

Monday, 22nd March, 1926

**THE  
COUNCIL OF STATE DEBATES**

**(Official Report)**

**VOLUME VII**

---

**FIRST SESSION**

**OF THE**

**SECOND COUNCIL OF STATE, 1926**



**DELHI  
GOVERNMENT OF INDIA PRESS  
1926**

## CONTENTS.

	PAGES.
<b>MONDAY, 8TH FEBRUARY, 1926—</b>	
Members Sworn ... ..	1—2
Bills passed by the Legislative Assembly—Laid on the Table ...	2
<b>TUESDAY, 9TH FEBRUARY, 1926—</b>	
Inauguration of the Second Council of State ... ..	3—8
<b>WEDNESDAY, 10TH FEBRUARY, 1926—</b>	
Member Sworn ... ..	9
Questions and Answers ... ..	10—29
Welcome to Members by the Honourable the President ... ..	29—30
Messages from His Excellency the Governor General <i>re—</i>	
(1) Panel of Chairmen ... ..	30
(2) Presentation and Discussion of the Railway Budget ... ..	30
Committee on Petitions ... ..	31
Appointment of the Honourable Mr. K. C. Roy to the Library Committee.	31
Governor General's Assent to Bills ... ..	31
Bills passed by the Legislative Assembly—Laid on the Table ...	32
Election of a Panel for the Standing Committee on Emigration ...	32
Resolution <i>re</i> Ratification of the Draft Convention of the International Labour Conference concerning Workmen's Compensation for Occupational Diseases—Adopted.	32—37
Resolution <i>re</i> Continuation of the Imposition of a Customs Duty on Lac—Adopted.	37—41
Statement of Business ... ..	41—42
<b>MONDAY, 15TH FEBRUARY, 1926—</b>	
Members Sworn ... ..	42
Questions and Answers ... ..	43—62
Election to the panel of the Standing Committee on Emigration ...	62
Bills passed by the Legislative Assembly—Laid on the Table ...	62
Resolution <i>re</i> the Royal Commission on Agriculture—Adopted ...	62—81
Resolution <i>re</i> Reduction of the travelling and daily allowances of the Members of the Council of State—Discussion postponed <i>sine die</i> .	81—90
Statement of Business ... ..	90
<b>TUESDAY, 16TH FEBRUARY, 1926—</b>	
Member Sworn ... ..	103
Messages from His Excellency the Governor General ... ..	103
Bill passed by the Legislative Assembly—Laid on the Table ...	104
Small Cause Courts (Attachment of Immoveable Property) Bill—Passed.	104—105
Code of Criminal Procedure (Amendment) Bill—Passed ... ..	105
Government Trading Taxation Bill—Passed ... ..	106
Guardians and Wards (Amendment) Bill—Passed ... ..	106—107
Indian Lunacy (Amendment) Bill—Passed ... ..	107—108
<b>WEDNESDAY, 17TH FEBRUARY, 1926—</b>	
Questions and Answers ... ..	109—111

	PAGES.
<b>WEDNESDAY, 17TH FEBRUARY, 1926—contd.</b>	
Private Notice Questions and Answers ... ..	111—113
Statement regarding Negotiations with the Union Government of South Africa.	113—115
Resolution <i>re</i> Leader of the Indian Delegation to the League of Nations—Adopted.	115—132
Resolution <i>re</i> Formation of a separate Kannada Province—Negatived	132—144
<b>THURSDAY, 18TH FEBRUARY, 1926—</b>	
Member Sworn ... ..	145
Bills passed by the Legislative Assembly—Laid on the Table ..	145
The Railway Budget for 1926-27 ... ..	145—161
Elections to the Panel for the Standing Committees on Emigration ...	162
Resolution <i>re</i> Appointment of a Royal Commission to inquire into the working of the Indian Constitution—Negatived.	162—215
Election of Panels for Standing Committees ... ..	215
<b>SATURDAY, 20TH FEBRUARY, 1926—</b>	
Questions and Answers ... ..	217—249
Nominations to the Panels for Standing Committees ... ..	220
Bills passed by the Legislative Assembly—Laid on the Table ...	220
General discussion of the Railway Budget ... ..	220—254
Statement of Business ... ..	254
<b>MONDAY, 22ND FEBRUARY, 1926—</b>	
Members Sworn ... ..	255
Statement laid on the Table ... ..	255—257
Indian Medical Education Bill—Introduced ... ..	258
Election of a Panel for the Central Advisory Council for Railways ...	259
<b>TUESDAY, 23RD FEBRUARY, 1926—</b>	
Questions and Answers ... ..	261—262
Code of Civil Procedure (Amendment) Bill—Passed ... ..	262
Indian Naturalization Bill—Passed ... ..	263—265
Steel Industry (Amendment) Bill—Passed ... ..	265—268
Insolvency (Amendment) Bill—Passed ... ..	268—269
Code of Criminal Procedure (Second Amendment) Bill—Passed ...	269—284
Madras Civil Courts (Amendment) Bill—Passed as amended ...	285—286
Resolution <i>re</i> Grant of Supplementary Assistance to the Tin-plate Industry—Adopted.	286—290
Nominations to the Panel for the Central Advisory Council for Railways.	290—291
<b>THURSDAY, 25TH FEBRUARY, 1926—</b>	
Questions and Answers ... ..	293—296
Legal Practitioners (Amendment) Bill—Passed as amended ...	296—297
Promissory Notes Stamp Bill—Passed ... ..	297—298
Indian Trade Unions Bill—Passed as amended ... ..	298—304
Election of a Panel for the Central Advisory Council for Railways ...	305
Nominations to the Panels for Standing Advisory Committees ...	305—306
<b>MONDAY, 1ST MARCH, 1926—</b>	
Questions and Answers ... ..	307—316
Result of the Election to the Central Advisory Council for Railways ...	317

MONDAY, 1ST MARCH, 1926—*contd.*

Election to the Advisory Publicity Committee of Messrs. Ramadas Pantulu and Khaparde.	317
Elections to the Panels of Departmental Standing Committees	317
General Budget for 1926-27	317-327

## TUESDAY, 2ND MARCH, 1926—

Result of the Elections for the Panels of the Standing Departmental Committees.	329
Contempt of Courts Bill—Passed	330-341
Indian Medical Education Bill—Motion to circulate—Adopted	341-343
Photographic group of the Members of the Council of State	343

## WEDNESDAY, 3RD MARCH, 1926—

Resolution <i>re</i> Import Duty on Artificial Ghee—Withdrawn	345-359
Indian Registration (Amendment) Bill—Passed	359

## SATURDAY, 6TH MARCH, 1926—

Questions and Answers	361-373
General Discussion of the Budget (Part II)	373-422
Statement of Business	422

## MONDAY, 8TH MARCH, 1926—

Questions and Answers	423-424
Resolution <i>re</i> Guarantee of Appointments on State Railways to qualified students of the Madras Engineering College, Lahore, etc.—Negated.	424-438
Resolution <i>re</i> Privileges and Status of Members of the Council of State—Adopted.	438-442

## WEDNESDAY, 10TH MARCH, 1926—

Questions and Answers	443-450
Resolution <i>re</i> Qualifications of Assistant Commissioners of Income-tax—Withdrawn by leave of the Council.	451-458
Resolution <i>re</i> Banking Legislation—Discussion adjourned	458-466

## MONDAY, 15TH MARCH, 1926—

Questions and Answers	467-471
Resolution <i>re</i> Salaries of the two Members of the Judicial Committee of the Privy Council with Indian Experience—Adopted as amended.	471-488
Resolution <i>re</i> Creation of a self-governing Tamil-speaking Province—Discussion adjourned.	489-505

## TUESDAY, 16TH MARCH, 1926—

Statement laid on the Table	507-543
Bills passed by the Legislative Assembly—Laid on the Table	544
Resolution <i>re</i> Reduction of the Exports of Opium—Adopted	544-547
Resolution <i>re</i> Creation of a self-governing Tamil-speaking Province—Negated.	548-562
Statement of Business	562

## WEDNESDAY, 17TH MARCH, 1926—

Questions and Answers	563
Bill passed by the Legislative Assembly—Laid on the table	564
Indian Succession (Amendment) Bill—Introduced	564-565
Message of Gratitude from the Council of State to Their Excellencies the Earl and Countess of Reading—Motion adopted	565-579

## FRIDAY, 19TH MARCH, 1926—

Members Sworn ...	...	...	...	...	...	581
Message from His Excellency the Governor General ...	...	...	...	...	...	581
Bills passed by the Legislative Assembly—Laid on the Table ...	...	...	...	...	...	581—582
Message from the Legislative Assembly ...	...	...	...	...	...	582
Indian Tariff (Amendment) Bill—Passed ...	...	...	...	...	...	582—583
Madras Civil Courts (Second Amendment) Bill—Passed ...	...	...	...	...	...	583—584

## MONDAY, 22ND MARCH, 1926—

Members Sworn ...	...	...	...	...	...	585
Question and Answer ...	...	...	...	...	...	585
Message from H. E. the Governor General ...	...	...	...	...	...	585—586
Indian Finance Bill—Passed ...	...	...	...	...	...	586—611
Cotton Industry (Statistics) Bill—Passed ...	...	...	...	...	...	611—612
Legal Practitioners (Fees) Bill—Passed ...	...	...	...	...	...	612—613
Code of Civil Procedure (Second Amendment) Bill—Passed ...	...	...	...	...	...	613
Delhi Joint Water Board Bill—Passed ...	...	...	...	...	...	613—614
Indian Income-tax (Amendment) Bill—Passed ...	...	...	...	...	...	614—630
Indian Divorce (Amendment) Bill—Passed ✓...	...	...	...	...	...	630—632
Indian Factories (Amendment) Bill—Passed ...	...	...	...	...	...	632
Transfer of Property (Amendment) Bill—Passed ...	...	...	...	...	...	<del>632</del>

## TUESDAY, 23RD MARCH, 1926—

Questions and Answers ...	...	...	...	...	...	635—641
Resolution <i>re</i> Emigration of Indian Unskilled Labourers to British Guiana—Adopted.	...	...	...	...	...	641—643
Indian Succession (Amendment) Bill—Passed as amended ✓...	...	...	...	...	...	643—644

## THURSDAY, 25TH MARCH, 1926—

Farewell speech delivered to the Council of State and the Legislative Assembly by His Excellency the Viceroy.	...	...	...	...	...	645—649
---	-----	-----	-----	-----	-----	---------

# COUNCIL OF STATE.

*Monday, 22nd March, 1926.*

---

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

---

## MEMBERS SWORN:

The Honourable Lala Sukhbir Sinha (United Provinces Northern: Non-Muhammadan) and The Honourable Albert Frederick Lucas Brayne, C.I.E. (Financial Adviser, Military Finance).

---

## QUESTION AND ANSWER.

### REPORT OF THE ANDAMANS DEPUTATION.

198. THE HONOURABLE SAIYED MUHAMMAD PADSHAH SAHIB BAHADUR: Will the Government of India be pleased to state:

- (a) whether they have received the Report of the Special Committee appointed to inquire into the fitness of the Andamans for Moplah colonisation;
- (b) if so, whether the Government propose to give effect to the recommendations made by the Committee;
- (c) if not, why not; and
- (d) whether they propose to publish the Committee's Report in the Gazette of India and, if so, when?

THE HONOURABLE MR. J. CRERAR: The Report has only recently been received and no decisions in regard to the recommendations contained in it have been reached. The question of its publication will be considered.

---

## MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

THE HONOURABLE THE PRESIDENT: I have a Message for the Council from His Excellency the Governor General. The Message takes the form of a letter from the Private Secretary to His Excellency:

"I am desired to acknowledge the receipt of your letter No. 942 A.C., dated 17th March, conveying the text of a motion unanimously adopted by the Council of State on the 17th March last, and forwarding a copy of the discussion on the motion. The papers have been laid before His Excellency the Viceroy and Governor General. His Excellency deeply appreciates the kind thought which prompted the Mover to bring this motion before the Council, and is greatly encouraged by the warm support which so many Members accorded to it and the generous terms in which they alluded to his work. His

[The President.]

Excellency observes that the Honourable Members in their discussion passed in review many of the most important measures adopted during his period of office, and it is a source of deep satisfaction to him that his action and policy in these questions of the highest importance to India have merited approbation in the sober judgment of the Council of State. Her Excellency is also highly gratified by the kind references made to her efforts in the discharge of the duties of her high position in India. That her work on behalf of the sick and suffering and for the welfare of the women and children of India is so gratefully appreciated by the Members of the Council of State is no inconsiderable recompense for her labours and she will treasure the recollection of the generosity of the words in which this appreciation has been expressed. I am to add that, on the eve of their departure and amid the sadness inevitable in separation from the interests of the past five years, Their Excellencies have been greatly stimulated and encouraged by the motion conveyed to them by the Council of State."

### INDIAN FINANCE BILL.

THE HONOURABLE MR. A. C. McWATTERS (Finance Secretary): Sir, I move that the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to repeal the Cotton Duties Act, 1896, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, to fix rates of income-tax, and to provide for the appropriation of certain monies for the purpose of the reduction or avoidance of public debt, as passed by the Legislative Assembly, be taken into consideration.

Sir, the arrival of the Finance Bill in this House marks the last stage of our budget discussions. The object of the Bill is, of course, to provide for Government the necessary funds for carrying on the administration and for giving effect to the policy which was laid down in the Honourable the Finance Member's budget speech, of which I may say the two most important features are the repeal of the cotton excise duty and the remission of 1½ crores of provincial contributions. I am glad that the Bill has reached this House intact on this occasion in the form in which it was originally introduced, as it will enable, if finally passed, that programme to be carried out, and I hope it will also emerge intact to-day. The contents of the Bill, as I explained when introducing the Budget, are to retain at the existing rates the salt duty, the postal rates and the rates of income-tax. It continues for another year the procedure under which the interest on the investments in the Paper Currency Reserve and the excess of the Gold Standard Reserve over 40 million £s. are credited to revenue. All these features are common to the Bill of last year. There is, apart from the clause dealing with the cotton duties, only one clause of a novel character, that is clause 7, which deals with the appropriation towards the reduction or avoidance of debt of a certain portion of our receipts from the Germany reparation payments under the Dawes scheme. As I see on the paper a motion to omit that clause, I think it will be for the convenience of the House if I defer further observations on it till that stage is reached. I will just say here that, in the opinion of the Government, the proposal which we are making in this clause is financially sound. The clause, however, which will strike the eye most is naturally that which repeals the cotton excise duty, and although I am moving for consideration in these few words only, I think the House will agree that the final passage of a Bill containing this clause marks a historic occasion.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, arising out of this motion made by the Honourable the Finance Secretary I would like to ask him whether Government have considered further the question of the financial year coming to an end on the 31st December instead of on the 31st March. My reason for putting this question is that we get this very important Bill, perhaps one of the most important Bills of the Session, handed to us at the end of the Session. What happens to this Bill supposing it is amended in this House? It has to go back to another place and stands a chance of not being passed before the end of the financial year. I merely introduce this point now with the object of inquiring whether the Government have further explored the proposition that the financial year of this country should end on the 31st of December. I think it would be a convenience at any rate to the Legislature and a convenience in many other ways.

THE HONOURABLE MR. A. C. MCWATTERS: Sir, with reference to the question addressed to me by the Honourable Sir Arthur Froom I think I am in a position to say that recently at any rate that question has not come up for consideration. I know that it has been considered before and the arguments for and against have been carefully weighed, and also I think the arguments for other dates as well as the 31st December. One of the reasons for fixing another date is to get a date when we shall be certain of the results of the monsoon before commencing our budget calculations. I can promise the Honourable Member that I will see that this suggestion is brought to the notice of the Honourable the Finance Member.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to repeal the Cotton Duties Act, 1896, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, to fix rates of income-tax, and to provide for the appropriation of certain monies for the purpose of the reduction or avoidance of public debt, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill

THE HONOURABLE LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I beg to move that to sub-clause (3) of clause 6 of the Bill . . . .

THE HONOURABLE THE PRESIDENT: The Honourable Member is somewhat premature. The clause I have put to the House is clause 3 of the Bill, not sub-clause (3) of clause 6.

Clauses 3, 4 and 5 were added to the Bill.

