His salary is Rs. 40. He says the amount should be reduced to Rs. 30. A sum amounting to Rs. 40 cannot be allowed to remain.

Dr. H. S. Gour : No.

Dr. Nand Lal : That is what he means.

Dr. H. S. Gour : No, he does not,

Dr. Nand Lal : I beg your pardon, you heard him differently. I think that is his object. He says that the sum proposed, Rs. 40, may be reduced to Rs. 30 ; that is, a concession at the rate of 50 per cent. may be given. Is it not so, Mr. Agnihotri ?

Mr. K. B. L. Agnihotri : Yes.

Dr. Nand Lal : My Honourable friend, Dr. Gour, heard you differently.

Mr. President : The Honourable Member had better address his remarks to the Chair.

Dr. Nand Lal : I will resume my illustration. A Government servant who is drawing Rs. 40 has got a number of other persons dependent on him, and his salary is not exempted from being attached. The question arises, how will he be able to support those who are dependent on him. He shall have to seek for ulterior avenues or sources which may consolidate his pay in any manner, whether legitimate or illegitimate. So therefore this amendment practically does not prevent a poor Government servant, whose salary is only Rs. 40, from stooping low and accepting presents but gives an encouragement so that he may try to have his palms greased and get a gratification. Only some months ago on the floor of this House a number of speeches were made, and I was one of those speakers who urged that corruption should be stamped out ; but I am sorry to see that a suggestion has emanated from one Honourable Member that this very useful provision, which to all intents and purposes will operate, to a certain extent, as a prevention against the poorly paid clerk's stooping low, should be objected to. I oppose this amendment ; it has got no force.

Mr. H. B. Bardswell (Madras : Nominated Official) : Sir, I also wish to oppose the amendment moved by the Honourable Member. There is, I submit, very good reason for the figures Rs. 20 and Rs. 40 now being raised to Rs. 40 and Rs. 80 respectively, since, as it seems to me, what we have to consider is the different purchasing power of money at the time when the Code containing them was first brought into force and at the present time. I understand that Rs. 20 and Rs. 40 are figures which were first adopted in 1871 with reference to the value of the Rupee as it was then, and I think it is within the knowledge of all of us that the purchasing value of money at the present time has gone down to at least half of what it was in 1871. If that is the case, as I believe it to be, and if the principle that underlies the exemption in section 60, sub-section (1), of the Civil Procedure Code is correct, and as to that there appears to be no question, then I think we ought to restore the position of affairs, with reference to the value of money at present, to what it was at the time when the provision first came into force, and that such being the case, the appropriate figures are 40 and 80 as proposed by the Honourable the Home Member and not 30 and 60 as proposed in the amendment. For these reasons, Sir, I oppose the amendment.

Colonel Sir Henry Stanyon : Sir, I strongly oppose this amendment. I oppose it upon the ground that it is a needless taking up of the time of the House. It is a purely capricious proposal which has come forward as

[Sir Henry Stanyon.]

the result of an inability to propose an amendment of a totally different kind.

Mr. K. B. L. Agnihotri : I take exception to Sir Henry's remarks. I had already given notice of this amendment.

Colonel Sir Henry Stanyon : If that is so, I withdraw the word 'capricious'.

Mr. K. B. L. Agnihotri : On a point of order. Is the Honourable Member in order in ascribing motives to me in moving my amendment ?

Mr. President : The Honourable Member in question has just withdrawn the word of which the Honourable Member complained. I consider it ungracious on his part not to acknowledge it.

Mr. K. B. L. Agnihotri : I am very sorry ; I did not hear that.

Colonel Sir Henry Stanyon : I would submit that this Central Legislature ought not to allow its time to be wasted on what to my mind is a triviality. There is a perfectly simple Bill before the Legislature. No doubt the figures in it have been carefully thought out by those responsible for the Bill, who are in a position to decide what are the proper proportionate figures. I therefore strongly suggest that this matter be now closed, and that the House be asked to decide for or against clause 2.

(*Honourable Members :* " I move that the question be now put ".)

The motion was adopted.

Mr. President : The original question was :

" That clause 2 stand part of the Bill."

Since which an amendment has been moved :

" That in line 5, substitute the word ' thirty ' for the word ' forty '."

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

The motion was negatived.

Mr. President : Further amendment moved :

" That in line 6, substitute the word ' sixty ' for the word ' eighty '."

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

The motion was negatived.

Clause 2 was added to the Bill.

The title and preamble were added to the Bill.

The Honourable Sir Malcolm Hailey : I beg to move, Sir, that the Bill be now passed.

Mr. President : The question is :

" That the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, be passed."

Lala Girdharilal Agarwala (Agra Division : Non-Muhummadan Rural) : Sir, I want to point out one aspect. At the present day Government servants are living beyond their means, some of them at least, as, for example, village Patwaris who are Government servants getting only Rs. 15 to Rs. 20, but they keep buffaloes ; similarly Naib Tahsildars whose pay is Rs. 70—their mode of living is very high. Then, I see,

Sir, that overseers, many of them, keep motor bikes and motor cars. Is there no rule for restraining these Government servants from borrowing money beyond their means at this time ? For example, take another case, that of sub-inspectors of police whose pay is only Rs. 60 or 70, but they generally keep two or three horses and so on, and so forth. There should, I submit, be some rule preventing these Government servants from living beyond their means and borrowing money under the influence of their position. The money-lenders are first entrapped into lending them money. A decree is passed but when the time for payment comes these people put forward this plea. At the time which they borrow the money, it is said, "oh, he is the son of a Nawab, and is very good even for Rs. 10,000 or 15,000", but when the time for payment comes, of course they shelter themselves behind this plea. I just want to impress upon the authorities, if they think it proper, that they should make a rule preventing Government servants from borrowing money beyond their means.

The Honourable Sir Malcolm Hailey : I do not think that the proposal arises strictly out of the very restricted measure that we have suggested, but I think it necessary to say, in defence of public servants generally, that in the matter of living beyond their means, I doubt whether they are worse than the rest of the population. I am a Government servant, Sir ; occasionally I have lived beyond my means ; though at the present moment I do not fall under the strictures of Mr. Agarwala, because I do not happen to be keeping a buffalo. But looking round this House, which contains both Government servants and non-Government servants, I ask non-Government servants to say whether they one and all have always and at every time kept within their means ? I ask them again to say also whether it would be possible for Government to pass a law or issue a general regulation that no man should ever live beyond his means ?

12 noon.

