

28th October 1941

**THE  
LEGISLATIVE ASSEMBLY DEBATES**

**Official Report**

**Volume IV, 1941**

*(27th October to 18th November, 1941)*

**FOURTEENTH SESSION  
OF THE  
FIFTH LEGISLATIVE ASSEMBLY,  
1941**



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# LEGISLATIVE ASSEMBLY

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## *Marshal:*

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SARDAR SANT SINGH, M.L.A.

MR. L. C. BUSS, M.L.A.

SIR ABDUL HALIM GHUZNAVI, M.L.A.

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

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*CORRIGENDUM.*

In the Legislative Assembly Debates, Budget Session, 1936, Volume I, dated the 10th February, 1936, page 471, for the subject heading "DEMAND OF SECURITY FROM THE ABHYUDAYA OF ALLAHABAD." substitute the following independent heading, namely:—

"MOTION TO DISCUSS A QUESTION OF PRIVILEGE, NAMELY, HOW FAR PRESS PUBLICATION OF A MEMBER'S SPEECH IN THE ASSEMBLY IS PRIVILEGED."

# LEGISLATIVE ASSEMBLY.

Tuesday, 28th October, 1941.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

## MEMBER SWORN:

Mr. Ramaswami Ayyangar Gopalswami, M.L.A. (Government of India: Nominated Official).

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

#### SUBMISSION OF THE THREE-YEAR DEGREE COURSE SCHEME FOR THE CONSIDERATION OF THE DELHI UNIVERSITY COURT.

12. \*Mr. Lalchand Navarai: (a) Will the Secretary for Education, Health and Lands, be pleased to state if his attention has been invited to the resolution of the Court of the University of Delhi, passed while considering the Annual Report at its meeting held on 19th April, 1941, to the effect that the Court of the University be given an opportunity to consider the new 3-Years Degree Course before any action is taken on it?

(b) Is the Education Secretary aware of the fact that a similar resolution was passed by the Court of the University at its Annual Meeting about four years ago, when it was resolved that the Court be given an opportunity to consider the scheme of the 3-Years Degree Course within six weeks of the acceptance of its principle by Government?

(c) Is it a fact that the Government accepted the principle about a year back, and the Court of the University has not been given any opportunity to consider the scheme at any time?

(d) Is it a fact that under section 17 of the Delhi University Act the Court is described as the first Authority of the University?

(e) Are Government aware that any ordinance passed by the Executive Committee of the University can only be cancelled by a two-thirds majority?

(f) Will Government be pleased to state why no effect was given to the former resolution of the Court, holding that the consideration of the scheme by the Court should take place before the scheme was given effect to? Why has no effect been given yet to the latest resolution?

(g) Do Government propose to direct the University to place the scheme before the Court before any statute or ordinance is passed by the Executive Committee, prejudicing the consideration of the scheme by the Court? If not, why not?

**Mr. J. D. Tyson:** (a), (b) and (c). The reply is in the affirmative.

(d) The Court has been placed first in serial order in the list of University Authorities in section 17 of the Delhi University Act but this does not mean that the Court is vested with powers of general direction and control over the other authorities of the University or that the power to pass resolutions on the annual report carries with it the power to enforce a resolution purporting to control the conduct of another authority of the University within the sphere of jurisdiction of that other body.

(e) Yes.

(f) The institution of the three-year course will make it necessary for the Executive Council of the University to make new ordinances which, under the terms of the Delhi University Act, 1922, will have to be submitted to the Court in due course. There is no obligation on the Executive Council to consult the Court before those new ordinances are made.

(g) No. The matter is not one in which there is occasion for Government to intervene.

**Mr. Lalchand Navalrai:** May I know from the Honourable Member whether it is the privilege of the Court of the University to consider any new scheme that has to be adopted?

**Mr. J. D. Tyson:** No, Sir. I don't understand that it has any such privilege.

**Mr. Lalchand Navalrai:** Does the Honourable Member know that resolutions have been adopted twice holding that the Court of the University has got that power, and what was asked for was only that the scheme should be placed before them before the matter was concluded by the Executive Committee?

**Mr. J. D. Tyson:** The powers of the Court are laid down in section 20 of the Act. No such power, as is mentioned by my Honourable friend, is referred to there.

**Mr. Lalchand Navalrai:** Has the Honourable Member read the resolution which was passed by the Court? That showed how the power is vested in the Court of the University.

**Mr. J. D. Tyson:** I have read the two resolutions to which the question refers.

**Mr. President** (The Honourable Sir Abdur Rahim): Next question.

**Mr. Lalchand Navalrai:** Sir, there are one or two more questions which I want to ask in this connection.

**Mr. President** (The Honourable Sir Abdur Rahim): Next question.

**ORDINANCE TRANSFERRING POWERS OF THE TREASURER TO THE REGISTRAR  
OF THE DELHI UNIVERSITY.**

**13. \*Mr. Lalchand Navalrai:** (a) Will the Secretary for Education, Health and Lands, be pleased to state if the Executive Committee of the Delhi University has passed an ordinance transferring the powers of the Treasurer to the Registrar of the Delhi University?

(b) Is it a fact that the said ordinance was not set aside by the Court of the University at its meeting held on 19th April, 1941?

(c) Are Government aware that such powers cannot be delegated under section 14 of the Delhi University Code and the delegation of such powers is *ultra vires*?

(d) What steps do Government propose to take to set aside that ordinance? If none, why not?

**Mr. J. D. Tyson:** (a) The Executive Council of the University has passed an ordinance enabling the Treasurer, if he thinks fit, and subject to such conditions as he may impose, to delegate to the Registrar of the University some of the powers conferred on him by the ordinances, to relieve the Treasurer of a mass of routine work which could be more conveniently performed by the Registrar himself as the head of the University administrative staff. No power conferred on the Treasurer by the Act or the Statutes has been delegated to the Registrar.

(b) Yes.

(c) The new ordinance is not *ultra vires* of the provisions of the Delhi University Act, 1922.

(d) The question does not arise.

**Mr. Lalchand Navalrai:** What powers have been given to the Treasurer which could be transferred to him?

**Mr. J. D. Tyson:** They are in the ordinance to which the Honourable Member has referred.

**DECLARATION IN THE HOUSE OF COMMONS re THE RIGHT OF ALL PEOPLES  
TO CHOOSE THE FORM OF THEIR GOVERNMENT.**

**14. \*Sir Abdul Halim Ghuznavi:** Will the Honourable the Leader of the House please state :

(a) whether he has seen the statement made by the Right Honourable Mr. C. R. Attlee in the House of Commons on behalf of the British Prime Minister on the 14th August, 1941;

(b) if the answer to part (a) be in the affirmative, whether the first part of paragraph 3 of the declaration of joint policy contained in that statement runs as follows :

“They respect the right of all peoples to choose the form of Government under which they will live;”

and

(c) whether this part of the declaration applies to India?

**The Honourable Mr. M. S. Aney:** (a) Yes, Sir.

(b) Yes, Sir.

(c) The application of this part of the Declaration to India has been fully expounded in the statements by the Prime Minister and the Secretary of State for India, which have been reproduced in the press.

**Sir Abdul Halim Ghuznavi:** I want a straight answer to my question whether this applies to India or not.

**The Honourable Mr. M. S. Aney:** I think the Honourable Member can read the statement for himself and draw his own inference therefrom.

**Mr. N. M. Joshi:** May I ask whether the Honourable Member means yes or no?

**The Honourable Mr. M. S. Aney:** I cannot add anything more to what has been stated by the Prime Minister, and I believe what he has said is sufficiently explicit for anyone who wants to read it carefully.

**Sardar Sant Singh:** May I know if the Government of India have raised any objection to the statement issued by the Prime Minister of Great Britain in this respect?

(No reply.)

**Mr. Lalchand Navalrai:** Will the Honourable Member give us information as to the attitude of the Government in that respect?—whether the Government of India approve of the statement made by the Premier that it does not apply to India?

**The Honourable Mr. M. S. Aney:** The Honourable Member should know that such matters always remain confidential and nothing more can be given out in this House.

**Pandit Lakshmi Kanta Maitra:** May I just know from the Honourable Member whether or not the Government of India applied their mind to this particular question, or whether it is the policy of the Government of India to leave to others to draw their own conclusions on these matters?

**The Honourable Mr. M. S. Aney:** It is against public policy.

**Pandit Lakshmi Kanta Maitra:** I wanted to know from the Honourable Member whether the Government of India have got any definite policy of their own or whether the Government of India have applied their mind to this part of the question whether this particular statement applies to India?

(No reply.)

**Sardar Sant Singh:** May I know if the Government of India feel comfortable on that reply of Mr. Churchill?

**The Honourable Mr. M. S. Aney:** The Honourable Member can think of comforts and discomforts of individuals,—not of bodies and corporations.

†15\*—20\*.

### CONSUMPTION OF IRON AND STEEL FOR CIVIL AND INDUSTRIAL PURPOSES.

‡21. \*Khan Bahadur Shaikh Fazl-i-Haq Piracha: (a) Will the Honourable the Commerce Member be pleased to state the quantities of consumption of iron and steel for civil and industrial purposes in India in the year 1938-39?

(b) What is the annual quota of iron and steel allowed for civil and industrial purposes under the steel control scheme?

(c) Do Government propose to undertake any steps to increase the quota allowed for such purposes either from indigenous sources or by imports? If not, why not?

(d) What are the prices paid for the main categories of iron and steel products purchased for the Defence Department during the years 1939-40, 1940-41, and 1941-42?

(e) What are the prices charged by the Iron and Steel Companies for similar products sold in the market?

(f) Will Government state the reasons for the disparity in the two sets of prices?

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar:** (a) I have not had time to collect figures of actual consumption of iron and steel for civil and industrial purposes alone, in India for the year 1938-39. Taking the total production reported for 1938-39 and adding to it net imports (that is to say total imports less re-exports) the figure is roughly 3,893,741 tons. This estimate does not take into account the stock position at the beginning and at the end of the year.

(b) Estimating on the quota that has been actually allotted for the last quarter of 1941 and the first quarter of 1942, the annual quota for civil and industrial purposes works out at approximately 156,000 tons. This does not include the requirements of the Railways.

(c) Government are endeavouring to secure as much supplies of Iron and Steel as possible consistent with the capacity of the indigenous industry and the availability of dollars for such purposes.

(d), (e) and (f). I would refer the Honourable Member to my Honourable colleague the Supply Member.

### HIGHER PRICES EXACTED FROM THE CIVIL POPULATION THAN FROM THE DEFENCE DEPARTMENT FOR THE SAME CATEGORIES OF GOODS.

‡22. \*Khan Bahadur Shaikh Fazl-i-Haq Piracha: (a) Has the attention of the Honourable the Commerce Member been drawn to the fact that he is forcing the civil population to pay higher prices than those paid for supply to the Defence Department for the same categories of goods?

(b) Will Government be pleased to state the general policy adopted in the fixation of the prices of articles for which export is controlled by means of special licence?

†These questions were not asked by the questioner.

‡Answer to this question laid on the table, the questioner being absent.