THE HONOURABLE THE PRESIDENT: Before I call upon the Honourable Lala Ram Saran Das, I think I should refer to the amendments standing on the paper. He has two amendments to make additions to sub-clause (3) of clause 6 and an amendment which in substance is identical with his second amendment is also on the paper in the name of the Honourable Sardar Shivdev Singh Uberoi. I have carefully considered the admissibility of these amendments and I have been driven to the conclusion that they are not admissible. The purpose of the



[The President.]

Finance Bill is to fix rates of income-tax and from that point of view alone the amendments which stand on the paper are not proper amendments to the Finance Bill; they should be brought in as amendments to the Indian Income-tax Act, 1922. It might be argued, I think, that as the Schedule to the Bill, the Second Schedule which fixes the rates of income-tax, fixes those rates to be paid on total income, and sub-clause (3) of clause 6 gives, as it were, a definition of "total income", that the amendments might be admissible; but I think there is a fallacy in that argument. This clause of the Finance Bill read with Schedule II is merely a sequel to section 3 of the Indian Income-tax Act, 1922. That section lays down that, where an Act of the Indian Legislature enacts that income-tax shall be chargeable for any year at any rate or rates applicable to the total income of an assessee's tax at that rate or those rates should be charged for that year in accordance with and subject to the provisions of this Act, etc., etc. The expression "total income" there is used in the sense of the definition given in the Income-tax Act itself, that is to say, it means the total amount of income, etc., computed in the manner laid down in section 16. Therefore, it would appear that if the Honourable Member introduced into the Finance Bill an amendment which varied the definition of "total income" and made it something different from that which is contained in the Income-tax Act itself the section of the Income-tax Act would not apply to that total income because it only provides for the levying of a tax on total income computed in the manner laid down in the Income-tax Act. Therefore, if the definition of total income were amended in the Finance Bill, I think the result would be that there would be no statutory basis for the levy and collection of income-tax at all. Therefore I must hold that the Honourable Member's amendment is out of order; likewise the amendment standing in the name of Sardar Shivdev Singh Uberoi. Clause 6 is otherwise under the consideration of the House.

THE HONOURABLE SARDAR SHIVDEV SINGH UBEROI: Does your ruling apply to my second amendment?

THE HONOURABLE THE PRESIDENT: The Honourable Member's second amendment is to Schedule II of the Bill, which is not under the consideration of the House at the moment.

Clause 6 was added to the Bill

THE HONOURABLE THE PRESIDENT: I find an amendment on the paper standing in the name of the Honourable Lala Ram Saran Das again. His amendment is "that clause 7 of the Bill be omitted". I think a little reflection will show him that that amendment is not in order because our Standing Orders lay down that no amendment shall have the direct effect of a negative vote. The motion before the House is that clause 7 do stand part. The Honourable Member cannot therefore move that it do not stand part. It is, however, open to him to speak against the inclusion of the clause and to vote against it.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to oppose the clause. In opposing it I wish to say, Sir, that, although I agree with the scheme put forward by the Finance Member for the

redemption and avoidance of debt, I do not agree at all that the surplus moneys should also be devoted to that purpose. As far as I can see, Sir, India's unproductive debt does not amount to a very great item as compared with the unproductive debt of Great Britain. So, I think that if we stick to the redemption scheme which the Finance Member had launched, we shall be able to get rid of the high rate of interest and our credit will grow better without including the surplus for the reduction or avoidance of debt. Sir, so far as I remember, the Finance Member gave some indication of the redemption money required in various years in his budget speech of 1924. The amount which he estimated that he would need in the subsequent years for the reduction of debt was adopted and no extra money ought to be included. India has, so far, paid about 26 crores for the reduction of debt during the last few years, and therefore the sum of 16 lakhs surplus ought to go to the general fund instead of going to the reduction of debt. For this reason, Sir, I oppose the inclusion of this clause in the Bill.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma: General): Sir, we are not aware of what amount will be available under this clause for debt reduction and there will be time enough for us to consider what appropriations we ought to make of this amount when we have really got that amount. After going through the statements made by the Finance Member in another place, I find that it is not definitely known what is the actual amount that is likely to be obtained under this clause. It is not desirable to fight about the appropriation before we actually get the amount in our hands. Let us hope that it will be a fairly large figure and that there will be time enough to consider whether that amount can be utilised for works of public utility and other productive works, or whether it is to be utilised for the purpose of bringing down the public debt. I therefore ask this House not to support clause 7 of this Bill.

THE HONOURABLE MR. A. C. McWATTEBS: Sir, the Honourable the Finance Member in his budget speech gave such a full account of the reasons why we have introduced this clause in this Bill that I have very little hope of being able to add anything substantial to it. The main reason is that we think that such a provision is financially correct. There are, as he explained, three classes of expenditure which these payments are intended to meet. First of all, direct losses which the Government incurred through enemy action or through having to repatriate enemy aliens. It is quite clear that during the war those losses simply went to swell our unproductive debt, and the proper method would clearly be to write down that unproductive debt now. The second class of expenditure relates to pensions and annuities which have to be paid to persons or relatives of persons who have been injured or perished in the war. By allotting this money to reduction of debt we do, in fact, insure that we shall have a reduction in our interest charges which will go to meet those pension payments when they fall due. With regard to these two classes of expenditure it seems on financial principles right that this money should be allocated to avoidance or reduction of debt. There is a third class of expenditure, namely, compensation claims either by private individuals or public bodies. The money received on this account is only technically a receipt of the Government of India who act as agents in making the payments. We propose therefore in this clause that such

[Mr. A. C. McWatters.]

amounts shall be deducted from the total amount paid to us and only the balance will go towards the reduction or avoidance of debt. I may say that for this method of treatment we have among others, the very high authority of M. Caillaux in France. The Honourable Rai Bahadur Lala Ram Saran Das has based his objection mainly, as far as I could see, on the fact that our unproductive debt was not so high as that of other nations. I am glad to say that this is true, but all the same it is very substantially higher than it was at the outbreak of the war and it is much higher than we care to see it.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Was that due to the war?

THE HONOURABLE MR. A. C. MCWATTERS: The increase of unproductive debt was certainly due to the war. It was due to the deficits which we incurred owing to the war. The unproductive debt of India had practically been wiped out by the year 1916 and the high figure at which it stands now is due largely to the series of deficit years subsequently. The Honourable Mr. Chari gave as a reason for opposing this clause the uncertainty of the amount which we might get under it from year to year. That, if I may say so, is one of the best reasons for taking the opposite line because varying amounts of that kind are extremely disturbing to the Budget. Therefore, both in order to deal with the Budget on businesslike lines and also because the method which we propose is in our opinion right in principle, I hope that the House will agree to retain this clause.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That Schedule I stand part of the Bill."

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to move the following amendment:

"That in Schedule I to the Bill in the proposed First Schedule to the Indian Post Office Act, 1893, for the entries under the head 'Postcards', the following be substituted:

'Single	...	...	Quarter of an anna.
Reply	...	...	Half an anna'."

In this connection, Sir, I want to say that, notwithstanding our having a surplus Budget, no reduction whatsoever has been made in the direct taxation. When we had similar surpluses before the war, there was no super-tax, there was no increase in the postal rates and there was no further taxation to which both these Houses agreed later owing to the advent of the war. After the war, when our prosperity Budgets began, the people expected that there would be some reduction in direct taxation. I am sorry to find that no such reduction has been made. In this amendment I am advocating the cause of the poor. The traffic in postcards has very greatly gone down. If I mistake not, it has gone down by one hundred million cards. An argument may be raised that in case the traffic

goes up the establishment and the running expenses of the Post Office will rise to the same extent. I cannot imagine, Sir, that by this rise in the traffic of postcards the expenses of the Post Office will increase materially. Of course they will increase to a certain extent, but they will not increase and cover an amount equal to the increased income. The Postal Department puts forward a grievance that the Railway Department has withdrawn the free passes which used to be given to the post office officials and in that way they have now to incur an additional recurring expenditure of 10 lakhs a year. I find, Sir, that the Railways are giving concessions to the Military Department for the carriage of their food-stuffs and for the carriage of their passengers. When this precedent has been created for the Post Office, railway concessions ought to have been withdrawn from the Military Department as well. I think that the withdrawal of this concession merely from the Post Office does not seem to me at all justified. In case the railways want to withdraw this concession from the Post Office they ought to withdraw it from the Military Department as well.

Another item I found in the Post Office Budget is that Rs. 57 lakhs a year are now to be borne by the Post Office as interest on capital. This is a new thing and I think that when the country has met this extra cost by extra taxation, I find no reason why this sum of interest should be charged to the Post Office now. It is all right to say that it is a commercial department run on commercial lines. I will say that the present Postal Department consists of Posts as well as Telegraphs and Telephones. The Telegraph Department in all countries is a losing department. Its functions are also political and administrative, and for that purpose I think the Government must bear a certain portion of the losses of the Telegraph Department, and that this sum of 57 lakhs for interest which is charged per annum ought not to be charged because, as I have already explained, this amount has already been met by the tax-payer in other ways. I might also mention, Sir, that in case this concession is made, the people—I mean the poor people—will find it a great boon and by reducing this charge to a quarter anna on postcards the loss will not amount to much considering the surplus of a crore or so which has been left over after meeting all charges, such as remission of contributions, excise duty and so on. War accounts have not been reconciled as yet and the public cannot understand the delay in it. In case the war accounts are adjusted, there will further accrue a great surplus in the Indian Exchequer and I think that from the prosperous times that are coming will add to the income of the Department. So Government will do well to accept my recommendation.

THE HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, I rise to give my full support to this amendment only in a few words. It is a demand by the public in general and by the poor in particular. The huge amount of reduction in the sale of postcards clearly shows how much correspondence has gone down among the general masses of the country. As there is a surplus already in hand, I think this loss, if any, may very well be paid from that surplus. I would have advocated a reduction of postage on the one anna envelope also, but I am not prepared to do that this year, but perhaps next year when we shall have a larger surplus we shall be able to consider that also. At present the consideration of the reduction of postcard postage is absolutely necessary and I strongly recommend that all Honourable

[Lala Sukhbir Sinha.]

Members should support this motion, and I hope that the Finance Department will be able to accept it.

THE HONOURABLE SAYYED MOHAMED PADSHAH SAHIB BAHADUR (Madras: Muhammadan): Sir, I rise to support the amendment moved by the Honourable Lala Ram Saran Das. Though the Honourable Finance Member has failed again to meet the general desire in connection with postal rates, yet if we had an assurance from him that at least next year this relief will be afforded to the poor, it would be all right. But, Sir, far from holding out any such hope the Honourable Finance Member seems once and for all to dismiss this very idea as chimerical and as being outside the range of practical politics. I will just read a very small portion of the two long paragraphs devoted to this question. In paragraph 64 he says:

“The House will observe that in face of these figures it is impossible for us to contemplate any reduction this year in the rates for letters and postcards.”

In paragraph 65 he says:

“Unless therefore the future holds out the prospect of a considerable further fall of prices to at least the 1914 level—a development which would probably be undesirable in the general interests of India's prosperity—we must admit the logical conclusion that the day of the 3 pie postcard and the 6 pie letter is past beyond recall.”

Sir, this is hardly satisfactory. From the statement that I have just read out it is quite manifest that far from making any honest effort in that direction the Government are determined never to bring down the rates unless the impossible occurs, that the level of prices goes down and becomes quite as low as that of 1914 or before that. That means that even if the profits may bring in large surpluses, some other way will be found to dispose of the surplus, but no such relief will be afforded to the poor. This is not the attitude Government ought to take in respect of a popular demand like this. Now what is the justification? The justification is nothing better than that which would justify any ordinary commercial concern in taking advantage of the general rise in prices. The Government say that the general level of prices has gone up and that the people have now to pay more for foodstuffs and other necessities. That is no reason why they should be made to pay more for the convenience of the Postal Department. Do the Government think that this general rise in prices indicates a proportionate increase in the prosperity of the people? If they do, they are very sadly mistaken, because the facts are quite otherwise. It is true that the level of prices has gone up; it is true also that the cost of living has increased, but at the same time it cannot be denied that the earning capacity of the people in India has not proportionately increased. Consequently, the poor man in this country is very much poorer now than he was in 1914 or before that. Therefore, this rise in prices is a circumstance which, instead of furnishing an argument for the present increased rates, should have gone to induce the Government to bring down the postal rates to their original level, and it is very necessary that they should do so if they intend to make this useful, this indispensable department of public service available to the poorest classes in the country who have very slender means. Now, Sir, as my Honourable friend Lala Ram Saran Das said, the one objection that is taken to this proposal is that the Post Office is not a benevolent institution and must be made to pay its way. The question I wish to

ask is, is it such a commercial concern that it should justify our trying to make profits out of it to make up our losses on the Telephones and Telegraphs? Are we right in setting off the profits that accrue from this department against the loss of 20 or 30 lakhs that results from the working of the Telegraphs and Telephones? Have we any right to do this? Again, Sir, I fear the present amount of the ascertained saving accruing from the Postal Department does not represent the exact figure. So long as we have this combined system and so long as the accounts are not totally separated, it will not be possible to know exactly what are our gains on the postal side, and I feel, Sir, that if the accounts are separated, our profits on the postal service will be found to be very much larger than they are at present. There is, again another reason which my Honourable friend Lala Ram Saran Das advanced. These postal rates were enhanced at a time when the finances of the country were in a bad condition. Then there was a necessity for you to introduce fresh taxation, or to increase the taxation already imposed, but now that the necessity has gone, now that things are looking up, and also in view of the fact that the surpluses and the prosperity we find to-day have been achieved by causing the people some privation and inconvenience, is it not right, is it not proper that we should try and give this relief to the poor? Again, Sir, it has been admitted that the Postal Department is not really a commercial concern. It serves to educate the people, and it is very necessary that an agency like this, which tends to civilize and educate people, should be run so that it may be within the reach of even the poorest classes.

THE HONOURABLE MR. A. H. LEY (Secretary for Industries and Labour): Sir, this amendment is becoming, if I may say so, something of a hardy annual. We had precisely the same amendment discussed in this Council last year. It has been debated at great length, almost threadbare I may say, on several occasions recently in another place, and I hope it will not be necessary for me to say very much on it, except to try and deal as adequately as I can with certain points made in the speeches which my Honourable friends have made. I would start by saying that I fully sympathise, and naturally sympathise, and I think the whole House will sympathise, with the objects underlying this amendment, which are to bring postal facilities within the reach of the very poorest classes. That is an object that we should all like to see attained if we could. But it is obviously necessary I think, in spite of what my Honourable friend who spoke last said—I shall come to what he said presently—to run the Department in such a way that it shall not be a burden on the tax-payer. That is the first point. Let me first deal with the financial effects of this amendment. Based upon the figures which we anticipate next year, and allowing for an increase of traffic, it will cause a loss,—strictly on the basis of those figures,—of between 86 and 87 lakhs of rupees annually. But as a matter of fact that is an under-estimate, because it does not take into account a certain additional loss which will result from the diversion from the letter to the postcard traffic, if that is to say you leave your letter postage at one anna. There will then be the somewhat large difference of three quarters of an anna between the postcard and the letter postage rates. Consequently, the financial result of this amendment would be a loss of something like a crore of rupees annually to the Postal Department. I should like in passing to mention one or two points made by the Honourable Lala Ram Saran Das. He complained, in the first place, that the Railway Department are charging the Post Office something like

[Mr. A. H. Ley.]