Sumptuary laws of this kind have been tried in the past and have invariably failed. As for preventing Government servants from getting into debt, it is well known that if a Government servant is found to be badly in debt, particularly to persons with whom he has official relations, he is called to account. It is said that by this measure we are putting a certain hardship on money-lenders and we are doing nothing to prevent Government servants from getting into debt. Now, we are putting no hardship on money-lenders at all. Money-lenders as a rule know their way about the world as well as most other people, and knowing that they cannot recover more than a certain amount under the law from Government servants, they naturally will restrict the amount which they lend to that class. Again, so far from assisting Government servants to overspend, by this very Act you are doing a great deal to prevent Government servants getting into debt, for obviously if you restrict their credit, then they cannot indulge in overliving. Indeed among the many opinions we have received on this Bill, there are some which refer to this particular point, and object to the measure on the ground that it restricts the credit of Government servants. I think, therefore, that the general consideration which has been imported into the discussion by Mr. Agarwala can be safely put aside and the House can pass this Bill without feeling either that it is doing an injury to money-lenders or that it is encouraging Government servants "to keep buffaloes."

Mr. Muhammad Yamin Khan (Meerut Division : Muhammadan Rural) : Sir, I had not the least idea of speaking at this stage of the Bill, but I think I cannot let my friend, the Honourable Mr. Agarwala's remarks pass without any comments from me. He has made certain strictures about Government servants whom this Bill does not affect at all. He has not said that this Bill is primarily meant for people who have got a salary up to Rs. 80. But his strictures were directed against some of the Government servants who get salaries above that. He has given the instance of Naib Tahsildars, Tahsildars and probably he meant in his word 'etc.' the higher class of Government servants too. It is for the money-lenders to see when they are advancing money whether they are advancing it to the proper person who can afford to repay the debt or not. He asked the Government to put some kind of restraint on the people who want to borrow for their necessity. That is not in any way justifiable when we are discussing this Bill. This could have been discussed in connection with another Bill which was dropped by this Assembly last time in Delhi. Now, he has given another reference about the patwaris, saying that a village patwari getting Rs. 15 is keeping a Buffalo and is borrowing money and living beyond his means. I wonder if my Honourable friend seriously means that a patwari is living beyond his means by borrowing money. I am a zemindar. I belong to the zemindar class of people. My family happens to possess a number of villages, and I suppose there are a good many Members here in this Assembly who belong to the zemindar class of people. They know what the patwari is, and whether he is living beyond his means by borrowing money or by extorting from agriculturists by playing one game.....

Mr. President : That is a long way from the subject of this Bill.

The question is that the Bill be passed.

The motion was adopted.

THE INDIAN INCOME-TAX (FURTHER AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg leave to move :

“That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, be taken into consideration.”

I do not think that at this stage I can add anything usefully to what was said when the Bill was introduced and to the Statement of Objects and Reasons. As each clause of the Bill comes up, I shall be very happy to give such assistance as Honourable Members desire in explaining the exact purpose of the Bill. I beg leave to move that the Bill be taken into consideration.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, I oppose this motion. It cannot be denied, Sir, that our financial position is not very good and I cannot be considered wrong, if I say, that our financial condition is bad. But the fact, that financially we are feeling embarrassed, should not induce us to become too greedy. I could not allow

us to do things which ought not to be done. Now, income-tax is levied, if I rightly understand, on two grounds. One of those grounds is this, that the man who makes a profit, that is the man who gets an income, has received and does receive the protection of the State, he gets the advantage or a number of advantages at the place where his business is. In consequence of that protection and in return for those advantages which he derives, he is called upon to pay the proportionate quota of income to the State, because the State looks after his property, the State tries to do things which promote his income. But a business man, a merchant, a trader who works in Egypt, whose seat of business is in Africa and who gives credit to his mother-country, India, and who has gone to Egypt or Africa, the enterprising man, the man who has got great go and activity in him, the man who makes money and brings that money to India, he is called upon to pay income-tax in this country (India). To my mind this is unjustified. He earned the money in other countries, he got the protection of the State in other country, he got the advantages of promoting and increasing his income in that country. India has got no right to call upon him to pay income-tax. What is his fault? He earned money there and he brought that money to India, so that the existence of that money in India may make an addition to the wealth of this country. Has he committed this mistake? Are you going to impose this fine upon him because he has brought in the money, which he earned outside your country, so that your industry and your commerce may be developed on account of the circulation of that money here? He should be given credit. His conduct should be placed at a premium; he should be allowed a concession. Instead of doing that, this Bill is going to place his good conduct at a discount. To my mind it seems to be anomalous.

Mr. President : I think the Honourable Member had better reserve his remarks till we come to clause 2; he is devoting himself entirely to clause 2.

Dr. Nand Lal : I will resume my remarks to clause 2, when we reach it.

Mr. President : The question is that the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, be taken into consideration.

The motion was adopted.

Clause 1 was added to the Bill.

Mr. President : The question is that clause 2 stand part of the Bill.
Dr. Gour :

Dr. Nand Lal : I think, Sir, I was given an understanding that I would be given an opportunity when clause 2 came to be considered.

Mr. President : Dr. Gour !

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Clause 2 raises a very important question. Honourable Members will remember that there is a very heavy income-tax, now reduced to 4s. 6d. in the

[Dr. H. S. Gour.]

pound in the United Kingdom. Now suppose Englishmen in this country receive an allowance from England or other foreign countries. That allowance has already paid an income-tax at the rate, say, of 4s. 6d. in the pound. It comes to this country and by this clause it will be subject to another tax, which may be anything from one anna in the rupee to 7 annas and 6 pies in the rupee, that being the maximum of the income-tax *cum* super-tax in this country. Now I venture to ask whether it is right and proper that these allowances that travel to and fro should be subjected to the payment of income-tax in each country. I think at one of the Imperial Conferences this question was agitated, and if I remember aright—I speak subject to correction—it was decided that some relief should be given against the levy of double income-tax in the British Empire. Now I submit that this is a question which the Honourable Finance Member should consider in this connection. Take another case. I am giving you an instance of an Englishman resident in this country receiving money from overseas. But take the very large number of cases that might be imagined of residents in British India receiving money from the Indian States. I do not know whether there is such a thing as income-tax in all the States, but I do know that in some of the States income-tax is levied. Now a firm, say in Hyderabad or Mysore, having branches in British India receives money in the ordinary course of industrial or mercantile transactions which have already paid an income-tax in the country of origin, if I may so put it, and it comes into British India, and if this clause is passed, it will be subject to the levy of income, and possibly, super-tax. Now I submit that is a question well worthy of serious consideration. I submit further I do not agree with the last speaker when he said income-tax is levied in lieu of protection granted by the State. That is not the principle of income-tax; it is levied simply because the State wants the money. There is no underlying principle behind the income-tax, and I submit therefore that, if clause 2 is passed, it will lead to the payment of a multiplicity of taxes in all the countries through which money passes. Let me give you an instance. A banker in India has got branches in four or five countries outside British India and in British India. He receives money, we shall say, from London, Paris and New York. The amount which he has received has been subject to the English and foreign income-taxes. He transmits that money to Hyderabad; has paid another income-tax. It goes to Mysore; pays another income-tax; comes to British India, and pays income-tax for the fourth time. (*Mr. K. Ahmed*: "What about barristers?") My friend ejaculates about barristers. I remember, Sir, a late Member of this House, and a distinguished Member of my profession once vehemently complained to me that the Collector of Calcutta had asked him to pay a large sum of money which he had received as fees in Hyderabad. That was about three or four years back. I can give the name privately to the Honourable Member if he wants it. Now I submit that the Government is not justified in levying these multiple and multitudinous taxes upon the mere transit of money which has not been earned in British India. If it be the principle, a principle which I do not conceive, but a principle which has often been enunciated in justification of all