(c) Is it not a fact that in the case of a large number of articles the prices are fixed by importers of the United Kingdom after the delivery of these articles to their customers?

(d) Do Government propose to make special arrangements to ensure that all reasonable requirements of educational institutions, in spite of iron and steel control, are met in full and without serious delay and at prices fixed for the Defence Department?

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar:** (a) No, Sir. I disclaim possession of either the power or the wish to act as suggested.

(b) The matter is not such as to render the formulation of a general policy possible.

(c) It is a common trade practice to send goods for sale on commission, but I have no information as to the proportion of the export trade to United Kingdom that is dealt with in this way.

(d) I regret I am unable to give the undertaking desired.

**RECENT ANGLO-AMERICAN DECLARATION *re* THE ALLIES WAR AIMS.**

**23. \*Mr. Lalchand Navalrai:** (a) Will the Honourable the Leader of the House be pleased to state if the Government of India have been apprised of the recent joint Anglo-American declaration of the principles underlying the Allies war aims? If so, will Government be pleased to make a full statement on it and to state whether the terms of that declaration, specially with regard to constitutional reforms, are meant to be applicable to India also and if not, why not?

(b) Is it a fact, as announced in the press, that Mr. Cordell Hull, Secretary of State for Foreign Affairs, United States of America, stated with regard to the aforesaid declaration that its principles were universal and meant for practical application?

(c) Is it a fact that the Right Honourable Mr. C. R. Attlee recently declared in the British Parliament that the aforesaid joint declaration was applicable to Asiatic countries also? If so, is India also an Asiatic country or not?

(d) Have the Government of India got it cleared by the British Government whether the said joint declaration covered the case of India, and how it is going to be implemented with regard to giving freedom to India? If not, do Government propose to do so? If not, why not?

**The Honourable Mr. M. S. Aney:** (a) The answer to the first part of the question is in the affirmative. In regard to the second part, I have no authority to add anything to the statements which have already been made by the Prime Minister and the Secretary of State.

(b) I have seen the press report referred to by the Honourable Member.

(c) I have seen no report of any such statement in Parliament by the Right Honourable Gentleman.

(d) I am unable to add to the statements made by the Prime Minister and the Secretary of State.

**Mr. Lalchand Navalrai:** With regard to clause (d), have the Government of India got it clearly from the British Government whether this joint declaration governs the case of India and whether it is going to be implemented in regard to giving freedom to India? If not, do Government propose to do it now? If not, why not? I want all these questions to be answered.

**The Honourable Mr. M. S. Aney:** I have given my reply already. The answers to the supplementary questions to the last question cover the replies to these questions also.

**Mr. Lalchand Navalrai:** I want specific answers to these queries. First, have the Government of India got it clearly from the British Government or not?

**The Honourable Mr. M. S. Aney:** I again repeat that my reply given to the supplementary questions to the last question covers completely the reply to the question now put.

**Mr. Lalchand Navalrai:** May I know, therefore, that Government have got it clearly, and, if so, what is it?

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has got the answer.

**Sardar Sant Singh:** May I know if it is a fact that the declaration of the Prime Minister of Great Britain means that the Atlantic Charter applies only to those countries which are being overrun by Hitler in this war?

**The Honourable Mr. M. S. Aney:** It is open to the Honourable Member to draw his own inference and conclusions.

**Sardar Sant Singh:** May I know whether the Government of India want the people of India to draw this inference, that if Hitler overruns India, then the declaration will apply to India?

**Maulvi Abdur Rasheed Chaudhury:** May I know why, when the principle is universal, it is not applicable in the case of India?

**The Honourable Mr. M. S. Aney:** I would again refer my Honourable friend to the statements made by the Secretary of State and the Prime Minister.

**Lieut.-Colonel Sir Henry Gidney:** With reference to the Honourable Member's reply to part (d), if the Atlantic Charter did apply to India, what part of India would be given freedom to?

**Sardar Sant Singh:** To Anglo-India!

OPINIONS IN FAVOUR OF INTER-CASTE AS WELL AS *SAGOTRA* MARRIAGE  
RECEIVED BY THE HINDU LAW COMMITTEE.

24. \*Mr. Govind V. Deshmukh: Will the Honourable the Law Member please state, according to the answers received to the queries by the Hindu Law Committee, what percentage of these is in favour of inter-caste as well as *Sagotra* marriage?

The Honourable Sir Sultan Ahmad: Of the replies received to the relevant questions 58 per cent. were in favour of validating all inter-caste marriages, 70 per cent. were in favour of validating all *anuloma* marriages and 81 per cent. in favour of validating *sagotra* marriages.

†25\*—27\*.

DEMAND FOR DECLARATION ON INDIA'S POLITICAL STATUS AFTER THE WAR.

28. \*Mr. Govind V. Deshmukh: Will the Honourable the Leader of the House please state :

- (a) if Government are aware of the demand for an immediate declaration fixing a brief and reasonable time-limit when, after the conclusion of the war, India will enjoy the same measure of freedom as will be enjoyed by Britain and the Dominions, as voiced at the non-party Leader's Conference held at Poona in the last week of July, 1941, as well as, amongst others, by the Premier of the Punjab in his interview, with reference to Mr. Churchill's statement that the Atlantic Charter is inapplicable to India, to the Associated Press of India on 1st October at Simla in these words:

“a fresh declaration to the effect that India shall attain that status of equal partnership in the British Commonwealth within a reasonable time after the war—say two or three years”;

- (b) if the demand referred to above has been brought to the notice of the Secretary of State for India; and  
(c) the reply, if any, received from the Secretary of State for India with reference to what is mentioned in part (b) of this question?

The Honourable Mr. M. S. Aney: (a) Government are of course aware of the conclusions of the Conference held at Poona and of the statement reported to have been made by the Premier of the Punjab.

(b) and (c). In reply to the second and third parts of the question, I would refer the Honourable Member to statements made in Parliament by the Secretary of State with reference to the conclusions of the Poona Conference and to the statement by the Premier of the Punjab.

Mr. Govind V. Deshmukh: What is that statement of the Secretary of State?

The Honourable Mr. M. S. Aney: The Honourable Member might have seen it printed in the papers.

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† These questions were not asked by the questioner.

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**APPOINTMENT OF A NON-OFFICIAL ADVISORY COMMITTEE TO ADVISE THE POST-WAR DEVELOPMENT DEPARTMENT COMMITTEE.**

**30. \*Mr. N. M. Joshi:** (a) Will the Honourable Member for Commerce be pleased to state whether Government have appointed, or propose to appoint, a non-official advisory committee to advise the Post War Development Department Committee appointed by them?

(b) If the reply to part (a) be in the affirmative, have Government appointed, or propose to appoint, any representatives of Labour on that advisory committee?

(c) If the reply to the above be in the affirmative, what are the names of such Labour representatives? If the reply to part (b) be in the negative, what is the reason for the omission?

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar:** (a) The Government have under their active consideration the question of appointing non-official members on the Re-construction Committees that have been constituted.\*

(b) It is Government's intention to appoint a representative of labour on the Reconstruction Committee on Labour and Demobilization problems.

(c) The name of the Labour representative will be announced in due course.

**Sardar Sant Singh:** May I know in this connection if it is the intention of the Government to consult this House with reference to this important subject?

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar:** At the appropriate time, Sir, certainly.

**PROVISION OF SCHOLARSHIPS FOR TRAINING INDIAN STUDENTS AS NAVAL ARCHITECTS.**

**31. \*Mr. Akhil Chandra Datta:** (a) Will the Honourable the Commerce Member be pleased to state whether Government have provided any scholarships for training Indian students as naval architects? If so, how many Indian students have up till now been trained as such naval architects, and how many of them have been provided with employments under Government of India?

(b) If the answer to part (a) above be in the negative, do Government propose to consider the question of providing scholarships for training Indian students as naval architects either in England, or in any other foreign countries? If not, why not?

(c) Will the Honourable Member be pleased to state whether he is aware of trained and qualified Indian naval architects being employed in the ship-building yards of the British shipping firms engaged in the Coastal Mercantile Marine Traffic or other Mercantile Marine in India engaged as carriers of Government mails to the United Kingdom and other countries? If not, does he propose to make an enquiry into the matter and inform the House whether qualified Indian naval architects are available in India for employment?

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† This question was not asked by the questioner.

(d) Is he aware that some trained Indian naval architects applied for posts of naval architects under the Port Commissioners of the different ports in India but were not employed by any of the Port Commissioners? If so, will he be pleased to state the reasons for refusing the employment of such Indians trained in naval architecture under the different Port Commissioners and different Government Docks in India, and does he propose to issue necessary instructions to all shipping firms or Port Commissioners having dock yards and shipping industry in India to give preference to such qualified Indians, if any are available for employment? If not, why not?

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar:** (a) The reply to the first portion is in the negative. The second portion does not arise.

(b) The attention of the Honourable Member is invited to the reply given by me to part (b) of Dr. Sir Ziauddin Ahmad's question No. 496 on the 21st March, 1940.

(c) and (d). Government have no information but are making enquiries and the result will be communicated to the House as soon as possible.

#### INDIANS EXTERNEED FROM HONGKONG AND INTERNED IN THE PUNJAB.

**32. \*Sardar Sant Singh:** Will the Honourable Member for Indians Overseas please state:

- (a) whether it is a fact that about 30 persons—25 belonging to the Hongkong British Police—were externed from Hongkong at the beginning of this year and brought to the Punjab where they were interned for sometime;
- (b) whether it is a fact that six persons have been detained in jails under rule 26 of the Defence of India Rules;
- (c) whether Government contemplate detaining them indefinitely, or order their release as there is no charge against them;
- (d) how they are being treated in jail; and
- (e) whether Government intend to give them B Class in jail; if not, why not?

**The Honourable Mr. M. S. Aney:** The question should have been addressed to the Honourable Member in charge of the Home Department.

**Sardar Sant Singh:** May I know if the Department for Indians Overseas has no information on the subject or was not informed by the Home Department in this connection?

**The Honourable Mr. M. S. Aney:** It does not deal with this matter. The Home Department deals with this matter.

#### APPOINTMENT OF MR. HODSON AS THE REFORMS COMMISSIONER.

**33. \*Sardar Sant Singh:** (a) Will the Honourable the Leader of the House please state when Mr. Hodson, the Reforms Commissioner, was appointed, and with what object?

(b) Is the Honourable Member aware of the announcement of His Excellency the Viceroy, made on the 8th August, 1940, regarding reforms in Indian Constitution being the principal concern of Indians themselves? If so, how is the appointment of Mr. Hodson consistent with such announcement? Was no Indian available for this work?

**The Honourable Mr. M. S. Aney:** (a) Mr. Hodson was appointed on the 3rd April, 1941, and entered into his appointment in Simla on June 5th, 1941. He was appointed by the Governor General in his discretion as a member of his secretarial staff under section 305 of the Government of India Act, 1935, in order to assist him in connection with constitutional developments in India and particularly to assist in preparing the way for a revision of the whole constitutional position after the war.