10 lakhs of rupees a year in place of the passes which had hitherto been granted to the Superintendents of Post Offices and other staff. Well, that of course is a small sum in any case and it is a part, I may say, of the general commercialisation of the accounts of both departments, the Railway Department and the Post Office. We make certain charges I may say also, which are now being considered, to the railway authorities for services rendered by the Post Office. These will all have to be adjusted. So I venture to think there is very little in that argument. Then he complained that the Budget had taken account of interest on capital. I cannot quite appreciate why it should be suggested that a commercial department should not do so. It is obviously necessary, if the department is to be run on commercial lines. He said also that the interest on capital had been met by the tax-payer in other ways. I was not able to appreciate quite what he meant by that statement, but I can assure him that it is not at all correct. Well, as I say, this amendment will involve the Postal Department in a loss of nearly one crore of rupees annually. Where is the money to be found? I think my Honourable friend on my left will support me when I say it cannot be, except either by imposing fresh taxation on other commodities, or by *pro tanto* knocking off one crore of rupees annually from the reduction in the provincial contributions. That is the only source from which the money could be found, and I do not suppose that result would be altogether pleasing, perhaps, to our Honourable Members from Madras and Bombay. But I will put it also on rather broader grounds—broader in one sense and narrower in another. I say this, that it does seem to me very important from the point of view of the development of postal facilities and bringing postal facilities within the reach of as many people in this country as possible that the Post Office should be able to pay its way. We do not ask, as my Honourable friend who spoke last said, that it should make large profits. That has never been suggested. But I do suggest that it should balance its accounts. Otherwise, if you are going to make the Post Office a burden to the tax-payer to the extent of 1 crore annually, I suggest that that way lies stagnation for the Postal Department. What will happen if the Honourable Member in charge of the Department comes to my Honourable friend (the Finance Secretary) or the Honourable the Finance Member and asks for a lakh of rupees here and a lakh of rupees there—a lakh of rupees, we will say, to put right some genuine postal grievance, another lakh or two to extend postal facilities to rural areas in which there are none at present. It is obvious what the answer would be. The Finance Department would say: "You are running this Department at an annual loss of 1 crore. How can you possibly expect us to agree to increase that loss by adding additional unremunerative or experimental expenses?" The Honourable Saïyed Mohamed Padshah quoted from the remarks made by the Finance Member in his budget speech, but I should like to draw particular attention to the last sentence in the paragraph from which he quoted:

"It is better that we should cease to delude ourselves with unrealizable hopes and should set ourselves to secure the maximum efficiency and the greatest possible facilities to the public from the Department as things are to-day."

Now that is a point on which I want to lay some stress. We do want to see postal facilities increased. We want to see the operations of the Department extended, and in order to do so we must be able to run the Department at any rate not at a serious loss. I notice that my Honourable

friend Lala Ram Saran Das was very wise in not making the point which was referred to by my Honourable friend opposite, of the rise in prices. What his amendment really asks the Government to do is to reduce the postcard rate 60 or 70 per cent. below what it was before the war, taking into account of course the value of money. That is what we are asked to do. Prices of everything have risen, wages have risen—wages of the postal service, wages of agricultural labour. It is, I venture to submit, rather extraordinary that we should expect that the price of carrying a postcard should not also rise. In point of fact the quarter-anna postcard will be a recurring loss at present prices, and the more the traffic increases the higher will be the loss. My Honourable friend who spoke last said the poor man was actually poorer than he was before the war and the postcard rate should be lower than it was then. He did not justify that statement by any facts and figures and I think it is a statement which cannot be accepted by this House as a correct statement of the actual state of affairs. I should like just to make one or two further points with regard to what he said. He said—and I think that was also the point referred to by the Honourable Mover of the amendment—that we take together as one Department the Postal Department and the Telegraph Department; and my Honourable friend opposite said that you cannot estimate exactly how much we get from Telegraphs and how much we get from the Post Office. That is perfectly true. Of course you pay for telegrams by postage stamps generally, but it is a very good argument in my opinion for treating the operations of these two sides of the Department together. We cannot separate them and the Department must pay as a whole and not only as one portion. But even if you could separate the Post Office altogether there is no reason to suppose that our figures, which are based on a count taken in two weeks of the year, are anywhere wide of the mark. Secondly, even if you could separate the Telegraphs and the Post Office Departments as a whole, you would still not have nearly sufficient money in the Post Office to be able to meet this amendment. Finally, Sir, I wish to come back to what I said before, because it seems to me important. Apart from the purely financial result—(we cannot find the money, and that seems to me to be the crucial point in this matter)—we do want the Department to be able at any rate to pay its way, and until it pays its way we cannot expect to be able to extend postal facilities in the manner which has been urged in this House. If the Department is run at heavy loss, you will be crippling it for several years to come. Possibly later on if prices go down and if trade increases, there may be a sufficient surplus to play about with, but at the present time it is perfectly impossible to do so.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma: General): Sir, this reduction in the price of the postcard is a matter on which the popular representatives of this House as well as of the other House feel very strongly. In going through the debates on two occasions in another place, both in the debate on the Resolution relating to the reduction of the price of the postcard and also in the discussion relating to the 50 lakhs cut proposed in this Department by a Madras Member, we find that the popular representatives based their arguments on figures, and we find as usual the Member in charge of the Department as well as the Finance Member came down upon these people and others who relied upon these figures and said, "Look here these are figures which must be looked at from various aspects" and they were able by their strong figures in various matters to



[Mr. P. C. Desika Chari.]

make the confusion worse confounded. We should not, therefore, repeat that method, which does not find favour and which is not likely to yield very good results. We know the gentlemen from Government Departments, more specially the official Members of the Finance Department and the Department concerned here, are very strong at figures. They can always bring up various items under the head of expenditure as well as the heads of income in order to prove to you that it is absolutely impossible to have any reforms of this kind effected. They tell us in their own way that it is likely to work a financial catastrophe. Of course as a lawyer I know perfectly well there are two sides to every question, and if you are briefed to argue on one side you can always use plausible reasoning for whichever side you may be engaged on, and it is always possible to produce arguments which may be convincing to people who might not have fully gone into the entire records. That is the position we have to-day. There are the popular representatives trying their level best to put their heads to the figures in the voluminous pages given them for perusal at such short notice. Sir, we have got these members of the various departments as well as the members of the Finance Department who deal with these figures and they know what they are about. We are always faced with the difficulties that by the dumping of the figures the real issue is not tackled. The position is this. There is a tinkering with this problem both on the official side and on the non-official side. The non-official Members have been crying themselves hoarse to effect this small measure of reform in the Postal Department, a measure which is regarded as necessary by all concerned. It is admitted on all hands that the popular representatives, when they advocate a measure of reform of this kind, are anxious to do something very popular, and I find a statement made by the Honourable the Finance Member in another place to the same effect. Why should we not do something which is very popular? Is it not the duty of the Legislatures, the Government, the nominated Members as well as the elected representatives to do something popular? Is it not their duty to redress the grievances of the teeming millions of India? They are the voiceless people but under the present system of franchise it is the bounden duty both of official Members and the elected Members—we represent only those people who send us to these Councils—to redress their grievances. Sir, very often the claim is put forward by the official Benches that they are the representatives of the teeming millions of India. If they are the real representatives of the teeming millions of India, and if it is admitted that the grievance is there and the people feel it keenly and bitterly that this grievance has not been redressed, is it not the duty of the official Benches to see that this grievance is redressed? Is it right for them to tell us that, if this measure of reform is effected, there would be a financial catastrophe? Is it not their duty to face the situation boldly? Sir, I have been able to deduce that there are avenues which may be explored, and if they are explored it is quite possible to effect this measure of reform without sacrificing the financial condition of the country in any large measure.

There are four items which I should like to bring to the notice of this House without getting myself merged in the mire of figures and getting myself kicked by the figures which the official Members may throw at us. After going through the debate on the 50 lakhs cut, we find that there are certain broad facts which have to be taken note of. Looking at this

question from the standpoint of possibilities of economy, we find that the Ryan Committee, which consisted of officers who had a good deal of experience in this department, were able to suggest economy to the extent of 20 to 40 lakhs of rupees.

THE HONOURABLE MR. A. H. LEY: May I explain to the Honourable Member that the economies were to be effected only in a series of years. They cannot be expected immediately.

THE HONOURABLE MR. P. C. DESIKA CHARI: I take note of that explanation. If economies cannot be expected to the fullest extent . . .

THE HONOURABLE MR. A. H. LEY: The economies are expected.

THE HONOURABLE MR. P. C. DESIKA CHARI: There is a great deal of scope for effecting further economies and they may result in a saving of about 10 or 15 lakhs of rupees in the near future. Then, Sir, there is the other item about the interest charged to this Department for capital invested in this Department. We find that this capital has been contributed from general revenues during the last 30 years. And who are the people who have contributed this capital? It is the general tax-payer. If this Department is regarded as a purely commercial concern, then who are the shareholders and who are the capitalists? It is these tax-payers who now want some benefit out of this. Is it not unfair to say, Sir, that no doubt you are the capitalists, no doubt you have provided us with the capital, you must be very careful about your interest; you must be prepared to sacrifice all your finances, but you must not accept any benefit out of these finances? Sir, as a student of political economy, the first thing that I came across was the definition of an economic man. There we are told that a proper economic man is a person who will take into consideration all the economic factors working in various forces and who does not leave out humane considerations altogether. Here we have got a set of financiers who want to keep out humane considerations altogether. I think the best way to look at the finances is to take note of these humane considerations also and not, merely, to regard these things from a commercial man's point of view. Here are the people who have suffered during the last 30 years by the funds which they have provided in the shape of taxes. They say: "Let us have some comforts in our own house with the help of our own capital." If they are prepared to suffer the loss, which loss is likely to be more than recuperated by the gradual opening of this avenue of income consequent on the introduction of the pice postcard, why should they not be allowed to suffer that loss in order to have a larger convenience which this loss may bring about? If there is a surplus in the Postal Department, the surplus will go to swell the general revenues of the country. If there is a loss, it is only natural that the general revenues ought to bear a portion of the loss. After all, is this a commercial department? No. From the actual working of it we find that it is not a commercial department, it is not, merely, a business concern, but it is a department which serves as a national agency, as an agency of public utility in various directions. If this Department serves such a high purpose, are the expenses and the finances of that Department to be looked at from the commercial point of view alone? Are there no other considerations involved? How can you ignore altogether the popular demand which is insistent, which ought to be met and which cannot be delayed?

[Mr. P. C. Desika Chari.]

If this amendment is carried out the net loss will not be a crore of rupees. I have worked it out. Assuming for argument's sake that there is no increase in the traffic in the shape of even a single postcard, the loss would come to 86 lakhs of rupees. Then, we have to take note also of the fact that this reduction of postage is likely to result in some increase in traffic. I find that the Honourable the Finance Member in another place has been gracious enough to admit that there will be an increase in traffic. He admits that this reform may be popular and it may lead to increase in traffic, and I venture to add that it will lead naturally to increase in income. But his real objection is based on two grounds. His first objection is that this is a financial subject and no other considerations ought to enter in dealing with it. In the second place, he says that the general revenues ought not to go on subsidising this Department. I say why should they not subsidise this Department? It is the general tax-payer who has provided the necessary funds for carrying on this Department and why should not this Department subsidise the general tax-payer? It stands to reason that, owing to the general desire of the people, this measure of reforms ought to be effected even though it may lead to some loss in the near future, and we have got it that in the increases in traffic which will arise there will be some amount of profit to cover to some extent the losses that may be occasioned. That is my view. I find from the reading of the figures in previous years when the prices of postcards were doubled, then the effect of it was felt. There was a reduction in postcards of about 165 millions, I believe, and we may fairly take it that there was a fall of at least 100 million postcards. If by the doubling there was a fall of 165 millions we may fairly take it that by halving it the traffic will naturally increase and bring in a larger revenue. It may not be quite as large as to make up the loss, but there will be some increase in profits which will go to some extent to decrease the loss that may be sustained, namely, this 86 lakhs. This loss of 86 lakhs will be somewhat abated. The Finance Member and other members of the Government co-operating with him have also done financial wonders in recent years by bringing forward this year's Budget which shows a surplus and have put the finances of the country on a sound basis. Now the views of the country are that sound position affords the opportunity to assist them, especially as the credit of the Government of India is on a very high footing in the markets of the world. I would appeal to the official Members fervently and passionately to place their credit with the teeming millions of India in the same manner as they have done in the case of the credit of India in the money market of the world. The people of India in their miserable condition value the small mercies, the small sympathies which would be shown to them in the shape of reduction of taxation; though it may be in the shape of reduction of postcards they would appreciate it as a great boon. It is up to the official Members as well as the non-official representatives and the nominated Members to support this measure which is likely to meet with the universal approval of the country, and these small considerations of finance—which are not after all such terrible things—in the shape of a few lakhs of rupees, while the Finance Member and the member of this Department have to deal with very large figures can be adjusted. We also deal with household budgets and whenever it is possible to make a small adjustment without suffering, we do so, and it is quite possible for the Honourable Member dealing with large figures to make cuts here and

there just to meet these small losses which may be occasioned just for the present. I, therefore, appeal to all the Honourable Members of this House to support this amendment and to do some good to the largest number of people, to the voiceless millions of India, a good which will be greatly appreciated, although it may be in the shape of only a small measure of reforms.

THE HONOURABLE MR. MANMOHANDAS RAMJI VORA (Bombay: Non-Muhammadan): Sir, I rise to support the amendment of the Honourable Lala Ram Saran Das for the reduction of the rates for postcards. I have heard the Honourable Member from the Government side putting forward a suggestion for the House to consider how the deficit of one crore of rupees is to be met. Well, Sir, there is a large amount put on the postal side as interest charges for running the Department on commercial lines. It is a new innovation. Up till now this money came from some other department, so it is a transfer from one pocket to another. If we take into account that the profits of this Department are swallowed by another department, a sister department, there also we do not look to the commercial side of it. Here in this case of postcards in the Postal Department we want to see the commercial aspect of the thing. We run Telegraphs and Telephones for Government purposes, for the purpose of carrying on this government. What contribution is made from those Departments? Why are the benefits of one department given to the other? Why should the Postal Department have to find the money for making up the loss of the sister department which is worked by that Department? Therefore, if you take that into account, if you take into account the 98 crores that the people of India have subscribed towards the revenues of this country during the war, when they found money to the extent of 98 crores, here is a question of a few lakhs and that you grudge. You grudge it for what purpose? A poor man, who has left his home and works in some other part of this country, cannot communicate with his family on account of the high charges for postcards. That is the grievance. I can easily understand that it can produce a laugh here, but when you really consider the position you will realise the ultimate issues of that point. Here what do we find? By raising the price of postcards the consumption is reduced. That clearly shows that somebody is not utilising the postcard to its fullest capacity. If you reduce your postal rates you have to take into account the increase also that will tend to reduce your deficit of one crore, and I think the balance can be adjusted from general revenues, and for this purpose I think it is right that the rate of postcards should be reduced.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI (Punjab: Sikh): Sir, I support this amendment of my Honourable friend, Lala Ram Saran Das, on one ground and one ground only, that a poor country like India must have cheap means of communication. As regards the objection of the Honourable the Finance Member, I simply say, that where there is a will there will always be a way found.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab: Nominated Non-Official): Sir on this subject I came with the intention of sticking to one of the Persian proverbs—

*"Chūn Kāraz be shamūl-i-to bar āyed  
Jura dar wai sakhun guftan nashayed"*,

[Colonel Sir Umar Hayat Khan.]

that is:

"When the things can be accomplished without your intervention, you need not participate."

But since I came here I thought I would not want to give a silent vote, but my opinion has been wavering. The House knows that it generally does not, because if I stick to a thing, I stick to a thing. But in this, first I thought I would oppose the Rai Bahadur, because I do know some people who learn up to the primary examination and cannot get service, but all the same know how to read and write a letter, and if they can do it for a pice, they will worry every one to whom they write. Then also I thought that if a poor man can get a pice he can get two also. Then again there has been a sort of custom of writing letters and when they write they always write complaining, "You do not write me a letter". When a man writes to his friend he says: "I am quite well and I hope you are the same," and at the end he says, "You have not written to me". And when the letter goes to the other side, the other man naturally wants to write another letter, and for the writing of such customary letters it is better if one had to pay something before one could do it. But on the other hand there is another argument that the people who are actually very poor would suffer, and one has to hesitate before voting against the Rai Bahadur Sahib. Another thing which I thought was that, if a man is born in a country, he should contribute to some of the funds of the country, and it is for this reason that, whenever the question of salt has come before us, I have argued that the poor in that way ought to pay something to the country in which they are born, because it is not only the wealthy who should finance the Government and look after the country. Everybody who is born in the country should do that. But I do not think if a man pays an extra pice, he would be doing very much in this direction to finance the country, so I think that, though I have spoken, I will stick to the Persian maxim and let the House decide in any way it likes. I will not contribute my vote.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, I only wish to ask a question. I think it would interest the Honourable Members of this House if Government could give the figures of the number of postcards used now at the present rate compared with the number of postcards used some years ago when the cost of a postcard was only a quarter of an anna.