these direct taxes, that the State extends to you the protection and is therefore entitled to a certain pecuniary contribution from all its subjects, if this be the right principle of taxation, then I ask, how has the British Government given me protection in regard to the money which I have received and which I have earned in a Native State ?

Mr. Denys Bray (Foreign Secretary) : I rise to a point of order. Is the Honourable Member in order in referring to Native States ?

Mr. President : He should refer to Indian States.

Dr. H. S. Gour : I think, Sir, I have corrected myself. When I looked at the furious face of the Honourable Mr. Bray, it at once occurred to me that I had trodden on his pet corn, and I hastened to correct myself before he had the opportunity to correct me.

Now I submit, Sir, that these are questions which do call for a reply, and it seems to me that on first principles we should resist the motion of passing clause 2 of the Bill.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, before we pass this clause, there is another point connected with its incidence which perhaps deserves the attention of the House. Under the previous law the practice was to estimate the income of a coming year and obtain payment of tax on the estimate. When the year for which the estimate was formed had passed, if the actual income fell below the estimate, the practice was to refund the excess amount of tax which had been drawn. Under the 1922 Act the officers of Government have taken up the position, even where the estimate made under the earlier Act for the year 1922-23 was grossly in excess of the income actually realised in the year estimated for, not to return the excess which had been taken in advance, but to pocket it and call it a hard case.

Now, it is an important point whether this sort of interpretation of the 1922 Act will fall on the Shipping Companies, that is to say estimates made.....

Mr. President : Order, order. The Shipping Companies are not in clause 2, as far as I understand. Are they ?

The Honourable Sir Basil Blackett : No ; clause 3.

Mr. President : We are on clause 2 now, solely relating to profits and gains arising from business outside of British India. The shipping clause is clause 3.

Colonel Sir Henry Stanyon : I bow to the decision of the Chair and end my remarks.

Dr. Nand Lal : Sir, I adopt the same argument which I have advanced before, but I shall make.....

Mr. President : I must remind the Honourable Member that there is a Standing Order against repetition.

Dr. Nand Lal : The Honourable gentleman who stood up first to oppose the passing of clause 2 made a reference to certain principles of taxation, but I should not take up the time of this House on questions

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which require academical debate. He and I can enter into that kind of debate somewhere else, but here to save the time of the House I may simply say, with due deference to his learning and knowledge in that connection, that he is not correct.

Now, Sir, my learned friend made a reference to a certain condition, which condition may help him. He will be pleased to see section 49. I have got to make a reference to it, in connection with the speech, which he (the first opposer to this clause) had made. Section 49 says :

“If any person who has paid Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax officer that he has paid in United Kingdom income-tax for that year in respect of the same part of his income, and that the rate at which he was entitled to, and has obtained, relief under the provisions of section 27 of the Finance Act, 1920, is less than the Indian rate of tax changed in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax and the rate at which he was entitled to, and obtained, relief under that section.”

My reading of this section leads me to believe that my learned friend's part of the argument was fallacious and wrong and it may be traceable to the fact that he owing to the lack of time failed to see this provision to-day.

Resuming my argument, and confining those arguments strictly, according to the orders of the Chair, to clause 2, I must submit that the income made in other countries and received in India, if taxed, will lead to very undesirable results. It cannot be denied, and that should be conceded by the Honourable the Finance Member as well, that the credit of the country, in many cases, depends on the wealth of the country. If the income gained or made in other countries or gains got in other countries is not brought to India, then the credit of this country will be comparatively less. Has the Honourable the Finance Member any doubt about this proposition? I believe not. Only in the month of March he was harping on the credit of this country. That was one of his main grounds; that was his mainstay. He said that the credit of this country requires that there should be an enhancement in the salt tax to balance the budget. Now, here is a point which is strictly in contradiction of what he urged then, if you are going to place this clause as an obstacle to the influx of money into this country, which was made in other countries, then, to my mind, eventually it will prove detrimental to the credit of this country. So, please do not resort to this suggestion that the money received in India may be saddled with this tax. People are already hard hit, so far as the exorbitant rate of income-tax goes; it is not an ordinary rate of income-tax. When a person issues cheques for hundreds and thousands, he comes to know how far he is parting with his money and feels the pinch. Therefore, on this ground, which is a financial ground, the Honourable the Finance Member, learned as he is and expert as he is, will accede to this contention that it is wrong to provide clause 2 in the Bill. I think it is honourable to accede and to concede. Our principal guide should be what is just and right. I hope the Honourable the Finance Member will accede to this proposition which I am placing before him. Now, the second part of this clause 2 is more defective than the first part. You will please see,

Sir, the wordings, especially referring *inter alia* to that part which is more defective according to my way of thinking :

“ for the words ‘ shall be deemed to be profits and gains of the year in which they are received or brought into British India,’ the following words shall be substituted, namely, ‘ shall, if they are received in or brought into British India be deemed to have accrued or arisen in British India ’.”

I think this is grammatically wrong. One should feel surprised so far as the grammar goes. Accrue where? According to the fallacy which is involved in this clause, this clause tells the people of this country that you should think that that income accrued in India. Nothing could be more fallacious than this. May I ask the Honourable the Finance Member how it could be said that the income, actually accrued elsewhere, could be considered as accrued here. I believe he fully understands the significance and grammatical meaning of the word “ accrual.” It could not be considered for a moment that it accrued in India. The people will laugh at us ; in any case the grammarians and lawyers will simply smile and they will just wonder how this clause has been passed by an Assembly which is composed of some trained lawyers and expert financiers. Therefore, I take exception to this. The second part of the clause, as I have already submitted, is much more defective than the first part.

With these few remarks I oppose the clause and I submit that it should be deleted.

Mr. W. Gaskell (Finance Department : Nominated Official) : Sir, I do not propose to deliver a thesis on income-tax, especially as this Bill, or rather this clause, is only designed to carry out the intention of this House when legislating last year. The words actually used in section 4 (2) have been considered to be doubtful. As a matter of fact, those profits and gains are being taxed, but we wish to avoid references to the High Courts and unnecessary litigation. No business man wants that, and it is to make the purport of the section clear that this amendment is now proposed.