(b) The appointment of the Reforms Commissioner was made in the light of the announcement by His Excellency the Viceroy on the 8th August, 1940, that His Majesty's Government desire to see a body representative of the different elements in India's national life devise the framework of her post-war constitution, and it in no way traverses this policy. The appointment was made by the Governor General in his discretion, and I am unable to answer questions relating to his selection for the post.

**Pandit Lakshmi Kanta Maitra:** May I know if this Mr. Hodson is an Indian or not?

(No answer.)

**Sardar Sant Singh:** Is it the intention in making this appointment that the frame work of the future Constitution should be prepared by a non-Indian and be filled in by Indians later on?

**The Honourable Mr. M. S. Aney:** I do not think so.

**Sardar Sant Singh:** Then the announcement of the 8th August, 1940, means, if it means anything at all, that the Constitution of India is to be framed by Indians themselves. Is it not inconsistent with that announcement that the frame work should be prepared by a non-Indian, particularly by a European who is an interested party in the whole thing?

**The Honourable Mr. M. S. Aney:** I do not admit the implication which the Honourable Member has drawn that the frame work is being prepared by an interested party.

**Sardar Sant Singh:** May I know, Sir, what are the implications in appointing an Englishman over the head of Indians for preparing the framework in this connection?

**The Honourable Mr. M. S. Aney:** My point is this, that the framework is an entirely different thing from collecting information which will be of use in the framing of the Constitution.

**Sardar Sant Singh:** Could not the same thing be done by a competent Indian?

**The Honourable Mr. M. S. Aney:** I have already stated that the appointment is within the discretion of the Governor General, and I am not prepared to make any further statement.

**Mr. President** (The Honourable Sir Abdur Rahim): As announced yesterday, if any of the Honourable Members, who have put down questions for answer today, were absent during the first round, they can put their questions now.

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### UNSTARRED QUESTIONS AND ANSWERS.

#### DEALERS IN INDIA APPLYING FOR LICENSES FOR ESTABLISHMENT OF GUN-POWDER MAGAZINE AND FOR PERMITS UNDER RULE 2 (2) OF THE EXPLOSIVES RULES.

**17. Khan Bahadur Shaikh Fazl-i-Haq Piracha:** (a) Will the Honourable the Labour Member be pleased to state the names and addresses of dealers in India who applied to the Chief Inspector of Explosives for a licence to establish a magazine for gunpowder and whether the respective applications were accepted or rejected and the grounds on which generally the acceptance or rejection was based?

(b) Will Government be pleased to state the names and addresses of dealers in India who applied to the Chief Inspector of Explosives for a permit under Rule 2 (2) of the Explosives Rules, 1940, and whether the respective applications were accepted or rejected, and the grounds on which generally the acceptance or rejection of such applications was based?

(c) Will Government be pleased to state whether the district authorities were consulted by the Chief Inspector of Explosives before accepting or rejecting an application for a permit under Rule 2 (2) of the Explosives Rules, 1940?

**Mr. H. O. Prior:** (a) It is not in the public interest to disclose these particulars about gunpowder magazines.

(b) One joint application from the following dealers was received:

- (i) Messrs. Panna Lal Atta, 150, Old China Bazar Street, Calcutta.
- (ii) Messrs. Paul Friends & Company, 159, Old China Bazar Street, Calcutta.
- (iii) Mr. M. L. Dutta, 143, Old China Bazar Street, Calcutta.
- (iv) Mr. N. N. Paul, 142, Old China Bazar Street, Calcutta.
- (v) Munshi Maha Uddin, 72, Canning Street, Calcutta.
- (vi) Messrs. S. Ekram Ellahi & Sons, 72, Canning Street, Calcutta.

The application was accepted to avoid dislocation of trade.

(c) No. If the Honourable member would care to discuss these matters with me I shall be very glad to have his views.

## APPLICATIONS FOR EXPLOSIVES LICENSES FROM CERTAIN TOWNS.

**18. Khan Bahadur Shaikh Fazl-i-Haq Piracha:** Will the Honourable the Labour Member be pleased to state (a) the names and addresses of dealers in explosives who applied for licences in forms K, J, and G, respectively, of the Explosives Rules, 1940, in the towns of Bombay, Madras, Calcutta, Karachi, Delhi, Lahore and Lucknow, (b) the date of receipt of application by the district authorities concerned, (c) the date of payment of licence fees by the respective applicants, (d) the date of final disposal and (e) the result of the applications in each case?

**Mr. H. O. Prior:** (a) It would not be in the public interest to give the details for which the Honourable Member asks.

(b) to (e). Information has been called for from the District Authorities and a reply will be laid on the table of the House in due course.

## NOTIFICATIONS EXTENDING THE PAYMENT OF WAGES ACT TO INDUSTRIAL ESTABLISHMENTS OR CLASSES OR GROUPS OF INDUSTRIAL ESTABLISHMENTS.

**19. Pandit Lakshmi Kanta Maitra:** Will the Honourable Member for Labour please refer to clause (5) of section 1 of the Payment of Wages Act, No. IV of 1936, and state the particulars of the notifications by which the Act has been extended to any class of persons employed in any industrial establishment or in any class or group of industrial establishments?

**Mr. H. G. Prior:** It is presumed that the question relates only to the Central sphere.

No such notifications have been issued by the Central Government. By a notification No. 7-A/37, dated the 6th May, 1937, issued by the Chief Commissioner, Ajmer-Merwara, the Act has been extended to the Motor Omnibus Services and Mines or Quarries.

## EXEMPTIONS UNDER SECTION 5 (3) OF THE PAYMENT OF WAGES ACT ON STATE RAILWAYS.

**20. Pandit Lakshmi Kanta Maitra:** Will the Honourable Member for Labour please refer to clause (3) of section 5 of the Payment of Wages Act, No. IV of 1936, and state the particulars of the general or special order under which an exemption from the provisions of the said clause is given to the persons responsible for the payment of wages to persons employed on the Bombay, Baroda and Central India, Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railways?

**Mr. H. O. Prior:** Orders have been issued exempting the Bombay, Baroda and Central India, Eastern Bengal and East Indian Railways or the persons, if any, nominated by these Railways under section 3 (c) of the Payment of Wages Act, from the operation of section 5 (2) of the Act in respect of the wages of employees on the list of "approved candidates", subject to the condition that such employees shall be paid before the expiry of the 10th day after the last day of the month in which the wages were earned. No such orders have been issued in respect of the Great Indian Peninsula and North Western Railways.

**WAGE PERIODS FIXED IN LOCAL AREAS ON STATE RAILWAYS UNDER THE PAYMENT OF WAGES ACT.**

**20A. Pandit Lakshmi Kanta Maitra:** Will the Honourable Member for Labour please refer to clause (1) of section 4 of the Payment of Wages Act, No. IV of 1936, and state the particulars of the 'wage periods' fixed by the persons responsible for the payment of wages in the local areas concerned on the Bombay, Baroda and Central India, Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railways?

**Mr. H. C. Prior:** The information is being collected and a statement will be laid on the table of the House in due course.

**ACTS AND OMISSIONS SPECIFIED BY THE STATE RAILWAY ADMINISTRATIONS UNDER SECTION 8 (2) OF THE PAYMENT OF WAGES ACT.**

**20B. Pandit Lakshmi Kanta Maitra:** Will the Honourable Member for Labour please refer to clause (2) of section 8 of the Payment of Wages Act, No. IV of 1936, and state the particulars of the 'acts and omissions' specified by the Bombay, Baroda and Central India, Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railways Administrations?

**Mr. H. C. Prior:** The list of such Acts and Omissions approved in the year 1938-39 will be found in Appendix II of the Supervisor of Railway Labour's Annual Report on the working of the Payment of Wages Act on Railways, a copy of which is in the Library.

More up-to-date information is being obtained and a statement will be laid on the table of the House in due course.

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**MOTIONS FOR ADJOURNMENT.**

**EXPANDED EXECUTIVE COUNCIL.**

**Mr. President** (The Honourable Sir Abdur Rahim): Order, order. There is a notice of motion for adjournment given by Mr. Kazmi to this effect. He wishes to discuss a definite matter of urgent public importance, *viz.*, the failure of the Government of India in keeping His Majesty's Government in touch with the real political situation in India and in having tendered wrong advice to them which has resulted in stultifying the projected political advance to a farcical unrepresentative expanded Executive Council which, without any benefit to the Indians, has added a useless burden to the Indian taxpayer. Is there any objection to this?

**The Honourable Mr. M. S. Aney** (Leader of the House): What is the date on which this failure is alleged to have taken place? How are we to know that it is a matter of recent occurrence? It is not stated here? What is the date?

**Qazi Muhammad Ahmad Kasmi** (Meerut Division: Muhammadan Rural): I am supplementing that statement, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim): I think the Honourable Member means that the expanded Council came into existence after the last Session, and only then he came to know of it.

**Qazi Muhammad Ahmad Kazmi**: Yes, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim): Is there any objection still?

**The Honourable Mr. M. S. Aney**: Yes, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim): As objection has been taken to this motion, those Honourable Members who are in favour of leave being granted will rise in their places?

(As less than 25 Members stood up, leave was refused.)

#### NON-RELEASE OF POLITICAL PRISONERS.

**Mr. President** (The Honourable Sir Abdur Rahim): The next motion of which notice has been received is also in the name of Mr. Kazmi. He wishes to discuss a definite matter of urgent public importance, namely, the failure of the Government of India to reconcile Indian public opinion by negotiations and releasing persons convicted of non-violent political offences and even alienating the sympathies of the moderates by flouting their opinion in spite of the danger of the war having come so near India and which can only be successfully met by an United India. \*

The whole thing seems to be very vague, and so I disallow this motion.

**Qazi Muhammad Ahmad Kazmi**: I can clarify anything if you want, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member ought to have done it when he sent notice of the motion.

#### OCCUPATION OF PERSIA.

**Mr. President** (The Honourable Sir Abdur Rahim): The next motion is also in the name of Mr. Kazmi. He wants to discuss a definite matter of urgent public importance, namely, the failure of the Government of India to keep His Majesty's Government in touch with the Indian sentiment and opinion which considers the method of force instead of negotiations used in the occupation of Persia with great horror and indignation.

Is there any objection to this?

**Mr. O. K. Caroe** (Secretary, External Affairs Department): Yes, Sir. It is a question which requires the consent of the Governor General under Rule 23 of the Indian Legislative Rules,—23(2) (ii) (a).

**Mr. President** (The Honourable Sir Abdur Rahim): I see the Honourable Mr. Kazmi did apply for sanction or consent of the Governor General, and I have received this communication:

"With reference to the Office Memorandum from the Legislative Assembly Department, No. A. M. D. 40-41-A, dated the 24th October 1941, the undersigned is directed to state that His Excellency the Governor General has withheld the comment appearing

[Mr. President.]

to him to be required under clause (v) of rule 12 read with sub-clause (a) of clause (ii) of sub-rule (2) of rule 23 of the Indian Legislative Rules, to the moving of the adjournment motion, a copy of which was enclosed with the Office Memorandum under reply."

It has been contended by Mr. Caroe that, under the rules, such a motion requires the consent of the Governor General. I think the motion as worded did require such consent, and the Governor General having refused his consent, the motion cannot be moved.

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#### ARREST AND DETENTION OF MR. S. K. D. PALIWAL.