THE HONOURABLE MR. A. H. LEY: Sir, I will just answer the last question, and I may leave the reply to the debate to my Honourable friend on my left. I cannot answer the question precisely because I have not got the figures here, but my recollection is that the number of postcards sent in 1921-22 was somewhere about 600,000,000. I am afraid I have not got the precise figures here, and when the postage rates were doubled, my recollection is that there was a drop of about 100,000,000, or about 20 per cent.; since then the figures have been gradually rising by small percentages every year. Now in 1924-25, of which year I have got the precise figures, the number of postcards carried was 542 million. In 1925-26 we anticipate 10 millions above that, and in 1927-28 we anticipate 560 millions.

THE HONOURABLE MR. A. C. MCWATTERS: Sir, I hardly expected, after I had heard the speech of my friend the Honourable Mr. Ley, that I would be called upon to intervene on this amendment. I think, Sir, he gave most excellent reasons for not accepting this amendment, both from the financial point of view and the point of view of the Department itself, and he very rightly stressed the importance from the point of view of the Department of its paying its own way and not being a burden upon the general tax-payer. But the debate since the Honourable Mr. Ley spoke seems to have taken a somewhat different line, the lead being given by my Honourable friend Mr. Chari, who mentioned again and again the words "popular", and "popularity". I would ask the House to be very careful indeed not to be led away to make a popular gesture by doing something which is commercially and financially unsound. The Honourable Mr. Chari said that he would not follow the method of figures, which was not likely to give good results. Later on he fell, I am afraid, into the old method and gave us a large number of figures, many of which I found it difficult to follow. The figures which were given by my Honourable friend Mr. Ley are those which we consider are correct. We have made allowance for what we think would be the increase in the traffic if this amendment were carried, and after allowing for that, the actual loss would be 86 lakhs. The point which the Honourable Mr. Chari and other Members entirely overlooked is that we have also got to allow for the diversion from letters to postcards if you have this rate, which is by no means a satisfactory one, of a quarter of an anna for postcards against one anna for letters; and the total loss I am perfectly convinced would not be less than one crore. The point which has been taken again and again about the impropriety of charging the Department interest is, I venture to say, quite unsound. There is nothing new in this. What is new is that we have attempted to put the accounts of the Department on a commercial basis and exhibit them in a *pro forma* account which shows what the real cost of running the Department is just as if it were a commercial concern. On that basis you must take account of interest charges if the Department is not to be a burden upon the tax-payer of the present, whatever way the money may have been provided in the past. Therefore, I would most seriously ask the House to consider in respect of this amendment what they are doing. What they will do if they accept this amendment is simply this; they will compel Government to reduce the amount proposed for remission of the provincial contributions by one crore of rupees.

THE HONOURABLE LALA RAM SARAN DAS: May I ask the rate of interest that is being charged on the capital?

THE HONOURABLE MR. A. C. MCWATTERS: I think it works out at about  $5\frac{1}{2}$  per cent.

THE HONOURABLE THE PRESIDENT: The original question was:

"That Schedule I stand part of the Bill."

Since which an amendment has been moved:

"That for the entries under the head 'Postcards' the following be substituted:

'Single	...	...	...	Quarter of an anna.
Reply	...	...	...	Half an anna."

The Council divided :

AYES—16.

Akbar Khan, The Honourable Major Nawab Mahomed.  
 Bell, The Honourable Mr. J. W. A.  
 Bijay Chand Mahtab, The Honourable Sir, Maharajadhiraja Bahadur of Burdwan.  
 Desika Chari, The Honourable Mr. P. C.  
 Froom, The Honourable Sir Arthur.  
 Khaparde, The Honourable Mr. G. S.  
 Manmohandas Ramji Vora, The Honourable Mr.  
 Mehr Shah, The Honourable Nawab Sahibzada Sayad Mohammad.  
 Moti Chand, The Honourable Raja.

Oberoï, The Honourable Sardar Shivdev Singh.  
 Padshah Sahib Bahadur, The Honourable Saiyed Mohamed.  
 Rameshwara Singh, The Honourable Maharajadhiraja Sir, of Darbhanga.  
 Ram Saran Das, The Honourable Rai Bahadur Lala.  
 Sankaran Nair, The Honourable Sir C.  
 Suhrawardy, The Honourable Mr. Mahmood.  
 Sukhbir Sinha, The Honourable Lala.

NOES—19.

Abbott, The Honourable Mr. E. R.  
 Brayne, The Honourable Mr. A. F. L.  
 Chadwick, The Honourable Mr. D. T.  
 Charanjit Singh, The Honourable Sardar.  
 Crerar, The Honourable Mr. J.  
 Das, The Honourable Mr. S. R.  
 Emerson, The Honourable Mr. T.  
 Hubback, The Honourable Mr. J. A.  
 Ley, The Honourable Mr. A. H.  
 MacWatt, The Honourable Major-General Sir Charles.  
 McWatters, The Honourable Mr. A. C.

Misra, The Honourable Pandit Shyam Bihari.  
 Muhammad Habibullah, The Honourable Khan Bahadur Sir, Sahib Bahadur.  
 Nawab Ali Khan, The Honourable Raja.  
 Ranga Rao, The Honourable Raja Sri Rawu Swetachalapati Ramakrishna, of Bobbili.  
 Roy, The Honourable Mr. K. C.  
 Tek Chand, The Honourable Diwan.  
 Thompson, The Honourable Mr. J. P.  
 Todhunter, The Honourable Sir Charles.

The motion was negatived.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to move the second amendment that stands in my name, and that is:

"That in Schedule I to the Bill in the proposed First Schedule to the Indian Post Office Act, 1898, after the entries under the head 'Parcels' the following be inserted:

'Provided that no extra charge will be made for parcels redirected from the place of address given'."

In this connection, Sir, I simply want to say this, that this additional charge was perhaps levied as a war measure and as it affects the commerce of the country to a great extent in the present time of trade depression I move that this clause be adopted. I hope the Honourable the Government Member will throw some light on the loss which the Government are likely to sustain by adopting this proposal. It is only a small concession, and I think the Government will not grudge to give it.

THE HONOURABLE MR. A. H. LEY: Sir, I wish I could be as brief as my Honourable friend who has proposed this amendment, but I am afraid I shall have to explain the matter at a little greater length. I should like in the first place to refer to one remark which he made, that this charge for redirection of parcels was a war measure. I am afraid he is incorrect there. As a matter of fact it was enforced only 2 years ago and not as a war measure at all. The position is really this. When we were looking

into the question of commercialising the Postal Department we found that India was practically the only country in the world which does not levy a fee for redirecting a parcel. The fact of the matter is that every time a parcel is redirected, the whole cost falls upon the Post Office. It is just the same as doubling the cost to the Department for the carriage of the parcel. It is not the same thing as readdressing a letter or a postcard. A redirected letter or a postcard is merely put into a letter-box and taken along with the others, and under the International Postal Convention it is not permissible to charge a redirection fee for letters or postcards. But the International Postal Convention definitely allows and authorises and recognises the levying of a charge for redirection of parcels. Now, in the case of parcels it is a somewhat elaborate process. A regular account has to be maintained of every parcel dealt with by each post office. I mean now unregistered parcels. Of course registered parcels have to pursue an even more elaborate process still. But unregistered parcels are entered on a list, the number has to be checked by reference to the number on the list, the numbers of parcels on the receipt side and issued to the postman. Parcels when issued to the postman have to be entered into the postman's book and the postman has to sign the abstract. I am just explaining all that to show that it is rather an elaborate process which has to be adopted with regard to each parcel carried by the Post Office. Now, as I said, this is a charge which was introduced only two years ago. It is not a war measure at all. It is an entirely unprofitable business for the Post Office to redirect parcels without charging anything for them. I may say that we have followed the same principle as is followed in nearly every country of the world, except that we have not gone so far as most other countries have done. For instance, the British post offices charge the full amount of the prepaid postage. I will read out to the House the British Post Office rule relating to the redirection of parcels. It runs as follows :

" Parcels are, when redirected, liable to additional postage at the prepaid rate for each redirection, except where both the original address and the substituted address are either served from the same delivery office or are within the same town delivery area."

As I said, this is the principle which is followed in practically every country of the world. India, as a matter of fact, has not gone so far because for each parcel redirected we only charge half the prepaid postage. Our rule is as follows :

" A parcel redirected to any place served by the inland post shall, save where the original address and the substituted address are within the delivery area of the same post office or are in the same town, be charged for redirection a further postage amounting to half the prepaid rate."

Other countries charge the whole of the prepaid rate. Now, I would like to make two other points. On my Honourable friend's previous amendment I explained at the start that I had a certain amount of sympathy with it because it was designed in the interests of the very poorest classes. I have much less sympathy with this amendment, which does not help the poorest classes, who do not, generally speaking, use the parcel post to a large extent. It is really the wealthier classes who use the parcel post. Finally, there is one other important point, and that is that it seems to me that this amendment, if the principle of it were agreed to by this House, should not take the form of an amendment to the Schedule I to the Post Office Act at all. The Schedule to the Post Office Act merely fixes the maximum rates of postage. The question



[Mr. A. H. Ley.]

of redirection charges does not come within the scope of the Schedule at all. It comes within the scope of quite a different section of the Act. Section 8 gives the Governor General rule-making power. Sub-section (c) of section 8 runs as follows:

"The Governor General in Council may by rule provide for the redirection of postal articles and the transmission by post of articles so redirected, either free of charge or subject to such further charge as may be specified in the rules."

That is done by notification under section 8 (c) of the Post Office Act, and I venture to submit that if this House is prepared to accept this amendment, which I hope will not be the case, then the purpose can be achieved by merely asking the Governor General in Council to cancel that notification which he has himself issued, and not by making a substantive change in the law itself. Even if it were necessary to make such a substantive change in the law itself, it would not come within the scope of the Schedule to the Post Office Act, but in section 8 (c) of the Act itself.

THE HONOURABLE THE PRESIDENT: The original question was:

"That Schedule I stand part of the Bill."

Since which an amendment has been moved:

"That in the proposed First Schedule to the Indian Post Office Act, 1898, after the entries under the head 'Parcels' the following be inserted:

'Provided that no extra charge will be made for parcels redirected from the place of address given'."

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

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question is:

"That Schedule I stand part of Bill."

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The question is:

"That Schedule II stand part of the Bill."

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI: Sir, I beg to move the amendment standing in my name which runs as follows:

"In part I-A of Schedule II to the Bill for clauses (1) and (2) the following be substituted:

'(1) When the total income is less than Rs. 3,000 ... Nil.

(2) When the total income is Rs. 3,000 or upwards but is less than Rs. 5,000 ... Five pies in the rupee'."

Sir, in moving this amendment before this Honourable House I have to crave the kind indulgence of the Honourable the President and the Honourable Members of this House because it is the first time that I am standing on the floor of this House to address the Honourable Members with regard to an amendment which touches the finances of the Government. Sir, the shortness of time at my disposal has not permitted me to get some facts and figures in support of my amendment which I sincerely feel is one of the most important matters which have to be enacted in the law of income-tax. While making this

amendment, I am, Sir, fully conscious of the fact that the Finance Department of the Government is always very keenly touched and acutely feels any such amendment which has its bearing on the finances of the Government on the wrong side. I am also conscious of the fact that any amendment which touches the finances of the Government but has at the same time the effect of popularising the Government must be put before the House because, Sir, I feel, and honestly and sincerely feel, that the popularity of any Government is one of the essential factors for the very existence of that Government. It is not my object to enter into the question of reforms of the present administration of the Government.

THE HONOURABLE THE PRESIDENT: I hope the Honourable Member will certainly attempt to do nothing of the kind.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI: I take my stand, Sir, on the ground that this rate of income-tax, which varies from incomes of Rs. 2,000 and Rs. 3,000 touches the middle class people very largely. I understand also that middle class people are the backbone of every society and consequently the backbone of every Government. If my amendment is carried and is lucky enough to get the assent of His Excellency the Viceroy and Governor General, surely it will affect the finances of the Government. On the other hand, Sir, I believe that it will add to the popularity of the Government, because in these days of dearness it is the middle class people whose income is limited, whose means are not very wide, who feel the pinch of the increase in living in our country. I also beg to say that this amendment affects all the people of India irrespective of any class or creed. It affects those who are in service and it affects those who are in trade. I have tried to put my amendment as modestly as possible, taking into consideration that after all funds are an essential element in carrying on the administration of any Government, and I should not make an attempt to put forward an amendment which has the effect of reducing the finances of the Government to any considerable extent. So I have limited my amendment to increasing the minimum limit taxable to income-tax from Rs. 2,000 to Rs. 3,000. I would like to illustrate just by an example that the income of a gentleman who is drawing Rs. 175 per month as salary from Government or from any private firm or individual, comes to Rs. 2,100 annually, and he is called upon to pay an income-tax of Rs. 54 per annum. It may be said that for a man who earns Rs. 2,100 per annum, it is not a high sum for him to pay Rs. 54 per annum, but those Honourable Members who are acquainted with the increase in price of provisions and in the increase in the cost of living in this country are sure to be convinced of this fact that even this sum of Rs. 54 per annum is not a trifling sum for one easily to afford for the payment of this tax. Gentlemen who are in the Government subordinate service drawing as much as Rs. 175 per month have to dress themselves decently because in the performance of their official duties they have to go before high officials, their masters. Clerks in the courts have to go before the Sessions Judges, Superintendents in the Deputy Commissioner's office have to go before the Deputy Commissioners, and the members of the Secretariat staff have to go before their Secretaries. They are bound to dress decently, and consequently it is bound to cost them more. They have to pay high rates for rents for their houses, and I think their bill for every branch of their living has increased considerably, so this amount of Rs. 54 per annum is not a very

[Sardar Shrivdev Singh Oberoi.]

trifling amount for them. To my mind it is an amount which they do not feel lightly when they have to pay out of their income, and I feel sure that, if this amount is remitted and if they are made free of this amount, they would feel it an act of grace on the part of the Government which would afford a solid relief to their purses. It would not be wrong on my part perhaps to state particular instances of honest men who have led their official lives honestly, such as Sub-Judges and Extra Assistant Commissioners and I know of such instances that they have not been able to make their own houses out of their salaries. I know also, Sir, and I think many of my Honourable friends also know that such officers as Sub-Judges, as clerks of the courts of District Judges, as Extra Assistant Commissioners, have either to walk to court or to cycle, or to go in a hackney carriage, because they cannot afford to keep one. If a gentleman who draws something like Rs. 175 a month happens to have two or three children reading in school or college he has to pay their expenses, as a college student takes not less than Rs. 40 a month from his father to carry on his studies in the college. Where from is that gentleman to find the means to keep himself decently and also to carry on in the world? This is what I have to say about the people who are in service. The other class affected by the income-tax is the trading class. Barring those gentlemen who are very high up in the trade and are assessed at super-tax, or whose income is more than ten thousand, I am talking of the middle class and my amendment is simply to affect that class of trader whose income varies between two and three thousand. If on the one hand unemployment is the cry of the day, the slump in trade is also being felt by the petty traders to a very great extent. I do not think this is merely an assumption, but I, being in contact with two of the flourishing banks of my province, have to come in contact with traders. I am a trader myself to a small extent, and I can say their condition is that they are feeling the slackening of the trade to a very great extent, and any remission or any reduction in the income-tax would certainly afford very great relief to that class of people also.