With reference to double taxation, as Dr. Nand Lal has said, relief is provided both in the British Finance Act of 1920 and in our Act of 1922. As regards Indian States, the matter is already under consideration ; the results are not apparent yet, but we hope that relief will be secured.....

Dr. H. S. Gour : Are there not other foreign countries, like America, France, Japan, etc. ?

Mr. W. Gaskell : That raises another question. The question of foreign taxation is a very wide one but, as has already been laid down in the Act, so far as the profits made in India are concerned, those profits should be taxed here, and any profits made by residents of this country in foreign countries shall also be taxed when those profits are brought here. It is not a question of income generally, but of profits and gains in a business belonging to persons resident in British India.

The Honourable Member has referred to taxation of professional fees paid in Indian States. That is already distinctly provided for in section 11 (3), which reads “ professional fees paid in any part of India to a person ordinarily resident in British India shall be deemed to be profits

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or gains chargeable under this head," i.e., under the head professional earnings.

I think that there is no other point needing a reply at this moment and that this clause should be enacted.

Captain E. V. Sassoon (Bombay Millowners' Association : Indian Commerce) : Sir, as far as I can see this clause it is merely an amplification of an existing enactment which has been going for many years past. Now, Sir, Dr. Gour is very bitter or appears very bitter because on his investments in America which have already paid American taxation, when he brings them to India, he finds that he will have to pay Indian taxation as well. That is perfectly true. All I can say to Dr. Gour is that he should be very glad that he is resident in India and not in England, because if he had been resident in England—I am not sure about residence anywhere else—but if he had been resident in England, and had been amenable to English taxation as an Englishman in England, he would have not only have to pay taxation on any profits earned out of England that happened to come into England, but on all his profits whether they were brought there or not ; and I think that as long as we only tax the profits made out of the country that are actually brought into the country with the proviso that already exists, that as long as a profit made in one year is left abroad for three years it then comes in as capital and is not then subject to any taxation, that we have really no serious cause for complaint. That proviso, I think, exists under the original Act, and I take it, will remain in force under the amendment before the House. The answer, to Dr. Nand Lal's point is this : that if a resident in India makes a profit in Egypt and leaves it in Egypt for three years, he can bring it back to India without paying any income-tax to the Indian exchequer. If, on the other hand, he brings it in before the three years are up, he, a resident in India, will then have to pay Indian taxation. On the other hand, if an Indian in Egypt chooses to send a present to Dr. Nand Lal or anybody else here, he then does not have to pay any income-tax at all, because as Dr. Nand Lal well knows, gifts are not liable to taxation.

Clauses 2 and 3 were added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Basil Blackett : Sir, I beg to move that this Bill be passed.

The motion was adopted.

THE INDIAN PAPER CURRENCY (AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg to move :

"That the Bill further to amend the Indian Paper Currency Act, 1923, be taken into consideration."

Here again, Sir, I think that in view of the long and full statement of objects and reasons, it will be more for the convenience of the House

if I give any explanations, which Honourable Members may desire, on the clauses of the Bill rather than make a general speech on introduction.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I move that the discussion of this motion be postponed. This Bill was introduced by the Honourable the Finance Member on Monday last, and while introducing it he threatened this House that he was in a position to make a three-hour speech, if necessary, to explain the purport of the measure. He has not yet given effect to that threat. When he made that statement I did not think that we would be asked to take the Bill into consideration barely three days after it was introduced, because I thought that that statement made by the Honourable Finance Member was an index of the intricate nature of the measure, and I thought that we should have all papers before us before we could be asked to pass such a measure. Now, Sir, beyond the statement of objects and reasons we have got nothing as yet to guide us in our consideration of this Bill. Some time ago we read in the papers that the Honourable Finance Member had made certain promises while at Bombay, and that this Bill was brought forward in fulfilment of those promises. We also had occasion to read extracts from opinions which the different commercial bodies had expressed upon the provisions of this measure. I speak from recollection, but I think that there was some amount of difference of opinion among the commercial bodies, at least in regard to the amount by which the note issue should be increased under the provisions of section 20. Now, Sir, I briefly refer to the provisions of this Bill. There are two provisions in this Bill. The first one relates to section 20 of the consolidated Act of 1923. That section was the outcome of a recommendation made by the Babington-Smith Committee in paragraph 80 of its report. I have got that Report with me and I will quote just a few words from it. The Babington-Smith Committee said :

“ We think it desirable to provide a further limited power of expansion with a view to meeting the seasonal demand for additional currency. We recommend that it should be tried experimentally in India on a small scale, as the basis for the special power of expansion which we find to be advisable. The requirements of the case would, we think, be met by authorising in the first instance the issue of notes up to 5 crores on the security of commercial bills of exchange in addition to the normal issue. The issue would take the form of loans to the Presidency Banks on the collateral security of bills endorsed by the Presidency Banks and having a maturity not exceeding 90 days. The interest charged to the banks for such advances should be not less than 8 per cent. per annum. The advances should be outside any loans made from Government Treasury balances. The bills tendered as collateral should be *bona fide* commercial bills against goods for export, not only because such bills would lead to the automatic retirement of the emergency note issue on their maturity, but also because such bills are more easily identifiable as representing a definite commercial transaction than internal bills which may be created for purposes of finance or against goods held for speculative transactions.”

The House will note that the Babington-Smith Committee was very cautious in putting forward this recommendation. They said that this might be tried as an experiment, and we are entitled to know as to how far that experiment has succeeded during the last two years, and whether our experience justifies us in increasing the limit laid down in section 20 by more than 100 per cent. I am perfectly aware that the addition to the note issue under section 20, not being a permanent addition, cannot lead to any permanent inflation of the currency. But, Sir, the amount

[Mr. K. C. Neogy.]

by which it is proposed to increase the limit of note issue is so very large that I think we should have better information before us, before we can agree to it. At least we should be in possession of all the papers relating to this question, and we should have time to go into the opinions of the various commercial bodies.

The second point relates to the valuation of bullion in the reserve. Now, Sir, I find that it is proposed to value the silver bullion which may be obtained by melting the coins not at its proper bullion value, but at the fixed rate of one rupee per 165 grains troy of fine silver, which is the amount of fine silver contained in a silver rupee. As is well known, the rupee is a token coin; therefore, by this proposal we are perhaps appreciating our metallic reserve in so far as we propose to value the silver content of the rupee at more than its bullion value. Sir, on these two points I think we are entitled to have some more information. I speak with all humility, because I do not profess to be an expert in this matter, and I hope the Honourable the Finance Member will agree to my motion for adjournment of this debate.