**Mr. President** (The Honourable Sir Abdur Rahim): The next motion is also in the name of Mr. Kazmi. He wants by this motion to discuss a definite matter of urgent public importance, namely, the arrest and detention of Mr. S. K. D. Paliwal, a Member of this House, while he was engaged in the election campaign of Mr. Khedan Lal for a seat to this Honourable House in March last and which act was only an interference with the election to this House as is proved by his acquittal from the court of appeal.

I think Mr. Paliwal was arrested under some sort of warrant by a court of justice, and he was duly tried and then he appealed after conviction.

**Qazi Muhammad Ahmad Kazmi:** There was an appeal and he was acquitted.

**Mr. President** (The Honourable Sir Abdur Rahim): What is your grievance?

**Qazi Muhammad Ahmad Kazmi:** The grievance is . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): I disallow the motion.

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#### BANNING OF KHAKSAR VOLUNTEERS.

**Mr. President** (The Honourable Sir Abdur Rahim): The next motion is also in the name of Mr. Kazmi. He wants by this motion to discuss a definite matter of urgent public importance, namely, the banning of Khaksar volunteers by the Government of India and thereby hampering the development of indigenous organizations which are a necessity for the defence of the country in times of war.

I suppose the ban was imposed by the Government of India?

**Qazi Muhammad Ahmad Kazmi:** After the last Session.

**Mr. President** (The Honourable Sir Abdur Rahim): That seems to be in order. Is there any objection?

**The Honourable Sir Reginald Maxwell** (Home Member): I don't object.

**Mr. President** (The Honourable Sir Abdur Rahim): The motion will be taken up at 4 O'clock unless the business of the House is finished before then, in which case it will be taken up immediately thereafter.

## THE DELHI MASAJID BILL.

SUBSTITUTION OF THE NAME OF THE HONOURABLE SIR SULTAN AHMAD IN PLACE OF THE HONOURABLE SIR MUHAMMAD ZAFRULLAH KHAN ON THE JOINT COMMITTEE.

**Kunwar Hajee Ismael Ali Khan** (Nominated Non-Official): Sir, I beg to move:

"That the Honourable Sir Sultan Ahmad's name be substituted in place of the Honourable Sir Muhammad Zafrullah Khan's name on the Joint Committee on the Bill to make better provision for the administration of Masajid and the Endowment of the Jama Masjid, Fatehpuri Masjid and Kalan Masjid of Delhi."

The Honourable Sir Muhammad Zafrullah Khan is no more a Member of this House, and hence the necessity of substituting another Member in his place.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is:

"That the Honourable Sir Sultan Ahmad's name be substituted in place of the Honourable Sir Muhammad Zafrullah Khan's name on the Joint Committee on the Bill to make better provision for the administration of Masajid and the Endowment of the Jama Masjid, Fatehpuri Masjid and Kalan Masjid of Delhi."

The motion was adopted.

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## THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, I beg to move:

"That the Bill further to amend the Code of Criminal Procedure, 1898 (amendment of section 4), be referred to a Select Committee consisting of the Honourable the Law Member, Sir George Spence, Mr. Muhammad Muazzam Sahib Bahadur, Mr. J. D. Boyle, Maulvi Abdur Rasheed Chaudhury, Pandit Lakshmi Kanta Maitra, Sardar Sant Singh, Qazi Muhammad Ahmad Kazmi, Sir Abdul Halim Ghuznaavi and the Mover, and that the number of members whose presence. . . ."

**Mr. President** (The Honourable Sir Abdur Rahim): I have not got the names of the Members of the Select Committee. The Honourable Member ought to have supplied them before.

**Mr. Lalchand Navalrai**: I got the names just this morning, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member knows the procedure and he ought to have supplied the names before. It is too late now. The Honourable Member cannot go on, not having supplied the names.

(Mr. Lalchand Navalrai at this stage sent a list of the names to the Chair.)

I have not received them yet. That won't do. I will take it as not moved and call on the others.

No. 3—Mr. Kazmi.

**Qazi Muhammad Ahmad Kazmi**: I am not moving this, Sir.

## THE PROFESSIONS TAX LIMITATION BILL.

**Sir F. E. James** (Madras: European): I beg to move:

"That the Bill to limit to a maximum of Rs. 50 per annum the amount payable in respect of any person by way of tax on professions, trades, callings or employments, be referred to a Select Committee consisting of the Honourable Sir Jeremy Raisman, Sir George Spence, Mr. J. F. Sheehy, Lieut.-Colonel Sir Henry Gidney, Mr. C. C. Miller, Mr. Amarendra Nath Chattopadhyaya and the Mover, with instructions to report by the 4th day of November, 1941, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

This Bill which was moved in the last Session for circulation received a favourable response from this House. The replies from the provinces are now available. The majority of the provinces are not affected by this Bill and, therefore, they either raise no objection or support the Bill. The Madras Government, whose province is mainly affected, support the proposals of the Bill and have agreed to compensate local bodies for the loss of income which the application of this Bill will cause to them on the basis of their past average receipts under the head of professions tax. The Madras Government have said that for the next two financial years their existing financial resources are sufficient to provide for the compensation of local bodies. As far as the future is concerned, if necessary, the Madras Government suggest that they may have to increase the rate of the general sales tax in Madras, which in a fit of sudden and inexplicable generosity, they reduced from half a per cent to a quarter per cent. This is an eminently reasonable attitude and certainly removes the basis of the opposition to the Bill which was expressed by the local bodies in Madras whose finances will be thereby affected. Sir, some provinces are not able to support the Bill because in their view it may affect the finances of local bodies within their jurisdiction. Others support the Bill on the assumption that it does not affect the revenues of local bodies derived from local Acts of taxation.

Now, Sir, I made it clear during the last Session that the object of the Bill is limited to the imposition of a uniform maximum on a particular type of tax based wholly upon income. If we find that the effect of the Bill is that it brings within its scope taxation which we have no intention of bringing within its scope, then that may be rectified in the Select Committee, either by making a substantive amendment in the body of the Bill, or by the addition of a schedule containing a list of the Acts which have been mentioned by some of the Provincial Governments as possibly coming within the scope of the Bill. That schedule, therefore, would exclude from the operation of the Bill those Acts about which there are some doubts, and such a schedule, if it were placed in the Bill or attached to the Bill, would save those taxes levied at present, or to be levied in future under those existing Provincial Acts. Sir, this motion is to refer this Bill to a Select Committee, in which these matters can be discussed in detail. Therefore, it is not necessary for me to say anything more on this point at this stage. In view of the favourable reception which the Bill has received at the hands of this House and at the hands of the Provincial Governments, I hope that the House will now accept the motion to refer it to a Select Committee. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim): Motion moved:

"That the Bill to limit to a maximum of Rs. 50 per annum the amount payable in respect of any person by way of tax on professions, trades, callings or employments, be referred to a Select Committee consisting of the Honourable Sir Jeremy

Baismán, Sir George Spence, Mr. J. F. Sheehy, Lieut.-Colonel Sir Henry Gidney, Mr. C. C. Miller, Mr. Amarendra Nath Chattopadhyaya and the Mover, with instructions to report by the 4th day of November, 1941, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

**Mr. M. A. Jinnah** (Bombay City: Muhammadan Urban): Mr. President, as we have decided not to take part in the discussion, not only of this motion, which is immediately before the House, but we have decided to withdraw from this House during the present Autumn Session as a mark of protest because we strongly resent and disapprove of the decision of the Government in regard to the manner in which the Executive Council has been expanded and the constitution of the National Defence Council, and the way in which this has been carried out. I think, Sir, Honourable Members will agree with me that we owe a duty to the House and to those whom we represent that we should make our statement and give shortly our reasons why we have adopted this course of registering our protest. I assure you, Sir, and I assure the House that I shall avoid, as far as it is possible to do so, entering into any controversial matters on this question, and I shall briefly state our position. It is a sad and painful story. In the first instance, as far back as November 1939, after the war had broken out, a proposal came from the Viceroy. That proposal was that the Government were prepared to meet the major parties at any rate, as far as possible, by the expansion of the Governor General's Executive Council.

**Sir F. E. James:** Mr. President, might I rise to a point of order. I do not want to interrupt Mr. Jinnah but inasmuch as it appears that a statement dealing with matters which have nothing to do with the present Professions Tax Bill is being allowed to be made, may I ask that you will give due consideration to the time which is now being allocated to that purpose when the question of the further debate on this Bill arises?

**Mr. President** (The Honourable Sir Abdur Rahim): As the Chair understands Mr. Jinnah, he wishes to state his reasons as shortly as possible, if the Chair followed him correctly, for the decision which he and his Party have arrived at for not participating in the debate on this particular motion, as well as other matters, that will come up before the Assembly during the present Session. The Honourable Member, Mr. Jinnah, is entitled, like any other Member, to speak on this motion. He does not want to deal with the merits of the motion before the House. What he says is this: "I and my Party do not want to participate in this debate nor participate in any other debate during this Session." He feels that he has to explain his conduct to the House for abstaining from taking part in the proceedings, but the Chair thinks Mr. Jinnah will realise, that, as the motion reads, his statement will not be relevant at all to the Bill but only to the attitude that he and his Party are taking up in this matter. He will, therefore, confine himself to as brief a statement of the reasons as possible and make the reasons non-controversial.

**Mr. M. A. Jinnah:** I am extremely obliged to you for clarifying the position. I assure you that that is exactly what I said at the outset, that we owe a duty to the House. If you do not want to hear me, I do not want to worry you about it. If you do not want to hear us, I am quite willing just to announce our decision and retire. If the Honourable Members want to hear me, I am prepared to explain my reasons.

**Mr. President** (The Honourable Sir Abdur Rahim): If the Honourable Member so desires, the Chair is prepared to take the sense of the House.

**Mr. M. A. Jinnah:** This is not the first occasion. Mr. James is an old Member of this House and he ought to know that this is not the first occasion that this procedure has been adopted in my favour. I think his memory is very short. It has been done on several occasions before and it did not strike Mr. James to raise a point of order then. However, I am quite content with what you said and I propose to follow exactly the same course and, therefore, I do wish the House to understand our attitude and why we have adopted this attitude. I was telling the House that so far as the Muslim League is concerned we have made it quite clear that, apart from the major issues, from the very beginning we were ready and willing to render every possible assistance in the prosecution of the war, but it is not only I who suggested it. It came from the Government and the Government themselves made the proposal and I was very glad that they made that proposal. The proposal was this. To put it in the language of the Resolution which we passed when rejecting the proposal, this is what we said :

"Nevertheless, without prejudice to the adjustment of the larger issues later on, we were even willing as far back as November last (that is 1939) to consider the proposal of the Viceroy to bring about an honourable and workable adjustment in the provincial field which would have been followed up with our representatives being appointed in the Executive Council of the Central Government to the extent permissible within the framework of the present Constitution and the existing law."