I have not been able to find out many figures as regards the facts as to what extent this amendment if carried would affect the finances, as it was Sunday that intervened between Saturday and to-day, but I have however got some report of the income-tax returns and I would like to quote one or two figures to show that the income would not be very much affected if the Honourable Members of this House agreed to my amendment, for I find, Sir, that the income of the persons assessed over Rs. 2,000 and under Rs. 2,499 for the year ending 31st March 1924 comes to Rs. 3,69,172 in my own province, because these figures before me are of the Punjab. These are the figures which are before me of the Punjab. The income from the assesseees who pay income-tax over Rs. 2,500 and under Rs. 2,999 comes to Rs. 2,94,737. The total comes to something like Rs. 7,00,000. The total income-tax collected comes to Rs. 55,12,800. That is, the proportion of income-tax which comes from the pockets of those assesseees whose income is between Rs. 2,000 and Rs. 3,000 is something in the neighbourhood of 8 or 9 per cent. or the total income received from the whole province. On the other hand, Sir, I find that the number of persons who are affected by this tax in the first case whose income is over Rs. 2,000 and under Rs. 2,499, is 7,522, and of those whose income is above Rs. 2,500 and under Rs. 2,999 comes to

3,810. The total comes to 11,300 against a total number of 27,865 assesses. It comes to something like 40 per cent. of the total number of assesses. What I am trying to drive at from these figures is this, that whilst the amount affected by the proposed change would affect the income of the Government from this head by 8 or 9 per cent., the persons affected by this amendment would be 35 per cent. or 40 per cent. That is to say, Sir, that the relief of this amendment, if carried, would be given to 35 per cent. or 40 per cent. of the persons who are affected by the Income-tax Act under these two heads, while the income to be affected by this reduction would be 8 or 9 per cent. So this is a question between material loss and moral gain. Of course the material loss would be heavy, but I am of opinion that the moral gain would be much heavier than the material loss which the Government would suffer by this amendment being carried, and I for one would most sincerely wish that the popularity of the present Government should be maintained, should be increased and should be regained if it is lost in any way. With these few words, Sir, I have put my amendment forward in the hope that Honourable Members of this House will be convinced by my short speech and the few reasons I have given and support me.

THE HONOURABLE MR. A. C. MCWATTERS: Sir, I am rising at this stage because I think it will be for the convenience of this House if I give them the complete figures for the whole of India as they would be affected if this amendment were carried. The Honourable Member has explained that he has been able to obtain the figures only for the Punjab. The figure for the whole of India in the class between 2,000 and 2,999 is 59 lakhs. Therefore, the effect of this amendment financially would be quite a considerable one, and it would make a very considerable difference as to what we shall be able to do in the course of the year with regard to the reduction of provincial contributions. That, Sir, is the first point.

My second point is that this subject has been under consideration recently by the Taxation Inquiry Committee. That Committee went into this question of the exemption limit in connection with the allowances for dependants, which are two closely related subjects. They said:

"The exemption limit in most countries bears relation to the cost of subsistence. In India it began at as low a figure as Rs. 200, from which it was raised to Rs. 500 in 1886, to Rs. 1,000 in 1903 and to Rs. 2,000 in 1919. It is thus actually higher than the exemption limit in the United Kingdom. One of the principal reasons for this last increase was the very large number of assesses falling within the lower range of income and the small sum realised by including them within the scope of the tax in relation to the trouble and expense involved in the assessment and collection of it."

From the figures I have given earlier, the House will see that the position is not quite the same in regard to incomes above Rs. 2,000 where the amount realised is quite considerable. The Committee went on to say that several witnesses had urged a *reduction* of the exemption limit to a lower figure. In the end, their conclusion is:

"It seems to the Committee that it would be best, under Indian conditions, to set off the higher exemption limit against the absence of allowances in respect of dependants, in other words, to maintain the *status quo* in both matters."

I have mentioned this to the House because we have to consider the recommendations of the Taxation Inquiry Committee after discussion with the Legislature, and I think therefore it would be premature to introduce this amendment without it having been discussed at all in the other House, and probably inadequately discussed here. It would be

[Mr. A. C. McWatters.]

better to leave the matter over. The financial effect, I have explained, would be a recurring loss of 59 lakhs, which would have a very serious effect on what we are able to do in the way of a reduction of the provincial contributions.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: Sir, I agree with the Sardar Sahib up to a very great extent, and that is that a difference of Rs. 1,000 should be made. He wants to make the difference from Rs. 2,000 to Rs. 3,000, and I want to bring it down from Rs. 2,000 to Rs. 1,000 if not to Rs. 500. Why? Because in India there are different people who derive their income from different sources. As long as they are in one country, I think the Government should treat them equally. If one person who derives income from one source should be made to pay even on the smallest amount that he gets in his particular walk of life, then why not another? The Sardar Sahib has said he is defending those men who get Rs. 175 a month, and I stand up here to defend or back up those people who get Rs. 6 or 7, if not less a month. To the zemindars who are in the Council I say, just as the Sardar Sahib has asked the Council to help him, that they should help their own poor brethren who get Rs. 6 or Rs. 7 rather than help those who get Rs. 175. It is known, Sir, that one man cannot at one and the same time use two ploughs, he must use one. It is again known that one plough cannot till more than 20 bighas, that is 10 acres. These 20 bighas or 10 acres if you till them to the maximum only bring in, say, Rs. 30 an acre or Rs. 300 a year. Now this man must have two or three people depending on him. I am not good at figures but I make it that these, say, four men dependent on him only get Rs. 6 to Rs. 7 each. So I hope that if Government cannot bring this amount down from Rs. 2,000 to Rs. 500, at any rate they will not increase it. I am very sorry to hear that the Report of the Committee which has just been referred to states that things should remain as they are. We expected this. We expected that they were not going to help those zemindars who are oppressed and that is why we wanted more of our zamindars to be appointed to that Committee. With the greatest difficulty we were able to put one on it, and naturally he has not been able to carry weight there. Well it is not our fault. I hope the zamindars at any rate will not support this and the others will also support the poorer classes rather than those who are rich.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to support the amendment and my reason for supporting it is that the value of the rupee has considerably gone down, while the cost of living on the other hand has very considerably increased. The poor man, I mean the poorer middle class, does therefore deserve serious consideration from the Government as far as taxation on his income is concerned. My Honourable friend, Sir Umar Hayat Khan, observed that the Taxation Inquiry Committee has gone against it. I might inform my Honourable friend that the Taxation Inquiry Committee has supported it. The Honourable the Finance Secretary said that the scale of taxation in India on income compares very favourably with taxation on incomes in other countries of the world.

THE HONOURABLE MR. A. C. McWATTERS: I said the exemption limit

**THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS:** I meant the exemption limit. In this connection I might mention that conditions in India greatly differ from all other countries of the world. An Indian has to support a greater number of dependants than any other man does in the other countries of the world, and for that reason an Indian requires exemption on a higher scale than exists at present. The Honourable the Finance Secretary says that the loss of income by accepting this amendment will be 59 lakhs, and how is that money to be found? I might, Sir, repeat the same maxim that the Honourable the Mover of the amendment stated some time ago, that where there is a will there is a way. Fifty lakhs of rupees has already been given to the Archæological Fund. (*Honourable Members:* "No" and "It has been thrown out!"). Well I may be wrong but that was my impression.

**THE HONOURABLE MR. A. C. MCWATTERS:** The supplementary grant was rejected by the other House.

**THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS:** I am glad to hear that. Find the money by some other means. With these remarks, Sir, I support the amendment.

**THE HONOURABLE MR. P. C. DESIKA CHARI:** Sir, I am not much in sympathy with the amendments which have been proposed, and though I am in very much sympathy with the class of persons for whose benefit these amendments are intended I have got my own reason for opposing it. It is this. In other countries we have got a differential way of dealing with income of different classes of people. For instance, income derived by personal exertion are treated on a different footing from incomes which are earned without any personal exertion. Here by this amendment a sort of all-round relief is sought to be given and these amendments include also persons who are not really entitled to much sympathy and consideration at the hands of this House. On the other hand, if this amendment is lost, I quite well see that the other class of people who make their income by personal exertion will also suffer; but that is a matter which ought to be dealt with on broad principles of taxation, and I hope an opportunity will be given to us when we can deal with this question of differential incomes and other aspects of the question. In England and other countries we find that by a system of allowances and exemptions a good deal of relief is given to the assessee. If a person is married then some allowance is given for his married state, and if he has got children, some allowance is given for the first child and for subsequent children a smaller allowance is given. It is this sort of differentiation and allowances and exemptions that ought to find a place in any proper system of income-tax; and all these considerations do not seem to weigh with the Honourable Mover of the amendment and I therefore must oppose his amendment, because these, Sir, are considerations which must be taken into account when we are dealing with the whole Income-tax Act and the other questions of taxation which will come up for discussion very shortly in connection with the Report of the Taxation Inquiry Committee. ♦

**THE HONOURABLE THE PRESIDENT:** The original question was:

"That Schedule II stand part of the Bill."

[The President.]

Since which an amendment has been moved :

“ That in Part I-A of the Schedule II for clauses (1) and (2) the following be substituted :

‘ (1) When the total income is less than Rs. 3,000 ... Nil.

(2) When the total income is Rs. 3,000 or upwards but is less than Rs. 5,000 ... Five pies in the rupee ’.”

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

The motion was negatived.

Schedule II was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE MR. A. C. MCWATTERS: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

THE HONOURABLE THE PRESIDENT: The question is :

“ That the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to repeal the Cotton Duties Act, 1896, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, to fix rates of Income-tax, and to provide for the appropriation of certain monies for the purpose of the reduction or avoidance of public debt, as passed by the Legislative Assembly, be passed.”

THE HONOURABLE MR. K. C. ROY (Bengal: Nominated Non-Official): Sir, before you put the final motion to the House I should like to make a very simple observation on clause 3 of the Bill. The clause repeals what is known as the Cotton Duties Act. The House by passing that clause redresses what has been a historic grievance in the annals of Indian commercial history. Both the Government and the Legislature have responded to the wishes of the Indian people. I feel very strongly, Sir, that the Bombay millowner has a duty to perform now. He has got to fulfil his obligations to the poor consumer. It is his duty now to put cotton textiles on the market at a cheaper rate, and in doing this he will be only fulfilling his duty to his country.

THE HONOURABLE MR. MANMOHANDAS RAMJI VORA (Bombay: Non-Muhammadan): Sir, in reply to what has fallen from my Honourable friend Mr. K. C. Roy, I can assure him that as soon as the announcement was made on the 1st December last, the prices of Indian made cloth went down to three-quarters of an anna per lb. which was a little more than the excise duty. I think this statement will satisfy him.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Before this Finance Bill is accepted, with your permission, Sir, I should like to make some observations with regard to the matter on which I wanted to move amendments. I think, Sir, that I am entitled to speak on this matter, if not on the amendments, before the Bill is passed into law. I hope I have the permission of the Chair to make a few observations.

THE HONOURABLE THE PRESIDENT: I think it would be more appropriate if the Honourable Member reserved his remarks for a proper occasion. If I rule his amendment out of order and at the same time allow him to

address the House at some length on the subject with which his amendment deals, I shall be stultifying my own ruling. The proper occasion for the Honourable Member to make his observations on this matter was at the time of the general discussion of the Budget, when his remarks would have received the attention that they merit. I am afraid the amendments standing in the name of the Honourable Member deal with matters with which the Finance Bill itself does not deal and he would not therefore be in order.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will I be allowed to move my amendments in connection with the Indian Income-tax (Amendment) Bill?

THE HONOURABLE THE PRESIDENT: I presume the Honourable Member is referring to the Indian Income-tax (Amendment) Bill later on on the paper.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Yes.

THE HONOURABLE THE PRESIDENT: I think the Honourable Member in the meantime, before we come to that Bill, might consider his position.

(The Honourable Rai Bahadur Lala Ram Saran Das did not rise to speak.)

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to repeal the Cotton Duties Act, 1896, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, to fix rates of income-tax, and to provide for the appropriation of certain monies for the purpose of the reduction or avoidance of public debt, as passed by the Legislative Assembly, be passed."

The motion was adopted.

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

The Council re-assembled after Lunch at Half Past Two of the Clock, the Honourable the President in the Chair.

### COTTON INDUSTRY (STATISTICS) BILL.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move that the Bill to provide for the regular submission of returns of quantities of cotton goods manufactured and cotton yarn spun in British India, as passed by the Legislative Assembly, be taken into consideration.

Certain clauses of the Finance Bill provoked some discussion this morning and revealed certain differences of opinion within this Council; but there was one clause there which received approbation. That was clause 3 of the Finance Bill. That involved the repeal of the Cotton Duties Act. It only remains for His Excellency to affix his signature to the Finance Bill for that old Act to be decently buried. To whatever extent that Act, Sir, was greatly blamed and strongly disliked by the millowners and by many sections of opinion in this country, yet they had a little sneaking affection for a portion of it. It was under that Act that they and we obtained statistics of the returns of cotton goods and



[Mr. D. T. Chadwick.]

cotton yarn manufactured in this country. Those statistics both the mill industry, the Government and the people of India generally have found extremely useful. They have been maintained regularly now for over thirty years, and when that Cotton Duties Act is dead and buried, unless something is done, we shall have no more power to collect these statistics. The mill industry themselves have asked that these statistics should be continued, and the object of the Bill which I am now putting before the Council is merely to enable the statistics of cotton goods manufactured in India to be obtained and recorded.

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3, 4 and 5 were added to the Bill.

Clauses 6, 7, 8 and 9 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move:

“That the Bill to provide for the regular submission of returns of quantities of cotton goods manufactured and cotton yarn spun in British India, as passed by the Legislative Assembly, be passed.”

The motion was adopted.

---

### LEGAL PRACTITIONERS (FEES) BILL.

THE HONOURABLE MR. S. R. DAS (Law Member): Sir, I move that the Bill to define in certain cases the rights of legal practitioners to sue for their fees and their liabilities to be sued in respect of negligence in the discharge of their professional duties, as passed by the Legislative Assembly, be taken into consideration.

The position at present is that generally barristers who plead but do not act are not entitled to sue for their fees, nor are they liable for any negligence; whereas pleaders and vakils who are entitled to sue for their fees are responsible for any negligence. There have been cases, however, where the barristers in certain provinces have also acted as well as pleaded, and in some of those provinces it has been held that they are liable to be sued for negligence, though the contrary proposition that they are entitled to sue for their fees has not yet been settled. The Bar Committee suggested that instead of the distinction between barristers and pleaders being as it is now, a broad distinction should be drawn between those who act and those who merely plead, and they suggested that with reference to a legal practitioner, whether he is a barrister or a vakil or a pleader or an attorney, if he merely acts he is entitled to sue for his fees and be liable for any negligence, whereas a barrister or pleader or any other legal practitioner who merely takes up a case for the purpose of pleading is not entitled to sue for his fees, nor is he liable for any negligence in the course of his pleading; and this Bill merely gives effect to that recommendation of the Bar Committee.

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3, 4, 5 and 6 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

---

### CODE OF CIVIL PROCEDURE (SECOND AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS: Sir, I move that the Bill to amend the law relating to the appointment of legal practitioners in civil suits and for this purpose further to amend the Code of Civil Procedure, 1908, as passed by the Legislative Assembly, be taken into consideration.

This is another Bill which gives effect to a recommendation of the Bar Committee. At the present moment barristers are not required to file any *vakalatnamas*, while pleaders and attorneys have to. But as I pointed out in connection with the last Bill, in certain provinces, barristers not only plead but they act, that is, they deal directly with the client. The Bar Committee recommended that this distinction should be got rid of and that anyone who acts, that is, has direct relation with the client, should file a *vakalatnama*, but that, if he is engaged merely to plead by a pleader who has already filed a *vakalatnama*, he need not file a *vakalatnama* at all, so that whether he is a *vakil* or a pleader, so long as he is instructed by another pleader or another *vakil* who has already filed a *vakalatnama*, he need not file any *vakalatnama*, and this Bill gives effect to that recommendation.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

---

### DELHI JOINT WATER BOARD BILL.

THE HONOURABLE MR. A. H. LEY (Secretary for Industries and Labour): Sir, I beg to move that the Bill to provide for the maintenance of the works established to supply drinking water in bulk for the urban area of the city of Delhi, and for that purpose to constitute a Joint Water Board to undertake such maintenance, as passed by the Legislative Assembly, be taken into consideration.

This, Sir, is quite a simple and uncontentious measure. It is designed to regulate the supply of water in bulk to the several municipal bodies which administer the urban area of Delhi. After the decision to move the capital to Delhi, it was found necessary, in the interests of efficiency

[Mr. A. H. Ley.]

and economy, to amalgamate the new water works which would have to be constructed with the water works already existing, the property of the Delhi Municipality. There was considerable discussion with the Delhi Municipality and the arrangement ultimately arrived at is that which is embodied in the present Bill. The Bill, that is, seeks to legalise an existing arrangement and I trust that it will meet with the acceptance of this House.