Mr. President : The question is that the debate be now adjourned.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I want to speak on the motion for adjournment.

Mr. President : If the Honourable the Finance Member wishes to reply he is entitled to do so.

The Honourable Sir Basil Blackett : I think, Sir, it will be for the convenience of the House if I get up at this stage. The House will have observed that the Honourable Member who has just spoken confined himself, except in the last few words, to what is really the important clause of this Bill, namely clause 3, and if I did not give any further explanation when I first moved the motion for introduction, it was because I thought that it could be more simply done in connection with clause 3. As the House is aware, the main purpose of this Bill is to raise the limit of 5 crores which is at present fixed for the amount which can be utilised for giving special facilities for expanding the currency in times of seasonal stress. This matter has been under discussion with the business community for some little time and came to a head at the time when I had the advantage of seeing the Indian Merchants' Chamber and Bureau in Bombay in April when the matter was discussed. There are two quite separate points in this question. One is the total amount to which the maximum should be raised, and that is to be fixed by the Bill; and the other, which is a matter of regulation, is the moment at which the Imperial Bank shall be able to obtain advances of the kind contemplated in the Bill. As regards the total, our proposal is to increase it from 5 to 12 crores. There is no special virtue in 5 crores. It was an experimental figure, as the Honourable Member who has just spoken explained. It was an experimental figure tentatively suggested by the Babington-Smith Committee so that experience might be gained of what the possibilities were of this rather special method of providing seasonal currency for seasonal demands. There is no special virtue in the figure 12 which we propose now. This is a matter in which one is bound, I think, to proceed by stages as experience shows how far

one should go. The only clear deduction that can be made, I think, from the experience that we have had so far is that 5 crores is insufficient. We do not know yet whether 12 crores will be too much or too little or what is the right amount. It cannot perhaps be too much because it is subject to the restriction that it will be under the control of the Government and under the advice of the Imperial Bank, no doubt, too, that the decision will be taken to what extent it is to be used. Another very considerable difficulty is that, as things are at present, it is very doubtful whether the security in the form required to be deposited for such advances from the Paper Currency Act could be got together to a total exceeding 12 crores. It certainly could not be done at present. At the present moment 12 crores is probably rather more than the amount that could be covered by hundies in the hands of the Imperial Bank. No doubt, the Imperial Bank will take steps to increase the amount of hundies that they hold and convert other forms of credit into the hundy form, and no doubt the fact that there are advantages to be obtained in the way of seasonal currency by the use of hundies rather than other instruments will gradually tend to an increase in the amount available ; but for the moment, 12 crores is certainly more than is likely to be or as much as is likely to be available, and therefore 12 seems a reasonable figure to fix for the total amount of seasonal currency to be issued from the Paper Currency Reserve to the Imperial Bank. If the experience of another year or two makes it evident that another figure would be better than 12, it will be open to the Legislature and to the Government to introduce amending legislation fixing some other figure. I do not know whether the House would desire me to go into a further explanation. The problem that has to be met is one that is common to other countries but is probably rather more severe in India than elsewhere. The point is that the seasonal currency problem in India arises from the fact that, when the crops have been harvested, payment has to be made for them by dealers whose balances have to be kept in the form of credit to growers whose balances are kept in the form of cash, so that, during that period, the dealers have to draw out the rupees required and, if they have not sufficient balances at the bank, have to borrow. The cash resources of the banks are diminished and the loans required from the bank have been increased. If the banks have no other means of obtaining fresh currency, they are bound to defend their cash resources by raising the rate of interest and discount. The system which we are now considering enables the Government to lend from the paper currency to the Imperial Bank and so to increase the cash resources of the banks during the season when, owing to this outflow of currency, the cash resources of the money markets are reduced, subject to an arrangement that, when those rupees come back from circulation, they will be again withdrawn and will not become a permanent addition—or will not be in danger of becoming a permanent addition to the circulating medium of the country. If they did, the effect of the first flow of additional currency out might very well be to start the usual vicious circle of inflation and raise prices and do all the things against which every currency system has to guard. The advantage in this system is that, owing to the nature of the security which the Imperial Bank has to put up for these advances—which is self-liquidating as the phrase is—the extra currency is automatically withdrawn as soon as the

[Sir Basil Blackett.]

seasonal demand for it is over. I admit that it is not quite clear what the ultimate results of the existence of this power will be or may be. We have not had sufficient experience of it at present. One of its results might possibly be to cause an additional lock-up of cash in the period during the summer when money is usually easy with the result that the additional currency in the winter would merely fill a gap in the normal currency and not supply additional currency. I think, however, the various conditions attached to this arrangement are sufficient, so far as we can see, to guard against any such danger. There is, of course, the condition that the total amount of additional currency, that can be created is limited. That is the condition in the Act. There is the further condition, laid down by rules framed by the Government of India, that the amounts to be borrowed cannot be borrowed as things stand at present unless the bank rate is as high as 8 per cent. That, we think, is too high, and we have a plan which we propose to put into force if the Bill is carried to reduce the minimum rate from 8 to 6, and arrange that the advances shall be made on a sliding scale :—Not more than 4 crores so long as the bank rate does not exceed 6 per cent. ; a further 4 crores or rather a maximum of 8 crores while the bank rate does not exceed 7 per cent. ; and a further 4 crores or another maximum of 12 crores so long as the bank rate does not exceed 8 per cent. ; the bank all the time paying interest at bank rate for the time being on these advances. I think that these safeguards are sufficient to prevent possible dangers. At the same time, it is a system which I say is experimental and will have to be watched. It is not exactly parallel to any system that I know of in any other part of the world, though it is very like the system that has been tried and found useful—I think Germany was the best example of it—before the war of a sliding scale of rate of interest at which extra currency could be provided by the Imperial Bank of Germany at times of seasonal pressure. The scale which I have mentioned is the scale which the Government propose to adopt for the present, but that again is experimental. The Government will be in a position without further power from Parliament to modify that scale and to reduce, if they wish, or to increase the minimum bank rate at which advances can be begun to be made. In a case of this sort, what you want is elasticity and the trouble about rules is that they are not elastic. There are no doubt years of booming trade in which the minimum of 6 per cent. is very likely too low. There are years when trade is not booming or is even not flourishing when 6 per cent. may be much too high. However, one has to some extent to work by rule of thumb in a matter of this sort. It would upset the market if they did not know in advance at what minimum rate the bank could begin to borrow. At any rate, as I have said, the whole thing is an experiment. All that we ask for in the Bill is power to raise the maximum from the present figure of 5 crores to the total of 12 crores, to give an opportunity for the experiment already begun to be continued in circumstances which will give it a better opportunity of proving its value, the one thing that is clear, from the present experience, being that 5 crores is too little. So far as I am aware, there is general agreement among the business community who have been consulted that the total should be raised. I think also that the figure of 12 crores, provided that it is an experimental