But the other parties and organisations were not willing to accept this, and rejected the proposal out of hand and the matter went on. Then, came the announcement of the 8th of August, 1940. In spirit and almost in letter, that announcement was in principle almost what we urged in the Resolution of the All-India Muslim League Committee in June, 1940, but it came on the 8th of August, 1940. We were glad and we welcomed it to this extent that the principle was accepted, namely, to give a genuine and real share in the authority of the Government. But when that principle came to be translated, as the Honourable Members know and I do not want to repeat anything, the only thing that was offered by the Government was, without telling us what the total number was going to be, without telling us who the other Parties were, without telling us what the additional number would be, without telling us as to what would be the portfolios, and without telling us anything more about any other matters, that we were informed only that the number of our representatives will be two. That did not show, to begin with, a real and genuine spirit or desire on the part of the Government to start with to treat us as co-sharers not only in the authority of the Government but co-sharers in the danger which we were willing to face to the utmost. Therefore, it was not possible for us to accept that position and we rejected it. I venture to say that no decent organisation, no decent self-respecting party could possibly have accepted that offer. That was finished in September, 1940. After that the Government remained asleep and the Government and the people all the time were misrepresenting us that we were non-co-operating and were putting difficulties in the way. All sorts of allegations were made against us in the press. Not only that but sometimes arguments of threats were also used. Now, I have always admitted, and there is not the slightest doubt about it,

and we do realise, that there is a grave danger and menace to India. We have repeatedly said in our Resolutions as far back as June, 1940, that the efforts that you were making and the schemes that were suggested by the Government of India and the Commander-in-Chief were not sufficient. You must increase and intensify your war efforts. Our Resolutions are on the record but, as I said, the Government went to sleep and nothing was heard. All that we were told was that we were in danger and we were told what would happen to us. We were told what would happen to us if Hitler came here. Now, I quite agree that if England is broken or beaten there will be a terrible chaos in this country. But while you say this and threaten us with the consequences, can't you also say what will happen to you? Why can't you say what will happen to us both and all of us? The spirit in which the criticism is offered is this: We are all right but what will happen to you; you won't be here even to talk about your independence and liberty and things of that sort much less to enjoy it. I want you to enter into this spirit: What will happen to you and me both? Do you really want our whole-hearted and full assistance? Then, came this decision which was announced on the 22nd of July. As we say, the manner, in which it was undertaken and finally carried out, ignoring everybody, and I am particularly speaking on behalf of the Muslim League, is most objectionable. Why have you ignored us? We have put no difficulties in your way. We have said from the very beginning that major issues will be considered later on within the framework of the existing Constitution. If you honestly and really want our co-operation, you must associate us with you with a real and genuine share in the authority of the Government not only at the Centre but in the Provinces as well. Then and then alone we can give you assistance, not because we are going to favour you, but because you happen to be the major authority. Then and then alone we can give to the Government all the assistance in men, money and supply. But ignoring everything, you have come to this decision and this decision is announced and forced upon us contrary to our advice and notwithstanding our opposition. We have reasoned, we have argued and we had long negotiations and we have come to the conclusion in the hope that the protest that we are registering today will open the eye of the blind and the ear of the deaf, and that you will with God's help have the wisdom and the statesmanship to revise this scheme of yours which I assure you is not going to help you by a tittle in the intensification of your war effort. On the contrary, you must have realised that it is going to do harm to you and I am interested as much as anybody else to ward off that harm and I advise you to think it over.

This is the reason why we have adopted this course. Finally I say to the Government, I say to Honourable Members, I say to  
 12 NOON. the Press and the public outside, please do not misrepresent us. It is the Government and the Government alone that is responsible and one cannot come to any other conclusion than that they do not want our assistance, they do not want our co-operation. When they talk of co-operation, they mean on such terms as no self-respecting organization can come in. Well, Sir, the spirit behind this measure and this policy is this. In the words of Sir Claude Jacob when he sent a message to the troops: the Empire will not forget your loyal and faithful services. Well, you want us to be completely bereft of self-respect, you want us to give you assistance and the Empire will not forget our loyal and faithful

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services. We have reached the stage today for which you alone are responsible. You do not really honestly want our assistance.

Sir, I have done, and I hope you will understand the spirit of this protest in right and proper perspective.

[At this stage, the Members of the Muslim League Party withdrew from the Chamber.]

**Mr. President** (The Honourable Sir Abdur Rahim): Discussion will now go on on Sir F. E. James' motion before the House.

**Dr. P. N. Banerjee** (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I rise to oppose this motion. In the Statement of Objects and Reasons attached to this Bill, my Honourable friend Sir F. E. James, says, that there is a widespread demand in the Madras Presidency for a reduction in Profession tax. If that be the only reason then he should have approached the Government and the Legislature in Madras for a reduction in the tax. He says that uniformity is desirable and, therefore, he wants Central legislation in order that this limitation should apply throughout India. But, Sir, he forgets that there are great diversities in the different provinces of India. There are great diversities in size, in population and in the functions of local bodies in different parts of the country. The Calcutta Corporation, for instance, has a very large population within its area and its functions also are very large. Whereas in some of the municipalities in the Madras Presidency, the size of the population is small and the functions assigned to them are meagre and small. Therefore, uniformity is not desirable in a case like this. As regards demand for reduction in taxation, well, there is this demand everywhere. We, on this side of the Opposition, have always demanded that Salt tax should be reduced. We have demanded that various other taxes should be reduced. But have the Government seen eye to eye with us in these demands? In the case of Salt tax which is universally regarded as inequitable, have the Government acceded to our request for its abolition?

Now, Sir, what will be the effect of this Bill if it is passed into law? The effect will be a serious curtailment of the resources of local bodies. How will they meet the situation? These local bodies will have either to curtail their activities or will have to approach the Provincial Governments for financial assistance. I do not know whether the Provincial Governments are prepared to give financial assistance to local bodies when their incomes will be reduced. My Honourable friend has given us no hint as to the attitude of any Provincial Government in this regard. He has mentioned that the Provincial Government of Madras is in favour of this Bill. Now, may I ask which Government?—the bureaucratic Government or the Congress Government? Did the Congress Government support this Bill? Well, Sir, if the Congress Government had been in power in Madras at the present moment, I am sure the Congress Government would have declared its opinion against this Bill. The Congress Governments in some of the other Provinces did declare against this Bill. In the United Provinces, the Government declared its opinion against this Bill, but the bureaucratic Government which rules the Province at the present moment has expressed itself in its favour. Now, Sir, the fact

is that the bureaucratic Governments in the Provinces do not care for the development of local self-government in this country, whereas popular Governments do feel that local self-government is very important.

Sir, my Honourable friend has pointed out that large sums of money are derived by the local bodies and many taxes are levied in the different local areas. This is true, but if you curtail one particular tax, you must find a substitute. Where will that substitute be? It will not do to say that this tax should be reduced. You will have to point out what other form of taxation should be introduced or enhanced. Sir, in my view, the passing of this Bill will mean a severe blow to local self-government in India. I find from the opinions which have been received that some of the Provinces have opposed this measure and I also find that the Calcutta Corporation, the Municipality of Howrah, and all the Bengal Municipalities have strongly objected to the passing of this measure. So far as Bengal is concerned, we find that the maximum amount leviable as tax on trades, professions, etc., in the City of Calcutta is Rs. 500. In the Howrah Municipality, it is Rs. 250. In other Bengal Municipalities, it is Rs. 200. Now, this tax is levied on a sliding scale, according to the nature of the trade, profession or calling. If the highest scale of tax leviable is to be reduced to Rs. 50, then the lower scales will have to be proportionately reduced, perhaps to insignificant figures. What will be the result of this? The result will be a serious curtailment of the reserves of these Municipalities.

Then, again, Sir, there is another very serious defect in the Bill of my Honourable friend, Sir F. E. James, and that is that a person will pay only one tax even if he carries on several trades or owns several shops in different parts of the town.

Since 1870, it has been considered desirable by the Government of India and by the British Government that the development of local self-government should be fostered in this country. Have we now come to the stage when this policy is to be reversed? Has local self-government been found to be unsatisfactory and undesirable? If so, let them give the plain answer and let them say that all local bodies should be abolished. Instead of punishing the local bodies in this underhand manner it is better to abolish local self-government in India altogether. If, on the other hand, Government think that it is necessary to encourage local self-government, they should not only help the local bodies with financial aid and in various other ways but should allow them to levy such fees and taxes as are reasonable. No exception has been taken to the levy of these fees which have been in existence for nearly half a century in Bengal; but my Honourable friend comes forward and lays his hands on these fees and says that they should be reduced. This is very undesirable, to say the least, and in the name of the development of local self-government in this country I strongly oppose this motion.

**Mr. Akhil Chandra Datta** (Chittagong and Rajshahi Divisions: Non-Muhammadian Rural): Sir, I rise to oppose this Bill. It is perfectly clear from the speech of the Honourable the Mover that it is a very controversial measure. Some provinces are not affected,—well, they are not interested. Among those who are interested, no Provincial Government has given perfectly clear and unconditional support. My Honourable friend speaks of the support of the Madras Government, but he has himself told us that that support is based upon a certain condition. It is

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admitted, Sir, that without compensation by the Provincial Governments the local bodies cannot afford to sustain the loss which will result from the operation of this Bill. When the Honourable the Mover said this he practically gave away his own case. We have been told that the Madras Government have promised compensation. I do not know if Sir Frederick James is in the confidence of the other Governments, but is there any justification for a taxation measure like this on the chance that some Provincial Governments might possibly be induced to compensate the local bodies? Why do you first give this blow to them and then think of relief from the Provincial Governments which after all it depends on their sweet will and pleasure either to give or not to give? Then, Sir, the proposed changes are simply revolutionary. As a matter of fact, my Honourable friend, Dr. Banerjee, has told us that in Calcutta the maximum amount leviable is Rs. 500; and the present proposal is to reduce it to Rs. 50. It is certainly a revolutionary change which it will be very difficult for the Calcutta Corporation to meet. In Calcutta, the rate is Rs. 500 in some cases, and, in some other cases, it is Rs. 250, while in Howrah it is Rs. 250, and so on. The changes are so drastic that it will be very difficult to make an adjustment of their position after the Bill is passed.

I may point out also that this may be described as the big man's Bill. It is a Bill for the benefit of the big people, big companies, big firms, etc.; and it will affect the local bodies who spend their money for the benefit of the public. So it is a case of big people *versus* poor people.

There is another aspect of it. This is a Bill which operates very differently upon different categories of business and of people. It is said that the tax is payable by any one person. In the City of Calcutta, one man may have five firms in five different parts of the City; and, quite apart from the size of the business and the profits made, it is now proposed that the total maximum tax leviable is Rs. 50. It makes no distinction between small people and big people, small business and big business; and, therefore, it is inequitable. Then, Sir, from a tax on professions and trade it practically converted into a tax on persons.

These are some of my objections, and, in view of the very acute differences of opinion, I submit that this Bill should not be proceeded with, and I oppose the motion.