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3, 4, 5, 6, 7, 8, 9 and 10 were added to the Bill.

Clauses 11, 12, 13, 14, 15 and 16 were added to the Bill.

Clauses 17, 18, 19, 20, 21, 22 and 23 were added to the Bill.

Clauses 24, 25, 26, 27 and 28 were added to the Bill.

Schedule I was added to the Bill.

Schedule II was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE MR. A. H. LEY: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

---

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

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

This Bill, Sir, deals with two entirely separate and unconnected matters affecting income-tax law. The first is the procedure with regard to the collection of super-tax from non-residents, and the second is the extension of an unrestricted right of appeal to the Privy Council in the case of references to the High Courts on points of law under section 66 of the Income-tax Act.

I will deal first with the second of those proposals because I do not think that there is any likelihood of substantial objection being taken to it. In the past on several occasions even after High Courts have allowed leave of appeal, the Privy Council has been reluctant to admit the appeal. I think it will be agreed that it is equally important for Government as for the public to have uniformity in the Indian Income-tax law. We have found on several occasions considerable difficulty arising from the divergent judgments of High Courts in India, and so far as the public is concerned, we have a definite request from the Associated Chambers of Commerce in December 1924, for the enactment of a provision of this kind. One feature of the proposed legislation is that, in order to save time, expense and trouble to all parties, there should be no further appeal within the High Court itself, but that there should be appeal in all cases to the Privy Council. Clause 8 of the Bill deals with these provisions. Clause 7 is intended to provide for certain central areas where there is no High Court.

I now turn to the other proposal which deals with the collection of super-tax from non-residents. The necessity for amending the law is due to the fact that section 57 (2) of the Income-tax Act, as it stands is faulty. That section was framed definitely to enable super-tax to be collected from non-residents at the source, but from the way in which it is worded, especially from the use of the word "assessee" it is quite clear that the section does not give effect to the intention. Our first object then is to put that section on a proper footing and the new section 57 (3), which is part of clause 5 of the Bill, is intended to be a redraft of that section in order to make it workable. We do propose, however, to go beyond the existing law in two respects. In the first place the new section 19A, which the House will find in clause 2 of the Bill, does devolve on the principal officer of a company the duty of informing the Income-tax Officers of payments of dividends over and above a certain amount which will be prescribed. This proposal is intended in the first place to eliminate the existing differentiation in favour of the non-resident in the matter of collection of super-tax. But it is also put forward in order to help us in our assessment of income-tax generally. It is not confined to super-tax alone. I understand that no substantial objection is taken to that particular clause. In fact the Bengal Chamber of Commerce who, as the House will no doubt shortly learn, object to some of the provisions of this Bill, are in favour of, or at any rate do not object to, the new section 19A. This is what they say. I am reading from their letter because there is a point in it which I wish to clear up in passing. They say:

"The Committee do not propose to remark in detail on the other clauses of the Bill. They have considered clause 2—which inserts in the Act a new section 19A—and they do not raise objection to the proposal that companies should assist the authorities to the extent indicated. They notice, however, that in the contemplated new section 19A the expression 'the preceding year' is used. They suggest that it should be made clear as to whether this phrase means the company's year or the official financial year."

I simply wish to point out that throughout the Income-tax Act, the word "year" means the financial year except in the phrase "previous year" which is specially defined in sub-section (11) of section 2. I now pass to the second point in which we are going beyond the existing law. That is the new section 57 (2) which is part of clause 5 of the Bill. To that section I am aware that objection has been taken in another place, and I think it is mainly upon two grounds; firstly, on account of the disclosure which it involves of a portion of the income of a non-resident, and, secondly, because it is held to impose extra work on the principal officer of a company beyond what is legitimate for the Government to ask. Now as regards these two points, I think that if objection is taken in this House, I shall be able to satisfy the House that the objections are not really very substantial; but at the present stage I merely wish to call attention to the opinion of the Select Committee of the other House, who, with one dissentient, recorded the following opinion:

"We have discussed very fully the provisions of clauses 2 and 5 of the Bill and have decided not to make any material alteration therein. Although it must be admitted that some increase will be involved in the work which principal officers of companies have to perform in aid of the income-tax authorities, we do not think that this consideration or the argument that in some cases the approximate Indian income of a non-resident person may become known through the communication to principal officers of companies of the appropriate rate of super-tax should weigh against what appears to be the only possible method of preventing evasion of super-tax by non-residents."

That, Sir, is the position I am asking the House to support. I do not say we can prevent evasion in all cases, and I do not suggest for a moment

[Mr. A. C. McWatters.]

that these two objections which have been taken to our proposals are without force, but I think the view which was taken by the Select Committee in the other House is the right one. I have one further important point to make, and that is that the provisions of this clause, establishing the new section 57 (2), are permissive. The section says that the Income-tax Officer "may" require the principal officer of the company, etc.; it does not say that he "shall". And in point of fact under section 48 of the Income-tax Act, the non-resident, if he likes, can state his income and get his assessment made through an agent or banker, and that procedure will safeguard him from any possible disclosure of his income owing to the operation of this clause.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

There is an amendment on the paper standing in the name of the Honourable Sir Arthur Froom to that motion, to the effect that the Bill be circulated for the purpose of eliciting opinions thereon by the 1st July, 1926. The Indian Legislative Rules, which govern our procedure in this matter, are, I think, quite clear on this point. Whether they are right or wrong, there is no doubt I think that they lay down that when a Bill has been passed in one Chamber, whether in the course of its passage through that Chamber the Bill was referred to a Select Committee or a Joint Committee or not, or whether there was a motion in that Chamber or not that the Bill should be circulated for opinion, when the Bill, having been passed, comes to the second Chamber, there is no provision whatever for a motion in that Chamber for circulation of the Bill. That is the hard and fast rule which the rules lay down for us, that in the second Chamber there can be no motion for circulation. Whether that is right or wrong it is not for me to say, but that is the ruling which I think has been given from this Chair on a previous occasion, and I have no hesitation in following it. The motion then before the House is that the Bill be taken into consideration.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, I must say at once that your ruling, to which of course I bow, places me in some considerable embarrassment. It seems to me that, according to the rules of the Council of State or the Legislature generally if a Bill is passed in one House, and has been considered in the Select Committee of that House, when it comes to the other, there is nothing left for them but either to throw it out or to vote for it. These rules seem to me to provide for no *via media* at all. Now in tabling my amendment to this Bill, it will be recognised at once by Honourable Members that I did not propose that the Bill should be destroyed. I merely wished to obtain further opinions from the country on it, which I think was a very mild request. However, Sir, I am not allowed to move that amendment, but I crave your indulgence, as a *via media*, to move another amendment. I should like to move the following amendment:

"That the consideration of the Bill further to amend the Indian Income-tax Act, 1922, be deferred."

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammedan): Sir, I rise to support the motion made by the Honourable

Sir Arthur Froom. It is a matter of regret to find that the Joint Committees are not found since this new Assembly began its new policy. I think, Sir, it is a slur on this House that even on important Bills Joint Committees are not pressed for by Government and are not appointed. The only way left to this House is either to throw out as a protest this Bill on which there has been no joint deliberations, or to seek some other suitable remedy. As on this important Bill there has been no joint deliberation it will be opportune that the consideration of the Bill be postponed.

THE HONOURABLE THE PRESIDENT: Before I hear other Honourable Members on that point, I think I should explain to the House whether I intend to accept that motion and put it to the House or not. I have told the House on more than one occasion that the Chair has a discretion to accept a motion of this nature, that is to say a motion for the adjournment of discussion. This is so for quite obvious reasons. On this occasion I take it that the Honourable Sir Arthur Froom desires to move for the adjournment on the ground that he is not prepared to throw out the Bill and he is not prepared to vote for it. I would point out to him that, in saying there was no *via media*, he was not strictly correct. The *via media* was to take the Bill into consideration and in the consideration stage to amend it. But I take it that his point is that until opinions have been ascertained, he is really not in a position to know what amendment he should put forward. For these reasons I put the amendment proposed by the Honourable Sir Arthur Froom to the House. The question is that the consideration of the motion be adjourned.

THE HONOURABLE MR. K. C. ROY: Might I ask, on a point of order, what would be the effect if the consideration of the Bill is deferred and if the House is prorogued on the 25th?

THE HONOURABLE THE PRESIDENT: The effect I think will be obvious; the Bill would die and have to be reintroduced. Did the Honourable Member say "prorogued"? In the case of prorogation Bills carry on. I thought the Honourable Member referred to dissolution.

THE HONOURABLE SIR ARTHUR FROOM: Do I understand the amendment is now admitted and I can speak on it?

THE HONOURABLE THE PRESIDENT: Strictly speaking the Honourable Member when he moved it should have spoken on it. But, as I pointed out, he was not strictly in order until he had taken the permission of the Chair. He can now elaborate the arguments in favour of his motion.

THE HONOURABLE SIR ARTHUR FROOM: That was my idea. I thought I had to obtain your permission, Sir, before I went on with my amendment.

Sir, when the Honourable the Finance Member moved for leave to introduce this Bill in the other House he made the following remarks:

"All the important proposals in this Bill have been incorporated in it as the result of very careful discussion and consultation with the Chambers of Commerce and Local Governments."

Well, Sir, I do not intend to suggest that that statement was made with the object of misleading the Assembly, but I think it will interest the Honourable Members of this House to understand that it is perfectly true that Government did approach various Chambers of Commerce with

[Sir Arthur Froom.]

the idea of ascertaining their views on a Bill of this nature, but they have not ascertained the views of the country generally, through the Provincial Governments and therefore the views of Chambers of Commerce and various business firms, on the Bill. I have before me copy of a letter showing objections to this Bill from no less than 13 Chambers of Commerce. These were by telegram: other Chambers of Commerce objected by note. So if the other House understood from the Honourable the Finance Member's opening remarks that the Bill had been approved, they were misled.

Now, Sir, I do not object to the principle of this Bill in so far as the principle lays down that super-tax should be collected where due, but I do object to the methods devised or sought to be devised in this Bill. The Bill places too much power in the hands of the Income-tax Officer. In saying this I do not wish to belittle the Income-tax Officer in any way, but I consider that he should be only called upon to administer the law as provided for by the Income-tax Act, and that he should not be expected to jump at conclusions and indulge in various surmises for which the law does not provide. I do not suggest that an Income-tax Officer, that most Income-tax Officers with whom we come in contact are not very zealous officers, but I do contend that no opportunity should be given to them of their zeal being outrun by their imagination. Sir, I ask Honourable Members to look at this Bill. What does it say in one of the principal clauses:

"If the Income-tax officer has reason to believe, etc."

No line of action is laid down for him; it is left to the Income-tax Officer to apply his reason or his imagination to this, that and the other, and that I think is wrong in the administration of such an important law as that of income-tax. No Income-tax Officer should be set a riddle to guess, "When is a resident not a resident?"

Now, Sir, I further object to the Bill inasmuch as it places on officers of companies too much work and too much responsibility. They are asked to collect taxes, whether they know the taxes are correct or not, and by this line of action it seems to me the Central Board of Revenue are trying to place upon companies work which they should do themselves. Why should they not do it themselves? What is the amount to be gained, the financial result to be gained by this measure? The question was asked in the other House, and the answer was, "We do not know!" Why don't they know? Because they have not taken the trouble to find out. You can find out in this way. Any one of the Honourable Members of this House by the payment of a rupee can go and examine the list of shareholders in any company and the list of their holdings. Apply that to any year. You have only got to examine the reports of various companies and the dividends they have declared. Apply some mathematics and you can find out the income of each man holding shares in these various companies. The Central Board of Revenue could have ascertained whether they were not getting the proper returns from various residents and non-residents in this country; and I object to the Central Board of Revenue calling upon companies, hard-worked companies—the officers of these companies are hard worked as all business men are hard worked—to do work which they should do for themselves.

Sir, my final objection is that this Bill violates the principle of privacy. It is the thin end of the wedge. They say "Oh no! We are not in any way revealing the incomes of residents or non-residents." I say they are, and it is the thin end of the wedge. How much further will that wedge be driven? Will the time ever come when from residents or non-residents all super-tax will be deducted at source? Can you trust it? I cannot. Now, Sir, when the Income-tax Bill of 1922 was brought before the Legislature it was discussed by a Joint Committee. I happened to be a member of that Committee, and I am able to inform Honourable Members of this House that the clause of that Bill, which now appears in the Act as section 57, was very fully debated between the members of that Joint Committee and the Government officer in charge. I forget what his title was in those days; in these days it would be the Central Board of Revenue. We discussed it very fully and that officer, a well honoured officer who is likely in the near future to be seen in this House—an officer who knew the theory and practice of income-tax backwards and forwards perhaps such as no other man knows it,—told us that that section could not work, it would not work and it was not intended to work. It is not worked in England. England does not deduct super-tax at source, and why should such a thing be attempted to be introduced into this country?

Now, Sir, I would further invite the attention of Honourable Members to the debate in the other House on the motion brought forward for circulation for opinion. What did that debate resolve itself into? A difference of opinion, one opinion held by Government, the other opinion held by a commercial Member. Government opposed the motion for circulation. Why? Were they afraid of it? The Member who moved the motion for circulation was supported by 27 votes. I contend that that was a majority because you should subtract the Government votes many of whom are certainly not business men. Allow me to say that they have not been educated in business circles. If you subtract those votes, the Mover of the motion had a substantial majority in the House.

What was the next procedure the Honourable the Finance Member adopted? He next agreed to the motion that the Bill be referred to a Select Committee. Why a Select Committee? The Honourable the Finance Member said that, if he agreed to the motion for circulation, he would lose time; he would lose a year. But, even agreeing or even viewing that point from his standpoint that he would lose a year, what should he have next done? He could see a certain amount of opposition to this Bill. Why not refer it to a Joint Committee? Why should the Council of State be ignored as it has of late always been ignored in these matters. The original Income-tax Bill was considered by a Joint Committee of the Legislative Assembly and the Council of State, and I contend there are more business men in this Council than there are in the Legislative Assembly. Anyhow, the Council of State was ignored. The Bill was considered by a Select Committee of the Assembly. Now, if the Honourable Members look at the names of Members of the Select Committee, they will find that there is one commercial Member on it, and that one Member wrote a minute of dissent. The rest of the Committee, with the exception perhaps of one other Member who is a professional man, a chartered accountant, have no intimate knowledge of the working of the companies and their management. Therefore, they could not appreciate the objection from the one Member who made it. I say, again, what is the use of all of us coming to this Council here giving up our valuable



[Sir Arthur Froom.]

time to come and sit in this Council, when we are never consulted in these matters except at the last moment. As the Honourable the President has pointed out, when you get a Bill before you which has been before a Select Committee of the other House you cannot refer it to a Committee of your own. You cannot ask for its circulation in the country. You have got to vote for or against it or pull it to pieces as you take it into consideration. I say this is entirely wrong. I contend that the Honourable the Finance Member should have referred this Bill to a Joint Committee of both Houses to get the solid opinion of the commercial community in this country.

Now, Sir, my amendment does not seek to kill this Bill. It merely asks for the postponement of its consideration. Therefore, I take it that the non-official nominated Members of this House can clearly vote for my amendment if they wish to do so or vote against it if they so please. In fact, I should not be surprised if some of the Honourable Members on the Benches opposite did not vote for my amendment. Perhaps they will. I feel a certain amount of sympathy with our friend the Honourable the Finance Secretary in that this Bill is entrusted to his charge. I cannot help thinking that in his heart of hearts he does not like it any more than we do. However, it has been entrusted to his charge and he has got to see it through if he can. Before I sit down I can only recapitulate what I have already said that there was a difference of opinion between the Finance Member and some of the Members in the other place. What do you generally do when there is a difference of opinion? What is the right thing to do? What is the fair thing to do? The right thing to do is to refer the matter to a referee. Would Government do it? No. They only accepted the motion that the Bill be referred to a Select Committee. This House ought to have been consulted. I have already voiced my objections to the Bill. With these words, Sir, I move my amendment.