figure, is accepted fairly generally. Everybody has a scale of his own as to the minimum and maximum rates at which advances should be made and as to the amounts which are to be made at each rate. But generally speaking, so far as I can judge,—Honourable Members, I think, will support me—there is a general consensus of opinion among those who have studied the subject that this is a clause which ought to be passed and which will be for the benefit of India's currency and credit machinery. As regards clause (2), the position at present is that silver bullion in the reserve has to be valued at the price in rupees at which it was purchased. We have been for some little time receiving back from circulation subsidiary silver coinage, and as things stand, we have no option but to recoin it. I mean worn subsidiary coinage. It is just a small provision in the existing legislation where a lacuna has been found. Where worn silver coin comes back from circulation, the natural thing to do is to melt it down, and if you want more silver coins, rupees or subsidiary, to recoin it. At the present moment there is no need for additional coinage, as to some extent the existing circulation is redundant, that is to say, the amount of it in reserve is ample and there is no need even for subsidiary coinage to be re-issued at the present time.

But the present law obliges us to re-issue—re-coin—although we do not need to do so. If we do not re-issue it, we have of course to keep it in reserve,—but we have actually to re-coin. That is really mere waste. I am not quite sure whether this was actually mentioned by the Incheape Committee, but this point came to notice as the result of an examination of the Mint accounts at the time of the Incheape Committee Report. In order to save ourselves from the unnecessary labour and cost of re-coining subsidiary silver we propose to take power to keep it in the form of silver bullion. The exact rate at which it should be valued should be, in accordance with the existing Act the price at which it was purchased, namely, its value as the subsidiary coin when withdrawn from circulation. For the moment it is true that there is some slight difference between the value of silver in the form of bullion and its value at this automatic rate, but it is a very small portion of the Reserve that is affected by this withdrawal of subsidiary coinage and there is every reason to suppose that the small difference will be made good again as soon as the subsidiary coinage comes to be re-issued. It did not seem desirable that there should be a considerable charge on the revenues of the year to make good to the Paper Currency Reserve what is really a purely book deficit for the moment, which might be a surplus if the value of silver changed, and as none of the silver in the reserve that is held is valued at the rate of the day but at the rate at which it was purchased. We are in this case following in the spirit the same rule, that subsidiary bullion that comes into the Reserve as the result of withdrawal of subsidiary silver shall be valued at the rate at which it was purchased.

(At this stage Mr. S. C. Shahani rose.)

Mr. President : Does the Honourable Member wish to speak on the motion for adjournment ?

Mr. S. C. Shahani : Yes, Sir, on the question of adjournment. I beg to point out that it will be undesirable to adjourn the discussion of this

[Mr. S. C. Shahani.]

very beneficial measure. I think congratulations are due from the Assembly to the Finance Member for introducing this Bill and thus responding to public opinion. We have witnessed a tragic performance in the early part of the year when whatever the public opinion the Government shaped its action according to its own conceits. It is very refreshing to see that the Finance Member on this occasion has not been impervious to public opinion. Our currency has been very inelastic. The official bank rate of interest in India during 1921 and 1922 has been unduly high. It has been 8 to 9 per cent. When that is the rate of interest of the Imperial Bank of India we can easily realise that the bazar rate for small merchants and shop-keepers, who form the backbone of the Mercantile Community, will be in some cases automatically raised to double that rate. At any rate, it will be quite safe to state that the average bazar rate that comes to prevail when the Imperial Bank rate is 8 per cent. will be 12 per cent. or more. In these circumstances when the blessings of cheap credit are unknown, I think, it is extremely necessary that the Indian small traders should be somehow aided. This measure will not meet all the needs of the country. Nevertheless it will be a step in the right direction. This measure affects internal commercial Bills of exchange or hundis, and not the foreign Bills of exchange, for which there already is a means of making our currency more elastic, *viz.*, the sale of council drafts and reverse councils, whereby the Secretary of State expands or contracts the money circulating in India. No doubt this arrangement has proved at times highly artificial, and we have known its breakdown. But still at times it has been found very useful. A similar arrangement ought to exist in India with regard to internal Bills of exchange too. Unfortunately the issue of notes is entirely the monopoly of the Government of India. In seasonal scarcity the banks here have no power to manufacture money. The Finance Member came forward to state that the measure that was being proposed by him had no parallel in other countries. How could it have any parallel in other countries where the issue of notes is delegated as an important subtle trade function to the national banks. Here our banking is in a primitive condition and the Government manages the issue of notes. No doubt the Government realises certain revenue from this monopoly. But then if on account of this monopoly it does realise some revenue, it also is tempted to inflate the Currency of India to finance its Schemes, and, as happened last year, does seek to swallow the revenue from the paper currency reserve to wipe out budget deficits. It will be remembered it was seriously proposed last year that a large part of the revenue derived from the paper currency reserve should be applied to the covering of the deficit—an absurd proposal, which, however, found acceptance with not a few who did not understand the question of currency and exchange. Then again the reserve of paper currency no doubt comes from the home pressure to be invested in depreciated British securities. Of course, if Government required merely the revenue, it might enter, as has been done in the Netherlands, into a kind of profit sharing agreement with the Imperial Bank. But the Imperial Bank as a note issuing bank would need to be made more national than it is at present. It is the bigger Indian merchant and the European merchant whose interests dominate its

present constitution. The transfer of the note issuing function is, however, an ideal for the future. For the present the measure under consideration will not only relieve the situation but to a certain extent anticipate and prevent monetary stringency. Only it is to be hoped that the Finance Member will contrive a situation in which instructions could be issued to the Imperial Bank of India for utilizing the expanded currency that is placed at its disposal by the Government more freely for the benefit of the commoner merchants and the smaller business men in India, so that the trade of India may be carried on with greater facility and the industries of the country may be aided. The measure is, as I have said, a very beneficial measure. In normal times the people will pay less for their borrowings. The maximum limit of the issue of notes is to be raised from 5 to 12 crores. 12 crores is no doubt an experimental figure. But one is to be guided by instinct in matters such as this the fixing of limits to the issue of notes. The limit of 12 crores will probably prove satisfactory. I am not at all satisfied that the loans should be granted when the bank rate comes to be 6 per cent. and not lower. My own idea is that the rate at which the grant of loans should be started should be 5 per cent. It is true that the general rate of interest at which the Government of India raises loans is $5\frac{1}{2}$ per cent., mainly because the general rate of interest runs high. But then you have got to bear in mind the fact that Government realises a great deal of profit from this monopoly of the issue of notes ; and if it incurs even some loss in order to bring down the prevailing rate of interest and thus accommodate the smaller merchants and facilitate the working of industries in India it would be only discharging its heavy responsibility as a note issuing Government. The rate of interest at which the additional Currency should be available for loans should be lowered. It should be 5 per cent. instead of 6 per cent. This is thus on the whole a distinctly beneficial measure, subject to the considerations to which I have just referred ; and I think we ought not to postpone but pass it.