**Maulvi Abdur Rasheed Chaudhury** (Assam: Muhammadan): Sir, this is a Bill which, though it has got only two clauses, appears to be very controversial. In the Statement of Objects and Reasons the framer of the Bill has said that there is a great demand for the abolition of this tax in the Madras Presidency. I have seen the opinions expressed by the local bodies in the Madras Presidency and I find that out of 109 local bodies in Madras only 20 have supported this Bill. One has passed no opinion and the rest have all opposed this. So far as the demand of Madras is concerned, the framer of the Bill has got to satisfy this House that the demand is a genuine one. From the papers in our hand we do not find such demands and so we cannot agree with Sir Frederick James that there is a great demand in Madras for the abolition of this tax.

Now, Sir, this Bill will have the effect of curtailing the revenue of local bodies. Curtailing the income is a very difficult affair both in the

case of individuals and in the case of corporate bodies. If the income of an individual is touched he at once runs to the court and takes all measures possible to get redress so far as the curtailment of that income is concerned. If it is a corporate body it does not lag behind. It goes to court, it goes to Government and tries all means to see that the resources of the body are not curtailed. Now, Sir, the framer of the Bill in his Motion has said that the Government of Madras support this. It would have been pleasing to this House if he had produced the remarks of the Madras Corporation. Although the Government of Madras have said that they would compensate the loss of the Madras Corporation if the Bill is passed, we have not heard anything from the Madras Corporation in this matter. So far as the other Corporations are concerned, we have not got their opinion. But we find that all the big Corporations, such as the Corporation of Calcutta and Bombay, will lose their income heavily if this Bill is passed into law. Then, Sir, there is one aspect of the question which I wish to bring to the notice of the House. It is this: whether this Government is competent to take up a legislation of this nature. The Government of the United Provinces in their opinion have expressed that the income of local bodies come under the 'Provincial subjects'. Whether the Central Government has got any authority to legislate laws which only the provinces can do is the question which I leave to the Honourable the Law Member to decide. The Government of the United Provinces have expressed doubt whether the Central Government can take up a legislation of this nature. Now, Sir, let us come to the actual facts. I have just got in my hand the opinion of the Howrah Municipality in this connection. They say:

"This will seriously affect the revenue of the Municipality and will deprive them of a revenue which the Municipality had been enjoying for a very large number of years."

The Mover of the Motion has said, as I have already mentioned, that the Government of Madras is ready to compensate the loss of the Madras Corporation, but we do not know of any other Government. Take for instance the Government of Bengal. We do not know whether the Government of Bengal would be prepared to compensate the loss of the local bodies of Bengal if this Bill is passed. Even if the Government undertake to compensate the loss, still you must hear the local bodies which are affected by legislation of this nature. In the absence of any guarantee that the Government of Bengal and the Government of Bombay are willing to compensate the loss of the local bodies affected by this Bill, we, in this House, should not jump into the support of this Bill. Then, Sir, there may be some demand in Madras for the curtailment of this tax, but we know there are similar demands everywhere. So far as the postage and other taxes are concerned, we are all demanding that the postcard should be available to the public at two pice and not three pice; we are also demanding that Salt tax should be reduced, but the Government do not give attention to these demands. Therefore, I do not think that the Government will come forward to support this. There is another small point which I would like to mention. The Bill seeks to limit to a maximum of Rs. 50 per annum by way of tax in respect of any person. Now, companies and other trading bodies come under 'persons'. Suppose one company has got five or six kinds of businesses in one place—there are several such concerns in Calcutta dealing in textiles and hardware and so on—they will pay only one tax if this Bill

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is passed. In fact it is reduced to a personal tax and not a trade tax. I think I am quite clear in this respect. So the Bill is not convincing in any aspect and, Sir, I do not see why we should support this Bill without receiving opinions of the Governments concerned as to whether they would undertake to compensate local bodies for the loss of revenue. Sir, I oppose this Bill.

**Lieut.-Colonel Sir Henry Gidney** (Nominated non-official): Sir, as one who is familiar with this Bill especially when it was originally presented, I feel I should like to make a few observations. Sir, this House should clearly understand that this amounts to a double taxation and I think any imposition of double taxation is wrong, not only in principle but in practice, and if it be within the power of this House to stop that I think we should. Now, what does this Bill really mean? It means that the relief of a professional or trade tax or a double tax not only benefits the middle class people but also the poor man and thus all sections will be beneficiaries. I know in Bengal, where, I stopped for many years, this was a very sore point with the Bengal Government and many were the changes that were introduced before they came to any finality. What one has to rely on in this House is not the opinion of individuals as expressed here, unless those individuals receive a mandate from their Parties or their constituents, but that of the Provinces. What have the Provinces said about this measure? Let us take them as a guide in arriving at a decision here. I have in my hand a summary of how the various parts of India have reacted to this Bill.

“Bihar: As it does not affect the Province it has no opinion to express”. That is, I take it, a valuable negation. Assam, from which the last Honourable Member who spoke comes, and who has opposed it, for one or two reasons which in a way appealed to me, but let me tell him his Government is not opposed to the Bill, for they have given no comment on it. Punjab says, “No objections to the proposals.” North-West Frontier Province is in favour. Coorg is not affected, but it is in favour. The Ajmer-Merwara Government is in favour. Sind which is a Province where the Local Government is functioning—not a Government with Advisors—is in favour of the Bill. That is, it is the opinion of the province of Sind. Delhi has no observations to make. Orissa is in favour on the assumption that the Bill does not affect the power of the municipality functioning under the Bihar and Orissa Municipal Act of 1922 to levy a personal tax under section 20 upon persons in sole or joint occupation of holdings within the municipality according to their circumstances and property within the municipality in excess of Rs. 50, but subject to the maximum of Rs. 120 laid down in section 92 of that Act. Now, let us take Baluchistan. That Government is in favour. We now come to Bengal from where my friend, Dr. Banerjea, comes. We have just now heard the opinion of the Howrah Municipality. I do not know that we should be guided more by the Howrah Municipality than by the opinion of the Bengal Government. That Government does not support it because the Bill will affect the finances of local bodies. For instance, the Calcutta Municipal Act. I think the least said in this House about the working of the Calcutta Municipality the better it would be. I happen to have lived in that town for over 20 years, and if there is any public body that wants to be completely overhauled and thoroughly purged of a

lot of its—I will use only a mild word—maladministration, it is the Calcutta Municipality. And here, we have our friend, Dr. Banerjea, the puritan economist, from that country called Bengal, pronouncing his own views in this House. The economist Dr. Banerjea comes forward with his view on a matter that is going to be of some help to all classes of the people and opposes it simply because it is going to reduce the municipal finances of which Dr. Banerjea may be the stoutest advocate. (Interruption.) Whether he is or not, I stand here again to tell you that if any municipality requires to be completely purged, it is the Calcutta Municipal Corporation.

**An Honourable Member:** Not much chance of its being heard.

**Lieut.-Colonel Sir Henry Gidney:** I hope the Government take it over soon; otherwise it will become bankrupt.

We come now to the United Provinces, which is a very advanced province. It previously objected to the Bill but it has now withdrawn, in view of the opinion held that the Bill does not affect the circumstances and property tax, and on condition that it is made clear that the Bill only relates to the subject matter of section 142A of the Government of India Act and to special taxes imposed on trades which derive special advantage from or impose special burdens on local services or to license fees and cesses, etc. Now, that is not a provisional consent. It is a consent given by a very enlightened province,—the United Provinces. Madras, from which my friend, the Mover of this Bill comes, supports the Bill and goes further. I consider the Madras Corporation's consent as an object lesson to most others: not that intelligence is the perquisite of Madras, although some think so; but the Madras Corporation and the Madras Province have supported this Bill. Not only does it support it, but it has agreed to make good any financial help to bodies who would suffer any loss and that it is prepared to make good the loss which might be suffered if this Bill came into operation. That is an object lesson for the Calcutta Municipality, of course, if it had any funds on which to indent . . . .

**Dr. P. N. Banerjea:** It does not affect the Calcutta Municipality only, but all the municipalities in Bengal.

**Lieut.-Colonel Sir Henry Gidney:** Madras supports it, I say. Central Provinces says no objection if it is made clear that the tax on professions, etc., based on income should not exceed Rs. 50 per annum, but not in favour as it stands, because it may affect taxes on ginning and cotton presses, etc.

Now, we come to Bombay. Bombay has no objection to the Bill provided it is made clear that taxes, duties or fees levied by the Government of Bombay for controlling and regulating a trade or profession, or *abkari* or the Western India Turf Club are not affected. Sir, I think we can put the turf club, horse racing, housing and other such things out of the consideration of this House.

Here we have a Bill before the House which offers relief to a large section of all classes of peoples in India. (Interruption by Mr. N. M. Joshi.) Never mind, it will not be the labour union leaders because your money comes quietly—we all know where it comes from and you do not

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pay any taxation on that so you cannot afford to talk; but here is a taxation on professional people who are striving to earn a living many of whom have nothing at the end of the month to call their own and who are called upon to pay this tax and who cannot afford it. I know this to be a fact from experience in Calcutta. Many of the younger doctors often came to me and said they could not pay this tax. This Bill may, and I suppose, will reduce the revenues of certain municipalities. But one is seriously tempted to ask, are the revenues of municipalities wisely used? Would it not be wiser to endeavour to give some alleviation and relief to some of our subjects, such as this Bill asks this House to do than to swell the incomes of some municipalities to squander? I am not one who goes blindly at a thing. I have studied the problem and I feel I can state to this House, without doubt, from the reports I have read out, that with one or two exceptions, all the provinces of India support this Bill. On the face of that, I would be devoid of intelligence if I were to vote against it. I, therefore, support this Bill very heartily as being a measure that will do a lot of good to the country. If this House is not inclined to apply it to the whole of India, I do not think I shall be wrong in saying that the Mover of this Bill would not be in any way disappointed if it were partially applied. If Bengal does not want it, let them keep out of it; but if Madras wants to accept it, why not let it have it? I, therefore, Sir, heartily support that this Bill be sent to a Select Committee as asked by the Mover of this Bill.

**Babu Baijnath Bajoria** (Marwari Association: Indian Commerce): Sir, I rise to support this Bill. I am sorry I cannot see eye to eye in this matter with some of my colleagues of my Party. I am now speaking entirely on my own behalf, and not on behalf of my Party. I have carefully gone through the opinions received on this Bill, and I find that excepting the Government of Bengal, none of the other Governments have opposed this Bill. As a matter of fact, most of them have supported this measure, and some say that as they are not interested in the matter, they are neither opposed to it nor support it.

As regards Bengal, Sir, it has been said with some force by other speakers that the Calcutta and Howrah Municipalities in Bengal will be very adversely affected by this Bill. I claim to know something about the Calcutta Municipality. I have more occasions to deal with the Calcutta Corporation than the other speakers who have preceded me from Bengal. Sir, the total revenues of the Calcutta Municipality are over two crores 50 lakhs, and in their own statement of opinion of the Calcutta Corporation they have pointed out that if this Bill is passed, their revenues will be affected to the extent of two lakhs 82 thousand rupees. That is, only 1 per cent. of their total revenues. I don't think that this one per cent. is going to cripple their finances to such an extent that they will not be able to bear this loss. As a matter of fact, I can say without fear of contradiction that if the Calcutta Corporation puts its house in order and effects economies and runs the administration more efficiently than at present, they can easily save ten per cent. of the expenditure which they are incurring today. I don't want to go further than this, but this is the general opinion of the ratepayers of Calcutta, because the expenditure of the Calcutta Corporation is really very extravagant, and the sooner they put their house in order and thereby reduce the expenditure the better it

will be for the ratepayers. Sir, the Calcutta Corporation are charging from Rs. 500 to Rs. 100 for different classes of trades and callings. I think they have quoted verbatim Schedule VI in which the licences charged are mentioned. I find that they are not charging any licence fee for professions or callings from lawyers and doctors. I have read the schedule mentioned here. They mention here merchants, bankers, traders, commission agents, engineers, architects, pleaders, carriers and other things, but not lawyers or doctors . . .