THE HONOURABLE MR. P. C. DESIKA CHARI: Sir, I find that this is a very important matter and a number of important amendments are sought to be introduced in the Indian Income-tax Act. We find this Bill brought into this Council at the fag-end of the Session along with a number of other matters which are very important and I do not like the hurry and the haste which characterise the bringing forward of a matter of this kind here. I join in the complaint which my Honourable friends Lala Ram Saran Das, and Sir Arthur Froom, have made that no attempt has been made to take into confidence the Members of this House at an early stage. Sir, the monopoly of wisdom does not lie in the other place. We have a number of men who are experienced in various directions who would have given their valuable opinion if those opinions had been called for at an early stage by the appointment of a Joint Committee. It is only fair, Sir, to allow the Members of this House greater time for the consideration of a matter of such importance and I therefore support the motion for postponement moved by my friend, Sir Arthur Froom.

THE HONOURABLE MR. J. W. A. BELL (Bengal Chamber of Commerce): Sir, I desire to support the amendment proposed by my Honourable friend, Sir Arthur Froom. In view of the fact, that among other things, the Bill introduces an entirely new principle into the system of collecting super-tax in the country, I think it is a very reasonable suggestion that its passing should be postponed until that, and other matters in connection with the Bill, have been fully considered by the country. A good deal

has been made of the fact that certain Chambers of Commerce were consulted in connection with the Bill, and my Honourable friend, Sir Arthur Froom has explained that point to a certain extent. I should like to make it clear that what really happened was that an official of the Central Board of Revenue consulted a number of Chambers of Commerce, but it was only on the principles of the Bill. Nothing whatever was said about the details. In fact, nothing could be said at that time about the details. Therefore, I agree with my Honourable friend when he says that it was wrong—probably quite unintentional but somewhat misleading—to say that the Chambers of Commerce and public bodies had been consulted. I wish to make it clear, particularly to my friends behind me, that, in supporting my Honourable friend's amendment, I am not opposing as he was not opposing, the principle of the Bill. The principle of the Bill is that certain persons are liable to super-tax, and that arrangements should be made for the collection from these persons of the amount of super-tax due. With that I am in the most entire agreement, and, in supporting my Honourable friend's amendment, I am not opposing Government but endeavouring to assist them by saving them from themselves. I might at this stage refer to a remark that was made by my Honourable friend, the Finance Secretary, which might be misinterpreted by some Honourable Members. He said that it was a purely permissive Bill, that it meant nothing. If that be so, why has there been such haste in getting it through? Why, if it is merely a permissive Bill, did the Honourable the Finance Member in another House say that if it were not passed at once he would lose a year's revenue or words to that effect? The rule that the Honourable the Finance Member has agreed to issue in connection with a particular clause of the Bill, under which persons having agents in this country will be freed from certain of the disabilities, is undoubtedly a concession. But it is a concession that only applies to a very few people, and it does not affect the general objections to the details of the Bill. In fact the permissiveness rather reminds me of the permissive invitation that was issued by the spider to the fly. I feel that Government are making a mistake in pressing through this Bill in its present form. I feel too that the time will come when Government will realise their mistake; and, that being so, I think it would not be right to allow it to go through this Council without an expression of opinion on my part with regard to it. I do not think that it will have the effect of securing payment of super-tax from the persons at whom it is aimed. Every one knows who these persons are, and I do not think that it will have the effect of securing payment of their super-tax. The people who will suffer will include many who are not liable to pay super-tax at all, and who will have all the endless trouble and worry involved in recovering super-tax which has been wrongly deducted. I might give many examples, but among those are, for instance, beneficiaries of estates which consist partly of Indian investments. Any one who has had anything to do with the administration of estates in this country, as I have had on one or two occasions, knows that there is very great delay in securing a title for the beneficiaries to the portions of the estate to which they are entitled; and in such a case as I have instanced super-tax would be deducted from the total amount and these beneficiaries—many of them people who have never even seen this country—would have all the endless trouble and worry of recovering the super-tax which had been wrongly deducted from their proportions. I may also instance the case of any one buying shares, the cost of which includes a proportion of the dividend. If one has not, before the date on which the principal

[Mr. J. W. A. Bell.]

officer of a company has to make his return, had time to have the shares registered, that would mean that one would, in turn, have the same trouble in recovering the super-tax which had been deducted and which ought not to have been deducted.

Another class to suffer—and they have been referred to by my Honourable friend, Sir Arthur Froom,—is a class who already pay every rupee of super-tax which is due by them—I refer to the principal officers of companies, who will have laid upon them, under heavy penalties, duties which it will be almost impossible for them to perform. These persons will be liable to be called upon by the income-tax authorities to deduct super-tax from the dividends of persons whose names are notified to them, at certain rates and—this is the point—where no such notice is given, to deduct super-tax from dividends over a certain sum, where they have not reason to believe that the shareholder is resident in British India. I would ask Honourable Members to consider that wording—it is not where they have reason to believe that the shareholder lives outside British India, but where they have not reason to believe that the shareholder lives in British India. In another place the Honourable the Finance Member, when questioned on this point, tried to make out that he had adopted this extremely clumsy form of wording in order to safeguard principal officers of companies; but I do not think that this explanation will deceive any one. Honourable Members will recognize that this curiously worded alteration has been made in order to increase the responsibility of principal officers, and practically to compel them to save themselves by deducting super-tax in cases where it should not be deducted, if there is the slightest doubt in their minds as to whether or not a shareholder is resident in British India.

I now ask Honourable Members to consider some of the difficulties with which principal officers of companies will be faced in attempting to carry out the responsibilities which are placed upon them by this Act. Shares, as Honourable Members know, change hands every day, and often transfer deeds pass through several hands before they are registered. How are principal officers to know on the date on which the dividend falls to be paid, who is the actual owner of the share? And yet, if they do not know, the penalty is that they must pay the super-tax out of their own pockets. This is what the representative of the Central Board of Revenue referred to, in a delicate way, in another place as asking the principal officers for a little assistance in collecting super-tax—a very polite way of putting it.

Another difficulty is that shares are often held by banks, by trustees and by nominees for other people. These particulars are not disclosed to principal officers of companies, and I do not see that they can fairly be expected or be held responsible for correctly arriving at who the real owners of the shares are.

I now come to a new principle which this Act seeks to introduce, and which has been referred to by my Honourable friend, Sir Arthur Froom. Hitherto in India, as in every other country but one in the world, every member of the public who pays income-tax or super-tax has had the assurance of Government that all particulars with regard to his income will be kept absolutely secret. I need not dwell upon how essential that provision is in an industrial system into which credit enters so largely as in this country. If the Bill be passed as it stands, the principle of secrecy will be violated. The notification broadcasted by the income-tax officer

to principal officers of companies that Mr. B.'s dividends are liable to deduction of super-tax at a certain rate, discloses to all these people that Mr. B.'s Indian income amounts to within certain figures. In another place the Honourable the Finance Member affected to make light of this objection. After all he said it was only the Indian income that was disclosed. I think, as a matter of fact, he went to the length of saying that the objection had no substance whatever. But why should any part of any one's income be disclosed? It is not disclosed in any other country in the world, but one. Why should India differ in this respect? If this principle of secrecy be allowed to be violated to this extent, do Honourable Members believe that disclosure will end there?

Perhaps my Honourable friend may tell us—I think he has mentioned it—that if those who are liable to super-tax will come forward and say so, there will be no need for this disclosure. But has any Honourable Member of this House ever heard of this duty being laid upon the income-tax payer in any country in the world? I would like to know whether my Honourable friend has ever begged his income-tax assessor not to forget to send him his return form. But, even if there be some remedy for the person who is liable to pay super-tax, what remedy is there for the person not liable? If it affects me adversely to have it made known that my Indian income liable to super-tax is a certain figure, it may affect my credit very much more adversely if it is made known that my Indian income is so small that no liability to super-tax exists. As soon as you admit the principle of disclosure you immediately publicly divide shareholders into two classes. You divide them publicly into those who have to pay super-tax and those who have not to pay super-tax, or in other words, those whose incomes are so small that they are not required to pay super-tax. I do not think I need to elaborate on the objections to that system.

When the question of the violation of secrecy was brought up in another place, the Honourable the Finance Member stated a curious objection. His objection was that, when the Chambers of Commerce had been consulted about this Bill, nothing whatever had been said about this question of secrecy, and that is probably perfectly correct. That is exactly why my Honourable friend asks that further consideration should be given to this Bill. It is impossible, in discussing a principle across a table in a Chamber of Commerce, for an hour, with a representative of the Central Board of Revenue,—however able that representative may be and however able the members of the Committee of the Chamber of Commerce may be—to arrive at every point of importance either in favour of the principle or against it. It is only when the principle is embodied in a Bill, and when a number of people have had an opportunity of examining it, that a point of this description emerges and can be discussed. When the Bill was actually published, and when it was sent down to the Bengal Chamber of Commerce, they immediately wrote to Government, and one of the first objections they made was with regard to this violation of the principle of secrecy.

But, Sir, those who do not like the terms of this Bill have not confined themselves merely to adverse criticism. An Honourable Member in another place—I think it was Sir Darcy Lindsay—suggested a method by which the assessment of non-residents, which was considered a proper thing, could be carried out. It was quite a simple method and would have, I think, brought in as much revenue to Government as that suggested in this Bill, without arousing a feeling that Government were adopting oppressive

[Mr. J. W. A. Bell.]

measures towards persons who after all were only third parties. Under clause 2 of the Bill, the Income-tax authorities will be furnished with the names and addresses of all persons receiving dividends over a certain figure. By analysing these returns from different companies they will be able to arrive at a list of persons likely to be liable to super-tax. Let them then proceed in the manner adopted by every other country in the world. Let them notify these persons that they are presumed to be liable to pay super-tax and let them call upon them to furnish super-tax returns. If, when these super-tax returns are made, it be found that any of these persons though having become owners of sub-divided holdings, or for any other reason, are not liable to pay super-tax, this will be discovered before the super-tax is deducted, and these persons will be saved the enormous trouble, I have referred to, of having to recover wrongly deducted super-tax. It might be said, "Suppose these people do not make returns." Well,—if these people, after having been notified by the proper authority, refuse to make returns, then they can be assessed at the highest possible figure, and their super-tax can be recovered by attachment of their property in the ordinary way. There would be no excuse for anyone who had been given an opportunity of making a super-tax return, and who had failed to take advantage of that opportunity of showing whether or not he was liable.

I think this suggestion a very reasonable one, but, when it was put by an Honourable Member in another place, it was turned down by the Honourable the Finance Member. What he said about it—if he be correctly reported—was that it left loopholes. Has any Honourable Member of this House ever heard of an Income-tax Act that did not leave loopholes? My Honourable friend is here and I would like him to explain to me in his reply what loopholes there are in the method I have suggested and to what extent there are greater loopholes in this proposal than in the Bill as it at present stands. Personally I would almost rather be faced by my Honourable friend's Bill than by the method I have proposed.

My Honourable friend, Sir Arthur Froom, has also referred to another matter which perhaps I need hardly have to touch upon. It is that, when the representative of the Central Board of Revenue was asked in another place what the financial result of this Bill would be, he said that he had no idea whatever. I want to put it to Honourable Members whether it is really fair on the part of Government to bring forward an important Bill like this, and not to be able to tell Honourable Members of this and another House what the financial result is likely to be, or that they should have brought forward a Bill which will lay such heavy responsibility on certain persons, without being in a position to say whether the financial result of that Bill would justify such responsibility being placed upon these persons.

As I have said before, I regret very much that Government should endeavour to force this Bill through as it stands, because I feel that, from a financial point of view, as well as in many other ways, it will do harm, and I should be very glad indeed if my Honourable friend could see his way, on behalf of Government, to accept my Honourable friend, Sir Arthur Froom's suggestion that consideration of it should be postponed. I also understood my Honourable friend, Sir Arthur Froom, to suggest that it might be submitted to a Joint Committee of both Houses. I am not sure whether he actually made that proposal, but

that was implied in his complaint that it had been submitted to a Select Committee composed entirely of Members of another House. If my Honourable friend could see his way to adopt that suggestion, it might meet the position equally well.

**THE HONOURABLE MR. MANMOHANDAS RAMJI VORA** (Bombay: Non-Muhammadan): Sir, I also rise to support Sir Arthur Froom and I do not want to tread over the ground already gone over and the objections which have been urged. My Honourable friend, Mr. Bell, has enumerated cases of hardship, and I might add one more to them. In practice there are several names in the joint stock companies' books as shareholders who are not really shareholders. Their shares are sold in some cases two or three years before and they are kept as blank shares by the purchaser. Now, is that man who has sold his shares two or three years before to be penalised by having his income deducted at the source and then be compelled to have the hardship of claiming a refund and getting the refund? Furthermore, if the enterprise of joint stock companies is to be developed and encouraged obstacles of this nature should not be put in the way of such shareholder by deducting taxes at the source; in that case people will not resort to investing their surplus capital in joint stock concerns and will resort to something else which will result in a greater loss to Government and the exchequer than this kind of proposed revenue. Sir, Government can ascertain from the records and use the remedies that they have under the existing law, if they choose to exert themselves to do so. I was a member of the Indian Income-tax Committee when the last Act was about to be framed. I was also a member of the Joint Committee, and we had considerable argument and reasonings in those two places, and, therefore, I think Government would have been well advised if they had referred this question to a Joint Committee rather than appointing a single House Committee and then coming here in great haste to ask the Members to pass a measure of such importance.

With these few words, I support the amendment.

**THE HONOURABLE MR. A. C. McWATTERS** (Finance Secretary): Sir, I think it is probably time that I intervened in this debate because several things have been said which I must confess give a very partial account of what really took place. I am referring in particular to the time during which this proposal, in its present form, has been before the country, and the method in which the Chambers of Commerce were consulted. It was stated I think by the Honourable Sir Arthur Froom and the Honourable Mr. Bell that the proposals, as they now stand, to which they take exception, were not before the Chambers of Commerce. In February 1925, that is somewhat over a year ago, a circular letter was sent by the Central Board of Revenue to all the leading Chambers of Commerce in India, and after a page and a half of explanation as to how the existing difficulties arose, they put before those Chambers certain proposals. With one of these we are not concerned to-day, because in consideration of the objections taken to it by the Chambers of Commerce, that particular proposal was dropped. That was a proposal that the principal officer, when an officer of more than one company, should collate the dividends of a shareholder and inform the Income-tax Officer of the total amount of dividends from all the companies paid to the same shareholder. But the main proposal to which objection is now taken was before the Chambers

[Mr. A. C. McWatters.]

of Commerce and I will read the relevant part of the letter from the Government of India to the Chambers of Commerce, so that you can judge for yourselves. This was the proposal:

"That where the Income-tax Officer is aware that the total income from all sources of a non-resident shareholder is such as to render him liable to super-tax, he should communicate to the principal officer or officers of the company or companies in which he holds shares, the amount of super-tax that should be deducted from each dividend and the principal officer should then be bound to deduct super-tax accordingly."

I ask the House, is that not the same proposal to which objection is now taken?

THE HONOURABLE MR. J. W. A. BELL: Entirely different.

THE HONOURABLE MR. A. C. MCWATTERS: It includes the question of disclosure and it imposes upon the principal officer of the company the liability to deduct at the rate communicated. Those are two, at any rate, of the objections which have been taken to the provisions in this Bill. Well, what was the result of that reference? Out of 20 bodies that were consulted, eight did not take the trouble to reply at all. Apparently they had either no observations to make, or they considered the proposals were suitable. Out of the remaining bodies which are represented on the Associated Chambers of Commerce, only two took objection. One was the Burma Chamber of Commerce, who objected to the whole thing, root and branch, and incidentally objected to taxation at source, and the other was the Bengal Chamber of Commerce, which sent in a reasoned letter on the subject. As the result of that letter Mr. Tottenham went down and interviewed the Bengal Chamber of Commerce, and that is the second stage which the Honourable Mr. Bell referred to, having not heard of or having entirely forgotten about the first! As a result of that interview, the Bengal Chamber said that they would not oppose such a verbal amendment of the section as would give effect to the original intention. The original intention of that section was to make possible the deduction at source of super-tax from non-resident shareholders. Well, Sir, we were told also by the Honourable Sir Arthur Froom that some 15 Chambers of Commerce have sent in telegrams protesting. I have also been favoured with copies of the telegrams from the Chambers of Commerce, and by an extraordinary coincidence, which I do not attempt to explain, the majority of these telegrams are couched in almost identically the same form of words! The form which has been approved by these various Chambers is:

"This Chamber again protests against amendment section 57 (2) and 57 (3) as imposing unreasonable duty on principal officers and allowing unwarrantable disclosure of assessee's income."