Mr. President : The question is that the debate be adjourned.

The motion was negatived.

Mr. President : The question is :

“ That the Bill further to amend the Indian Paper Currency Act, 1923, be taken into consideration.”

The motion was adopted.

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

The Honourable Sir Basil Blackett : Sir, I move that the Bill be passed.

The motion was adopted.

THE INDIAN STAMP (AMENDMENT) BILL.

Mr. President : I have to announce at once that as we have practically completed the business on the List of Business to-day, the Select Committee on the Stamp Bill which was summoned to meet at 4 o'clock this afternoon will meet at 2-30.

THE INDIGO CESS (REPEALING) BILL.

Mr. M. S. D. Butler (Secretary, Department of Education, Health and Lands) : Sir, I beg to move :

“ That the Bill to repeal the Acts which provide for the levy of a cess on indigo exported from British India be taken into consideration.”

When I introduced this Bill, Sir, I explained that the purpose for which this cess had been imposed had been fulfilled. It is therefore desired not to collect it any longer and to repeal the Acts.

The motion was adopted.

Clauses 1 and 2 and the Title and Preamble were added to the Bill.

Mr. M. S. D. Butler : Sir, I beg to move that the Bill be passed.

The motion was adopted.

THE PUBLIC ACCOUNTS COMMITTEE.

Mr. President : I understand that the Public Accounts Committee was summoned to meet to-day at 4 o'clock. Owing to the despatch of business here, it has now been summoned to meet at 3-15 this afternoon.

AMENDMENT OF STANDING ORDERS.

Mr. President : The last item on the list of business is a motion that the report of the Select Committee on the Standing Orders be taken into consideration. Honourable Members may no doubt feel that it is a little irregular for any motion to be moved from the Chair ; but a motion of this character stands in a peculiar situation. Under the Standing Order relating to the amendment of Standing Orders the President of the Legislative Assembly is the Chairman of the Select Committee. Though I should have preferred to have moved this motion from the floor of the House, Rule 3, I think, effectively prevents me from doing so, because my Deputy or a Chairman of the Panel can only preside in my absence, and I do not think that by any conceivable ingenuity I could claim I was absent from the Chamber even though at this moment I am addressing it in the character of Chairman of that Select Committee.

The Report of the Select Committee has already been presented and I think a very few words only are needed to explain the circumstances out of which these new Standing Orders arose. On the 15th September, 1921, Sir Maunckji Dadabhoj moved a Resolution in the other Chamber asking for the appointment of a Committee to deal with the general question of petitions to the Legislature. The debate which arose out of that proceeded on lines which show that the other Chamber desired to endorse the Resolution ; but the Resolution itself was actually withdrawn

and an undertaking given by the then Home Member that the Government would take the matter up. Thereupon,—I am not sure whether the Governbr General in Council or the Home Department appointed a Committee under the chairmanship of my Honourable Colleague, the President of the Council of State, the Committee consisting of 6 members who sat in the early part of 1922. The Committee produced a report which I have no doubt Honourable Members have all read. It went into the historical origin of the presentation of petitions to the Imperial Parliament, and showed that whereas at a certain time in the parliamentary history of England, petitions played a very large and effective part in the public life of the country, as the functions both of the Legislature and of the Judicature developed, these petitions lost much of their importance. None the less, they still play some part in parliamentary proceedings in England, and the Committee thought it proper to recommend that they should also play some part in the proceedings of the Indian Legislature. Sir Alexander Muddiman's Committee's Report was duly transmitted to the Home Department, and I understand that the other Chamber took action upon it some months ago.

The House will remember that as far as we are concerned, the Home Member moved on the 21st March of the present year a motion for a Select Committee to which he desired to refer the draft of a petition which found a place in the original report of Sir Alexander Muddiman's Committee. But meanwhile, though the motion of the Honourable Home Member referred only to petitions in relation to Bills pending before the Legislature, a precedent had been established here last September when the House received a largely signed petition from the Presidency of Madras, on the subject of provincial contributions to the central exchequer; and though, in receiving that petition, I was aware that I was setting up a precedent, I think it was not an improper precedent. At the same time I warned the presenter of that petition that the procedure then adopted must not be regarded as laying down a procedure on those lines for all time. While the motion of the Honourable the Home Member, which was duly carried, referred certain draft Standing Orders to a Select Committee, and the Report of the Select Committee now before you points out that their consideration was restricted to the subject of petitions relating to Bills pending before the Legislature, the Committee, as you will observe, said:

“ We think that it is beyond our functions to propose any procedure for the presentation to the House of petitions on other public matters. At the same time, we desire to remind the House that petitions on another matter have been presented to the House, and we record our opinion that it is desirable that the Standing Orders should be further amended to regularise the practice.”

The regularization of that practice remains for another time. The Report of the Select Committee, I think, speaks for itself, and all that remains for me to do now is to commend the motion that the Report of the Select Committee on the Standing Orders be taken into consideration.

The motion that the Report of the Select Committee on the Standing Orders be taken into consideration was adopted.

Mr. President: I propose to read each Standing Order individually to the House.

[Mr. President.]

The question is :

“ That after Standing Order 76 the following be added as Standing Order 77 under the title of Chapter XIII.—Petitions relating to Bills :

‘ 77. Petitions relating to a Bill which has been published under rule 18, or which has been introduced, or in respect of which notice of a motion has been received under the Standing Orders, may be presented or submitted in accordance with the Standing Orders ’.”

The motion was adopted.

Mr. President : The question is :

“ That the following shall be added as Standing Order 78 in the same Chapter :

‘ 78. Any such petition may be presented by a Member, or be forwarded to the Secretary, in which latter case the fact shall be reported by him to the Chamber, and no debate shall be permitted on the making of such report ’.”

The motion was adopted.

Mr. President : The question is :

“ That the following be added as Standing Order 79 :

‘ 79. A Member presenting a petition shall confine himself to a statement in the following form : ‘ I present a petition signed by....., petitioners regarding.....Bill,’ and no debate shall be permitted on this statement ’.”

The motion was adopted.

Mr. President : The question is :

“ That the following be added as Standing Order 80 :

‘ 80. (1) A Committee on petitions shall be constituted at the commencement of each session and shall consist of the Deputy President who shall be chairman and four Members nominated by the President of whom one shall be a chairman of the Assembly. In the absence of the Deputy President the chairman of the Assembly shall preside.