**Mr. Akhil Chandra Datta:** They do charge the lawyers.

**Babu Baijnath Bajoria:** I am not mistaken; the Schedule must be mistaken. Then, Sir, the Calcutta Corporation are also charging separately if the same person or firm has different branches in the city. For instance, there is one main office and it has some branches or retail shops in different parts of the city, and they are all charged separate licence fees. There was some doubt whether the Calcutta Corporation was entitled, even under the present Municipal Act, to make such a charge on each shop or place of business belonging to the same party or firm, and when this matter was referred to the Calcutta High Court by Bata Shoe Company, the High Court decided in favour of the Calcutta Corporation. I think, Sir, it is very unfair and unjust to charge more than one licence fee for a calling or trade from the same party, whether it has one or more branches in the city. In this matter I think the Mover has done a distinct service to the community in bringing this matter before the Central Legislature. I also find that not all the Municipalities in Bengal have protested against this. In the opinions I find the names of only two municipalities, namely, Calcutta and Howrah. I presume thereby that the other municipalities are not affected or would not be affected by this Bill. I also consider that the manner in which this tax is being levied is more or less a double income-tax, and I am supported in my opinion by no less a person than the Governor of Madras. This is what he says: "His Excellency the Governor supports this view and considers that there is a good case for the total abolition of a tax which is in fact a supplementary income-tax levied at varying rates by some of the local bodies, and not by others". So I think, Sir, there should be a limit. Whether the limit should be Rs. 50 or a little more than that, it is of course a matter for the Select Committee to decide, and we will have further opportunities to express our opinion on the limit proposed. I find, Sir, many Chambers of Commerce have also supported this measure.

**An Honourable Member:** Also the Finance Member.

**Babu Baijnath Bajoria:** I think he will be able to speak for himself. I need not plead for him. With regard to the Central Provinces, Sir, I would draw the attention of the House to the manner in which this tax is being levied in the Central Provinces. In Berar the tax has been imposed on trade of ginning and pressing cotton based on the number of bales and bundles. That is absurd. It is a direct tax on income. You are giving here licence to a person to do a certain business or trade, but you charge on the number of bales or bundles being ginned in a press. I think if the same thing is applied in Calcutta or the suburbs, say, on the jute mills or other industries, if you levy such a tax on a production basis, I think it will be absurd from the merchants' point of view. It will mean

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something like a Sales tax or a Production tax. The greed of the municipalities in this matter must be curbed. Sir Henry Gidney said that if Bengal was opposed to this Bill it could be excluded from the operation of this Bill and the Bill could only be partially applied to the other provinces. Sir, I strongly oppose this suggestion. The Bill must be applied to all parts of India because it will be passed by the Central Legislature. With these few words, Sir, I strongly support the motion before the House.

**The Honourable Sir Jeremy Raisman** (Finance Member): In supporting the Motion for reference of this Bill to Select Committee I wish to make clear the attitude of the Government of India. I have already on a previous occasion indicated that the Government of India are in sympathy with the object of this Bill. If at an earlier stage there was a certain delicacy about my approach to the measure, it arose from the fact that as the principal taxing agent in India I did not wish to appear to associate myself with a scheme for reducing the powers of other members of my trade union, but there is no getting away from the fact that this measure is in principle a measure of double taxation relief. I do not see how it can be logically argued that the principle of this Bill is not sound. After all, Parliament has already recognised that fact and has enacted that any tax of this kind in future cannot exceed Rs. 50 per annum.

**Sir Oowaji Jehangir** (Bombay City: Non-Muhammadan Urban): Which Parliament?

**The Honourable Sir Jeremy Raisman**: That has already been enacted in section 142A of the Government of India Act. This was enacted some time last year. It may be said that Parliament did not intend to make this applicable to existing taxes. The answer simply is that Parliament recognised that this would have some effect on the finances of local bodies, that these taxes, although admittedly bad and unjustifiable in principle, did exist and, therefore, some *locus penitentiae* as lawyers call it, or some time for adjustment should be given to the bodies or provincial authorities in order to enable them to meet the situation that would arise when the pitch of these taxes was reduced. Therefore, Parliament in its amendment left it to this Legislature to deal with the existing taxes. I submit that there is a strong implication in section 142A that these taxes should be dealt with by this House. It is arguable that it would be a failure of duty on the part of this House not to regulate the matter of existing taxes also.

There have been objections from Bengal because of the level of taxation in the Calcutta Corporation. I would suggest that the reduction of these taxes does not create a situation which is irremediable. After all, a body like the Calcutta Corporation is surely capable of adjusting itself to the limitation of a type of tax which is admitted to be unsound in principle and is surely capable of so arranging its scheme of taxation as to make up for the resources which it has lost. And that, as I said just now, was probably the object of not making the Parliament amendment applicable to existing taxes. At the same time, I notice that other

Governments, while not opposing the principle of this measure, or while supporting it, have expressed some apprehensions about its possible effect on other taxes some of which are definitely not of the nature of a municipal or provincial income-tax, and I think it is important that the Select Committee should take those apprehensions into consideration and see what can be done to limit the mischief of the Bill and to prevent undue damage being done to the resources of local bodies. I do not mean that the principle of excluding or at any rate limiting double income-tax taxation should be foregone, but that the measure should as far as possible be confined to the main object which is to prevent the levy of what are merely disguised income-taxes by local bodies and that we should not at the same time sweep up a large number of other imposts which may be entirely justifiable sources of municipal or provincial taxation. I think, Sir, that this measure should go to Select Committee and that these aspects which I have touched upon should be carefully considered there.

**Mr. Jamnadas M. Mehta** (Bombay Central Division: Non-Muhamadan Rural): I rise to oppose the motion made by my Honourable friend, Sir F. E. James. Not that I have not got some amount of sympathy for the point of view which is behind this motion, but because this Bill is fundamentally wrong in principle. It is also of doubtful legality. I am not here to raise the legal issue, but I thought that under the Government of India Act, 1935, all local taxation was within the power of the Provincial Governments and it was not for the Central Legislature to control that power in any way. But I am not raising this issue because, the Government of India having supported this Bill, perhaps they are quite seized of the legal position on this point. (Interruption.) Sometimes they go wrong as you rightly say. But I will take it that the legal position has been properly examined and that the measure is within the jurisdiction of this Honourable House. But apart from this legal issue, the principle of the Bill is fundamentally vicious. When Sir Otto Neimeyer examined the finances of this country some 6 or 7 years ago, he pointed out that in India the incidence of taxation was largely on the poor man and the richer classes escaped the burden of taxation to a large extent. Anybody will remember. . .

**The Honourable Sir Jeremy Raisman:** That has been considerably rectified since then.

**Mr. Jamnadas M. Mehta:** But the tendency of this Bill is to go back in that direction. I quite agree that the stress of war has brought in the richer classes within the taxable limits, but this measure is a definite attempt to go back to the very vicious principle which Sir Otto Neimeyer pointed out in the taxation of this country.

What is this Bill after all? It is a Bill for the rich man. It is a Bill for the professional man. It is a Bill in favour of those who have got money to go to the race course but will not contribute to the municipal revenues. That is this Bill. It is a Bill against municipalities' power of taxation.

**Sir Cowasji Jehangir:** It does not affect the Bombay Municipality.

**Mr. Jamnadas M. Mehta:** True. The latest legislation from Parliament has tied down our hands to a large extent. It is now 1 P.M. nearly sixty years since Lord Ripon declared the intention of the Government of India to encourage the development of civic local self-government in this country but the record of those 60 years is most disappointing. Why? Because neither the Provincial Governments, nor the Central Government ever showed any intention substantially to help the finances of the local bodies. The tendency rather was to rob them of what they had got and not to encourage them in their nation building activities. I say, of the three bodies under which we are subjected to taxation, namely, municipalities, Provincial Governments, and the Central Government, I would prefer to be taxed first by municipalities, secondly, by the Provincial Government, and lastly only by the Central Government. The process is unfortunately reversed. The Central Government monopolises most of the taxation powers. So far as the Bombay Province is concerned, the municipalities have been wronged by the Provincial Government and by the Central Government. So far as the city of Bombay is concerned, the Government of Bombay have shown themselves to be the most grasping of Provincial Governments, to the prejudice of the municipal administration of that city. Every new taxation which committee after committee recommended for local bodies was pounced upon by the Provincial Government and allocated to itself. That is the black record of the Government of Bombay. It has taken for itself a tax which used to be the source of income of the Bombay municipality since 1857, for practically 80 years. This tax has been appropriated by the Provincial Government. The Government of Bombay has gone back and the High Court of Bombay itself declared that it had gone back over and committed a breach of its promise to the Bombay municipality in the matter of primary education since 1917. This is the history of the Provincial Governments and the Central Government towards local bodies; the one grouse against the Morley-Minto reforms and the Montagu-Chelmsford Reforms was that the nation building departments were starved. Medical relief, education, sanitation and health—these are primarily the duties of local bodies. The removal of slums which is one of the duties of the local bodies is still far from being even approached.

**An Honourable Member:** Whose fault?

**Mr. Jamnadas M. Mehta:** It is the fault of want of resources. Elected Members are often shy of undertaking responsibility for imposing taxation. If you add to that disability the Government's keenness on appropriating the resources which belong to local bodies it would be a long long time before local self-government in this country will develop even to a moderate modicum of modern requirements. That is my objection to the Bill. It is an attack on the rights of local bodies to improve their finances. After 60 years of local self government 90 people out of 100 are still uneducated because the local bodies have very little resources. Government grants are very meagre and such resources as have been allocated to them are being increasingly encroached upon and

this measure is the last illustration of that tendency. My friend, Mr. Bajoria and some other friends who waxed eloquent about the justice of this Bill were only trying to criticise a single municipality. I entirely agree with them that municipalities often go wrong but still municipalities have their duties to perform. They are already weak and what you do here will make them weaker still by taking away this power of taxation. What is the power of taxation after all. It is not merely a question of taxing up to Rs. 50 but according to the capacity of certain associations or persons who are in a position to pay more. Well, Sir, is it not possible for doctors and lawyers in a big city like Bombay or Calcutta to afford Rs. 100 a year for the upkeep and better running of their own civic bodies. After all what are the functions of a civic body? It touches the daily life of the people. The Provincial Governments are far away. The Central Government is still further away. Is it the Government of India or the local body which supplies you with water, light, good roads, health, sanitation, medical relief, poor relief to some extent and slum clearance? All these are duties and obligations which cannot be carried out of nothing. Show me one single instance where the municipalities are over rich in any part of India. Their revenue is not even Rs. 7 per head of the population. The total municipal revenue of the Bombay Presidency is not more than 2 crores, excluding the city of Bombay. Now, what can such bodies do. There are so many amenities to be attended to and the result of financial stringency is the high death rate, infantile mortality, malarial and other fevers. The water for drinking is often the dirtiest possible. I know, Sir, an area of 40 square miles in one of the districts of the Bombay Presidency. It is not possible for 30,000 people in that area to get pure potable water except by walking 7 miles per day. For washing water there was a tank near the village. Cattle and men dropped their dung in it and the water was full of filthy substances mixed in it.