I will now quote the original opinion of one of these Chambers who have protested in this form. This was their reply to our letter:

"My Committee direct me to state that the collection of super-tax by deduction at source from dividends payable to non-resident shareholders is, in their opinion, most desirable, and the suggested amendments contained in paragraph 4 (1 and 2) of the above quoted letter appear to be steps in the right direction."

THE HONOURABLE SIR ARTHUR FROOM: You have not got the methods stated there; we agreed to the principle all along.

THE HONOURABLE MR. A. C. McWATTERS: I will take another; I shall not mention the name of the Chamber . . .

THE HONOURABLE MR. J. W. A. BELL: Do.

THE HONOURABLE MR. A. C. McWATTERS: This Chamber protested against the proposed amendment on the ground that it laid an unreasonable duty on principal officers and allowed unwarrantable disclosure. Yet it was one of the Chambers which did not take the trouble to reply to the original letter at all. And the same is true of several others. But I do not wish to rest my case on dialectic. Those Chambers, it may be, when they were first consulted, did not realise the importance of the proposals put before them. I admit that there is something in some of the objections put forward. I should be the last to deny that, and I think the most important is that the principle of disclosure is to some extent involved, but I think it was quite legitimate on the part of the Honourable the Finance Member to point out that not one of the Chambers of Commerce when originally consulted took any exception at all to the principle of disclosure. I do not say that disclosure is a good thing. But there are possibly certain occasions when the income-tax law can be made effective only if a certain minimum of disclosure is permissible, and this I think is one.

I would point out in answer to the thin-end-of-wedge argument that after all the reasons which make deduction at source suitable for ordinary income-tax do not apply in the case of super-tax. There is no flat rate of super-tax and therefore it is highly improbable that any extension of this kind would be suggested for super-tax generally. It is not as if this proposal would certainly or automatically lead to disclosure in the case of super-tax generally. I assure the Honourable Member that this is not so. This is a peculiar case and it must be treated entirely by itself. And as regards what is done in other countries, I would point out to the Honourable Mr. Bell that besides America, to which I presume he was referring, there is another country which allows disclosure—Sweden. There was a third country until a few years ago, and that is India, because in the case of small incomes below Rs. 2,000 income was disclosed until the year 1922.

THE HONOURABLE MR. J. W. A. BELL: That does not make it any better.

THE HONOURABLE MR. A. C. McWATTERS: However, there is something in the disclosure argument but not very much.

Then the next argument was the additional work which is to be imposed on officers of companies. I would remind the House that after all officers of companies do help the income-tax authorities already. They deduct income-tax already for us. They deduct income-tax from the salaries of their employees. They deduct income-tax on dividend warrants, and they help us in many ways. This is a small extension of what they already do for the Income-tax Department. It is not a new principle at all.

And finally there is the question of practicability. On that ground I admit the case is weakest because of the ingenuity which is general all over the world, in India as well as elsewhere, in evading income-tax; and



[Mr. A. C. McWatters.]

I do not think Sir Darcy Lindsay's proposal or ours will be entirely free from loopholes. But what I do say is we as at present advised prefer ours; and on this point I should like to quote the opinion of the Bombay Chamber of Commerce, represented by my Honourable friend Sir Arthur Froom here, which I think gives a very sound and sensible reply to his arguments. It says:

"The efficacy of the first proposal"

—that is the one we are discussing—

"is largely a matter for the income-tax authorities to determine and in so far as, if practicable, it would relieve the principal officer of a company of the responsibility of deciding the actual amount of super-tax due in each instance the Committee can only welcome the introduction of such a system."

Well, Sir, I think the Honourable Member . . .

THE HONOURABLE SIR ARTHUR FROMM: How many years ago was that?

THE HONOURABLE MR. A. C. MCWATTERS: It was written on the 24th March, 1925, in reply to our letter.

THE HONOURABLE SIR ARTHUR FROMM: They had not got the Bill then.

THE HONOURABLE MR. A. C. MCWATTERS: They had the quotation which I read to the House from our original letter.

THE HONOURABLE MR. J. W. A. BELL: But not the Bill.

THE HONOURABLE MR. A. C. MCWATTERS: Not the actual Bill; but if you read the clause in the Bill and then the quotation which I read out just now from the Government of India's letter, you will see that what is now in the Bill was implicit in that reference which we made in February 1925. Well, Sir, to return. The Honourable Mr. Bell has pointed out that in the other House no figures were given as to the amount at stake. It is true we have not got figures of the amount at stake, but I can assure the Honourable Member it is not by any means a small sum. I have had before me individual cases of super-tax payable by non-residents and the amounts were large; and although we cannot give the total figure, it must be something quite appreciable and, as the result of postponing this Bill will be to lose us the money for a whole year, I think the House will be well advised to let it go through.

THE HONOURABLE THE PRESIDENT: The original question was:

"That the Bill further to amend the Income-tax Act, 1922, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

Since which an amendment has been moved:

"That the discussion of that motion be adjourned."

The question I have to put to the House is that the discussion be adjourned.

The Council divided:

AYES—15.

Akbar Khan, The Honourable Major Nawab Mahomed.  
Bell, The Honourable Mr. J. W. A. Bijay Chand Mahtab, The Honourable Sir, Maharajadhiraja Bahadur of Burdwan.  
Desika Chari, The Honourable Mr. P. C.  
Froom, The Honourable Sir Arthur. Harnam Singh, The Honourable Raja Sir.  
Khaparde, The Honourable Mr. G. S. Manmohandas Ramji Vora, The Honourable Mr.

Mehr Shah, The Honourable Nawab Sahibzada Sayad Mohammad.  
Nawab Ali Khan, The Honourable Raja.  
Oberoi, The Honourable Sardas Shivdev Singh.  
Padshah Sahib Bahadur, The Honourable Saiyid Mohamed.  
Ram Saran Das, The Honourable Rai Bahadur Lala.  
Suhrawardy, The Honourable Mr. Mahmood.  
Umar Hayat Khan, The Honourable Colonel Nawab Sir.

NOES—16.

Abbott, The Honourable Mr. E. R. Brayne, The Honourable Mr. A. F. L.  
Chadwick, The Honourable Mr. D. T. Crerar, The Honourable Mr. J. Das, The Honourable Mr. S. R. Emerson, The Honourable Mr. T. Hubback, The Honourable Mr. J. A. Ley, The Honourable Mr. A. H. MacWatt, The Honourable Major-General Sir Charles.

McWatters, The Honourable Mr. A. C.  
Misra, The Honourable Pandit Shyam Bihari.  
Muhammad Habibullah, The Honourable Khan Bahadur Sir, Sahib Bahadur.  
Roy, The Honourable Mr. K. C. Tek Chand, The Honourable Diwan. Thompson, The Honourable Mr. J. P. Todhunter, The Honourable Sir Charles.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

The Council divided:

AYES—16.

Abbott, The Honourable Mr. E. R. Brayne, The Honourable Mr. A. F. L.  
Chadwick, The Honourable Mr. D. T. Crerar, The Honourable Mr. J. Das, The Honourable Mr. S. R. Emerson, The Honourable Mr. T. Hubback, The Honourable Mr. J. A. Ley, The Honourable Mr. A. H. MacWatt, The Honourable Major-General Sir Charles.

McWatters, The Honourable Mr. A. C.  
Misra, The Honourable Pandit Shyam Bihari.  
Muhammad Habibullah, The Honourable Khan Bahadur Sir, Sahib Bahadur.  
Roy, The Honourable Mr. K. C. Tek Chand, The Honourable Diwan. Thompson, The Honourable Mr. J. P. Todhunter, The Honourable Sir Charles.

NOES—15.

Akbar Khan, The Honourable Major Nawab Mahomed.  
Bell, The Honourable Mr. J. W. A. Bijay Chand Mahtab, The Honourable Sir, Maharajadhiraja Bahadur of Burdwan.  
Desika Chari, The Honourable Mr. P. C.  
Froom, The Honourable Sir Arthur. Harnam Singh, The Honourable Raja Sir.  
Khaparde, The Honourable Mr. G. S. Manmohandas Ramji Vora, The Honourable Mr.

Mehr Shah, The Honourable Nawab Sahibzada Sayad Mohammad.  
Nawab Ali Khan, The Honourable Raja.  
Oberoi, The Honourable Sardar Shivdev Singh.  
Padshah Sahib Bahadur, The Honourable Saiyid Mohamed.  
Ram Saran Das, The Honourable Rai Bahadur Lala.  
Suhrawardy, The Honourable Mr. Mahmood.  
Umar Hayat Khan, The Honourable Colonel Nawab Sir.

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 2 stand part of the Bill."

THE HONOURABLE SIR ARTHUR FROMM: I am not objecting wholly to clause 2 of this Bill, but I would ask the Honourable the Finance Secretary if he would give the House some idea as to what he means by "the amount as may be prescribed in this behalf".

THE HONOURABLE MR. A. C. McWATTERS: I am afraid I cannot give the Honourable Member definite information on that point, but it is a matter that will be carefully examined. If anyone has any representation to make on the matter, we will take it into account. We do not propose to fix a very small figure.

Clause 2 was added to the Bill.

Clauses 3, 4, 5, 6, 7 and 8 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE MR. A. C. McWATTERS: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

### INDIAN DIVORCE (AMENDMENT) BILL.

THE HONOURABLE MR. J. CRERAR (HOME SECRETARY): Sir, I move that the Bill further to amend the Indian Divorce Act, as passed by the Legislative Assembly, be taken into consideration.

Sir, the law relating to divorce is in every country a matter of the greatest difficulty and delicacy; and any important changes in such a law must naturally be only made after very mature consideration and deliberation. I do not intend to recite to the House *in extenso* the various stages by which it became apparent to the Government of India that some amendment in the Indian divorce law was necessary. To do so fully would involve the examination of a considerable number of decisions of courts both in India and in England; and it is hardly necessary for the purposes of the simple though important measure which I now lay before the House that I should do so.

Briefly, however, the facts which are relevant and essential to the Bill now before the House are these. The English law in force in India relating to matrimonial causes where the parties profess the Christian religion was first, I think, in a complete form at any rate formulated in the Indian Divorce Act of 1869. That conferred certain jurisdictions upon courts in India according to what was then conceived to be the English law in the matter. The courts in India proceeded to assume that jurisdiction, and passed their decrees and orders under the assumption that they had jurisdiction—and this is the important point—to deal with cases, the parties to which did not have an Indian domicile. The first intimation that such a jurisdiction might not be vested in courts in India was received when an

appeal in the well-known case of *LeMesurier vs. LeMesurier* which arose in Ceylon was heard before the Judicial Committee of the Privy Council. It was laid down as settled English law that domicile was an essential factor in jurisdiction. That is now undoubtedly settled law in England. But nevertheless courts in India continued—some courts at any rate—to act on the assumption that they had jurisdiction although the parties to the suit had not an Indian domicile. That particular point was brought to determination in the case of a decree of dissolution of marriage passed by the High Court of the Punjab in the cases of *Keyes vs. Keyes* and *Gray*. When the matter formed the subject of further proceedings in the Divorce Division of the High Court of Judicature it was definitely held by the President that the High Court of the Punjab or any other High Court in India did not have that jurisdiction. The consequences of that decision were of course extremely serious. A considerable number of decrees and orders had been passed on the assumption that jurisdiction did reside in the courts in India, even in cases where the parties did not have an Indian domicile. Well, the consequences were that if a decree for dissolution of marriage was granted to a party who did not have an Indian domicile and the parties to the suit subsequently remarried, that decree would certainly be invalid in England as also the marriage subsequently contracted, and the issue of any such marriage would in England be illegitimate. Those were consequences so serious that some immediate action was necessary and very prompt action was taken by His Majesty's Government. In the year in which the order in appeal in the case abovementioned was passed, Parliamentary legislation was undertaken in order to validate marriages so contracted in good faith and which, if they had not been validated, would have involved a large number of innocent parties in the greatest embarrassment and distress. That, however, did not dispose of the surviving question as to whether courts in India rightly conceived themselves possessed of this jurisdiction. It is perfectly obvious that it would be wrong to permit conflicting decisions on this highly important matter. The object of this Bill, therefore, very briefly is to declare the law in this sense, that no High Court in India shall hereafter in the matter of granting a decree for dissolution of marriage have jurisdiction in cases except where the petitioner has an Indian domicile. That will to a certain extent avert grave scandals and grave injustice. But it will not be an entire and complete remedy for the difficulties likely to arise. I will instance to the House the possible case of a man having an English or Scottish domicile coming to reside for some time in India and contracting a marriage in India with a woman of Indian domicile. If any cause should arise justifying the granting of a decree of dissolution of marriage it will not be open to any court in British India to grant that relief to the wife. Obviously, therefore, the measure which I have laid before the House will require supplementation if the risk of great injustice in the future is to be avoided. I am therefore very glad to be in a position to say that His Majesty's Government have decided to undertake and treat as urgent legislation a Bill which will have the effect of conferring upon certain tribunals in India jurisdiction in cases where the parties who otherwise would not come within the jurisdiction of Indian courts have an English or Scottish domicile. The Secretary of State has authorised the Government of India to announce that it is hoped that a Bill having that object will be passed during the present Parliamentary session.

I have therefore the greatest confidence in laying this Bill before the House. Honourable Members will be aware that any modification of the divorce law is regarded in England with a very jealous scrutiny. But it

[Mr. J. Crerar.]

will greatly facilitate the passage of the Bill which His Majesty's Government are about to introduce, if they are able to announce that this measure which I have now laid before the House has become law in India. Sir, I move the motion standing in my name.

The motion was adopted.

Clause 2 was added to the Bill.

Clause I was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

---

### INDIAN FACTORIES (AMENDMENT) BILL.

THE HONOURABLE MR. A. H. LEY (Secretary for Industries and Labour): Sir, I move that the Bill further to amend the Indian Factories Act, 1911, as passed by the Legislative Assembly, be taken into consideration.

Sir, after the more exciting subjects that we have been discussing to-day, I do not propose to take up the time of the Council at this late hour over the details of this Bill. The Bill is not of a contentious nature. It is designed solely to remove certain difficulties in the administration of the existing law which have been found since the Act of 1922 was passed. As Honourable Members of this Council will remember, the Act of 1922 made very large changes in the principles of the factory law in India. This Bill does nothing of the kind. It makes no change in the principle of the law, but is merely designed to render the administration of that law simpler and easier. In certain respects it is necessary to give Local Governments and Administrations rather greater powers under section 30 and other sections of the Act, and it is in some other respects desirable to make small alterations in the existing law. That is the object of this Bill. As all Honourable Members will see, the Statement of Objects and Reasons goes into details of each of the clauses, so I do not propose to take up the further time of the House.

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3, 4, 5, 6, 7 and 8 were added to the Bill.

Clauses 9, 10, 11, 12 and 13 were added to the Bill.

Clauses 14, 15, 16 and 17 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE MR. A. H. LEY: I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

## TRANSFER OF PROPERTY (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS (Law Member): Sir, I beg to move that the Bill to explain certain provisions of the Transfer of Property Act, 1882, as passed by the Legislative Assembly, be taken into consideration.

This is a very short Bill intended to give effect to a recommendation of the Civil Justice Committee. In the Transfer of Property Act there is no definition of the word "attestation" in relation to an instrument, and it has been held that attestation must be by the witnesses being present at the time that the document is executed, whereas under the Indian Succession Act, so far as wills are concerned, it is quite sufficient if the executant acknowledges his signature to the witnesses; the witnesses need not be present at the time. The Civil Justice Committee suggest that a definition should be put into the section defining attestation in the case of non-testamentary instruments so as to bring it into line with attestation in the case of testamentary instruments. This Bill is for the purpose of giving effect to that recommendation.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS: I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Tuesday the 23rd March, 1926.

— — —