(2) The President may, if he thinks fit, fill up any vacancies occurring on the Committee during the session ’.”

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I beg to point out that one or two changes are necessary in the Standing Order which is to be numbered 80, and which says that a Committee on petitions shall be constituted at the commencement of each session and shall consist of the Deputy President who shall be Chairman and four members nominated by the President of whom one shall be a Chairman of the Assembly. It is only desirable that Members should be elected by the Assembly and not nominated by the President. Election according to me would be more satisfactory. Some make themselves very disagreeable by plainly and directly speaking out their ideas. In these circumstances, Sir, we shall be only serving the purposes for which this Assembly is intended if we go in more and more for the principle of election. I therefore move an amendment to the effect that for the words “ nominated by the President ” the words, “ elected by the Assembly ” be substituted.

Mr. President : Amendment moved :

“ To omit the words ‘ nominated by the President ’ in order to insert the words ‘ elected by the Assembly ’.”

The Honourable Sir Malcolm Hailey (Home Member) : Might I point out to the Honourable Member the exact functions of this

Committee ? If he will refer to the proposed Standing Order No. 82, he will see exactly what that Committee has to do. It has to examine a petition and report to the Chamber stating the subject-matter of the petition, the number of persons by whom it is sent and whether it is in conformity with the Standing Orders. Simply that and nothing more. Does the Assembly really wish to proceed to the trouble of electing Members among its body simply in order to discharge these somewhat ministerial functions ? They are hardly discretionary ; they do not depend on the constitution, parties or views of the Members. They have nothing to do with politics or with the attitude of members to Government.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, I would oppose the amendment as inconsistent. We already have a Standing Order to the effect that a panel of four Chairmen shall be appointed by the President to preside, in the absence of the President and Deputy President, in the Assembly generally.

Mr. S. C. Shahani : Even that should be altered.

Colonel Sir Henry Stanyon : Surely it is consistent with that Standing Order that this very much less important thing should be left to the discretion of the President.

Dr. Nand Lal : (West Punjab : Non-Muhammadan) : Sir, on principle I should like that everything, which has to be done in connection with any affair relating to the public, may be done, seen, examined, and performed by elected Members. The time has come when the question of nomination should be in the background. I whole-heartedly endorse the amendment, which to my mind is very important. I will not go into the same points which have been urged. I will content myself with this remark that the Honourable the Home Member, I believe, will withdraw his opposing remarks and support the amendment, which will eventually prove more useful and which will relieve him, as the Leader of the House, of some responsibility. Apart from that if anything is done by elected Members, the responsibility of those who now nominate will be very much minimised. If I were so fortunate as he is, I would have really preferred the course which has been recommended by the amendment.

The Honourable Sir Malcolm Hailey : I do not nominate ; the Honourable the President nominates.

Dr. Nand Lal : Certainly, I know that. I am not forgetful of that. But you, Sir, have opposed the amendment and practically supported the original motion.

The Honourable Sir Malcolm Hailey : I have greater reliance on the Honourable the President than Dr. Nand Lal appears to have.

Mr. President : I should entirely agree with Mr. Shahani and Dr. Nand Lal if this were a Committee in any way dealing with matters of opinion or policy. There I think the principle of election is necessary and has been provided for in all Committees which deal with matters

[Mr. President.]

of that kind. But this is a Committee which has *quasi-judicial* functions of a peculiar character, and as a rule in the House of Commons Committees of this kind are appointed either by the Speaker or by the Committee of Selection. I think, on the whole, the sense of the House is opposed to the principle of election here. I put the amendment :

“ In proposed Standing Order No. 80, omit the words ‘ nominated by the President ’ in order to insert the words ‘ elected by the Assembly ’.”

The question is that that amendment be made.

The motion was negatived.

Mr. President : The question is that Standing Order No. 80 be adopted.

The motion was adopted.

Mr. President : The question is that the following be added as Standing Order No. 81 :

“ 81. Every petition after presentation by a Member or report by the Secretary, as the case may be, shall be referred to the Committee.”

The motion was adopted.

Mr. President : The question is that the following be added as Standing Order No. 82 :

“ 82. The Committee shall examine every petition referred to it, and shall report to the Chamber stating the subject matter of the petition, the number of persons by whom it is signed, and whether it is in conformity with the Standing Orders. If the petition complies with the Standing Orders the Committee may, in its discretion, direct that it be circulated as a paper to the Bill to which it relates. The Committee shall in its report state whether circulation has or has not been directed, and, where circulation has not been directed, the President may in his discretion direct that the petition be circulated. Such circulation shall be of the petition in extenso or of a summary thereof as the Committee or the President, as the case may be, may direct.”

The motion was adopted.

Mr. President : The question is that the following be added as Standing Order No. 83 :

“ 83. Every petition shall :

- (i) either be in English and in print or if not in English be accompanied by an accurate English translation in print ;
- (ii) if presented by a Member, be counter-signed by him ; and
- (iii) be couched in respectful and temperate language.”

The motion was adopted.

Mr. President : The question is that the following be added as Standing Order No. 84 :

“ 84. The full name and address of every signatory to a petition shall be set out therein and shall be authenticated by the signatory, if literate by his signature, and if illiterate by his thumb impression.”

The motion was adopted.

Mr. President : The question is that the following be added as Standing Order No. 85 :

“ 85. Every petition shall be addressed to the Legislative Assembly and shall conclude with a prayer reciting the definite object of the petitioners in regard to the Bill to which it relates.”

The motion was adopted.

Mr. President : The question is that the following be added as Standing Order No. 86 :

“ 86. The general form of petition set out in Schedule II, with such variations as the circumstances of each case require, may be used and, if used, shall be sufficient.”

The motion was adopted.

Mr. President : The question is that the following Schedule be added to the Standing Orders as Schedule II, namely, in the form appearing on the paper.

“ SCHEDULE II

FORM OF PETITION.

(See Standing Order 86.)

TO THE LEGISLATIVE ASSEMBLY.

WHEREAS a Bill entitled a Bill*

is now under the consideration of the Indian Legislature the humble petition of†

sheweth‡

and accordingly your petitioner (or petitioners) pray that§

and your petitioner(s) as in duty bound will ever pray.

Name of petitioner.	Address.	Signature or thumb impression.

Countersignature of Member presenting.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Monday, the 9th July, 1923.

* (Here insert title of Bill)

† (Here insert name and designation or description of petitioner or petitioners in concise form, e.g., “ Ram Lal and others ” or “ the inhabitants of..... ” or “ the municipality of.....,” etc.)

‡ (Here insert concise statement of case.)

§ (Here insert “ that the Bill be or be not proceeded with,” or “ that special provision be made in the Bill to meet the case of your petitioner,” or any other appropriate prayer regarding the Bill.)