**An Honourable Member:** Poor compliment to the municipalities.

**Mr. Jamnadas M. Mehta:** Poor compliment to the Government which gives them no finance and poor compliment to the members who take away the modicum of taxing powers which they have got. My friend, Mr. Bajoria seems to think that some experience of Calcutta municipality means experience of the whole of India. I am talking from the reports of the local bodies published by my Government. I am not talking from a sort of passing acquaintance with the municipalities. I can understand his reluctance to pay more. I do not want to be diverted into any side question. To me it is question of the well-being of 36 lakhs of people in the Bombay Presidency, who are within municipal limits, excepting the city of Bombay. Others are under local boards. So far as the Bombay Presidency is concerned it is a question of one crore and 80 lakhs of people. Similarly it must be applicable to 80 per cent of the people in other provinces. The recent amendment in Parliament of the Government of India Act was also in the wrong direction. As the Sanskrit proverb says:

"The Great are always the slaughterers of the poor. The weak are always sat upon by the strong."

In passing that amendment, Parliament has really overlooked the welfare of the local bodies which during the last sixty years have been

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starved of finance. It was a scandal that under the Montagu-Chelmsford reforms, local boards and municipalities could do nothing and even now the ministers could do nothing to help the nation building activities. I am sorry that this Bill is sought to be passed into law at the instance of an elected member and I am sorry to find even the Finance Minister of the Government of India rising in his seat and supporting a measure of this disreputable character. You are taking the blood of the poor people; you are perpetuating the infant mortality; you are perpetuating fevers; you are perpetuating the scarcity of potable water; you are doing a serious wrong to the rural and municipal population in supporting this measure. Sitting here, I say the Government of India at least could have been decent in keeping neutral. But what have they done? They have shown their consideration for 30 crores of people by supporting this measure. What is the value of this measure? The only thing that the Finance Member said was: there is some double taxation. Let there be treble taxation, four-fold taxation in the interests of the poor and in the interests of the municipal local self-government. A country without a strong, broad basis of local self-government where healthy residents reside, where education is increasing and where vital statistics are improving is not a country to be proud of.

Sir, I will only take one more point now and then conclude my observations. I was reading the other day the report of the highest authority in the land about the health statistics of this country. I forget the technical name by which it is called. It is a recent publication. I ask the Honourable Mover of this Bill and I ask the Government of India to pursue that document and find out for themselves whether the municipalities and local bodies have done anything in the last 40 years to improve the health statistics of their respective charges. If you read that document it will throw immense light on the disabilities of the local bodies and you will at once come to the conclusion that if you value the health, the strength and the amenities of life for the masses and if you want to decrease the death rate in this country, your first and most sacred duty is to go to the municipalities and offer them generous assistance. I find from the quotations in support of the Bill that the Government of Bombay have approved the principle of the Bill. The Government of Bombay are always agreed on principle in robbing local bodies. Look at the history of the Government of Bombay. During the last 20 years if not more you will find that wherever there is some loophole they have taken over the money which rightly belongs to the Bombay municipality. Therefore, what is the good of quoting an example of a Government which is notorious in its propensity of robbing the municipalities. (Interruption.) I assure you that I did no wrong. If you had come to me when I was a Minister, I would have rejected your offer also. But that is neither here nor there. We are now told that the Mayor of Bombay has supported this Bill. The Mayor of Bombay proceeded on the footing that we are debarred by the amendment of the Government of India Act and that now we cannot impose more tax than Rs. 50. That is the effect of the amendment by the 1935 Act. Therefore he thought that as Bombay cannot get more, let others also not get it. I know that Dr. Colaco, the present Mayor of Bombay, has always supported in the Committee proposals empowering the Bombay municipality to raise

the taxation and there is a draft schedule for the last ten years of taxing the trades and professions in Bombay. I think my friend, Sir Homi Mody, will bear me out in this as he was one of the members of those Committees unless he has forgotten it.

In conclusion, I wish to say that Government should stand aside. I appeal to them in the name of the masses of this country, in the interests of the development of local self-government and in the interests of the finances of the local bodies that this Bill will be one more handicap in their way to improve their finances; in the circumstances they cannot hope to improve either the health, education or sanitation of the people within their charge. Sir, I oppose it.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

**Sir F. E. James:** Sir, for one flashing moment this morning I had an idea that Mr. Jinnah and the Muslim League Party had come to the House specially to support my Bill. But I found I was sadly mistaken. He had come to make a statement as to why he and his Party could take no part in the discussion on my Bill or on any discussion on any subsequent Bill or Resolution during this Session.

**Babu Baijnath Bajoria:** But he came while your Bill was under discussion.

**Sir F. E. James:** I am afraid that on this particular occasion that was entirely fortuitous. I am bound to say that while I and my Colleagues are most anxious to understand his point of view, we found the reasons he gave for his action, entirely unconvincing. Mr. Jinnah expressed on his behalf and on behalf of his Party, willingness to assist whole-heartedly in the prosecution of the war, and I seemed to hear the echo of a previous offer of unconditional support which came from one, who is, shall I say, even greater than Mr. Jinnah himself. Sir, we feel that the dangers now are so real and imminent that there can be no middle course. People either help or they do not help. Those who endeavour to stand aside, as it were, as spectators of the scene, are definitely not helping. I do not doubt for a moment that the Members of the Muslim League are sincere in their desire to help, but in that event their place is in this House and not sulking in the lobbies or purlieus of New Delhi.

Nobody now-a-days can shirk the issue which I have mentioned and no amount of juggling on the part of Mr. Jinnah, with constitutional arguments can effectively smoke-screen the plain choice which now is before every man of every community and indeed every Party. I consider it singularly unfortunate that this week, when for the first time in constitutional history the Government of India contains a large majority of Indians drawn from the best elements in India's public life, one of the great Parties should have chosen to stage what its leader calls a "protest" thus following long afterwards the method which the Congress Party has made familiar in politics during the last twenty years. Giving his words all the weight which they deserve as coming from the

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leader of a great Party, we are forced to the conclusion that he and his reluctant friends staged not a protest or a gesture, but a definite declaration of non-assistance in the prosecution of the war. That means not only a declaration of non-assistance to their own countrymen who lately have had the courage to take up the exceedingly heavy responsibilities of office, but also a refusal to assist the members of his and other communities who today are under training in this country and actually at this moment fighting overseas to defend, not only India, but freedom everywhere, freedom that Mr. Jinnah may protest in peace.

We deeply regret this action on the part of the Muslim League. Any one who has visited the camps and training centres of this country is aware of the complete difference in outlook between those who lead this kind of procession and those young men who are training to equip themselves as India's soldiers. Perhaps it is the difference of a generation. All I can hope is that those young men, when they come back from active service, will be prepared to forgive and forget their elders for what today they have done. I must say it is a depressing prospect at the moment in the political life of India. Speaking on behalf of the Party to which I belong, may I urge the three Parties which remain, to determine to uphold such parliamentary traditions as we have built up in this House; to join hands in assisting and in criticising this Government; to join hands in assisting in every possible way the effective prosecution of the war and, indeed if possible, in restoring that unity in this country the absence of which is such an exceedingly dangerous factor in the world as it is today.

Now, Sir, coming to the Bill, there are really not many points to which I need refer. We have had an interesting discussion, and I personally am grateful to Honourable Members who have spoken for their suggestions and for the expression of their points of view. I believe that most of the difficulties which have been mentioned by my Honourable friend, Dr. Banerjea, can be overcome and the Select Committee which is now to be appointed will have that task. I should like to say that this is not a question of the rich *versus* the poor. My Honourable friend, Mr. Jamnadas Mehta, spoke for the masses. There are some in this House who can speak for the rich. But on this matter I can confidently speak for the middle class, a class which is frequently completely ignored in this House in the struggle between the upper and the nether millstones. I have had many letters from the people of all communities drawing small salaries pointing out what a hardship this particular tax is, based as it is not upon a profession which a person exercises nor even upon the amenities which the local bodies provide, but upon a person's income. If some of my Honourable friends would spare the time, I would gladly show them the files that I possess which tell stories of real hardship in the middle and lower middle classes particularly. Therefore I reject the suggestion that I am attempting to do good to the rich at the expense of the poor. Moreover, as far as Madras is concerned, it has been pointed out, in the opinion of the Madras Government, that such loss as the local bodies sustain as a result of the passing of my Bill is to be made good out of the proceeds of the General Sales Tax. That General Sales Tax was introduced and piloted by a distinguished Congress Premier, and when he brought it in he made a great point of the

fact that this was a constructive effort to shift the burden of taxation from the poorer classes to those classes which were more easily able to afford it in his province. So that if, in the case of Madras the proceeds of the tax which I now seek to restrict in operation are to be made good from the General Sales Tax, then it is not the poorer classes who will be asked to pay; but what are usually described as the trading and the mercantile classes.

I will not follow my Honourable friend, Mr. Jamnadas Mehta, in his passionate harangue in regard to local self-government. I think it is sometimes well to remember that there is no particular virtue in self-government being local if it is bad government; and certainly some of the municipalities and other local bodies for which my Honourable friend so eloquently pleaded hardly deserve all the encomiums that he wished to pour out upon them. But he again spoke of my Bill as being a measure which, if passed, would cripple the resources of local bodies for generations to come. He called my Bill a disreputable Bill. I feel justified in calling that argument of his nonsense. This Bill does nothing of the kind. Its purpose, as I explained on the last occasion when it was before this House, is quite restrictive. This is a tax which is based entirely upon income and bears no relation to the amenities provided nor to the profession which a person exercises within the local board area. In other words it is a tax which, strictly speaking, should be a central tax and not a tax levied under provincial statute by local bodies. The Parliamentary enactment of 1940 dealt with that problem by imposing a limit of Rs. 50 upon such taxes in the future, though it excepted from the application of this clause such taxes as were on a certain date in existence, although they were on the same basis. The Central Legislature is the body which has been empowered by Parliament to deal with that excepting clause. That is why I have come to this House; otherwise I would have gone either to my own Government or; had it been in existence at this time, to my own Legislature in Madras. This is the only forum which at the moment is left open to me and I think I made that quite clear when I spoke on the last occasion. There is no reason why any one should apprehend that the passing of this Bill should affect the future powers of local bodies to any great extent, and I have already made it clear that, if in the course of the discussions in the Select Committee there is a strong case made out for the detailing of certain enactments which it is feared by certain Provincial Governments may be affected by this Bill, I certainly will have no objection to those enactments being specifically excluded. I hope that in view of what I have said on this question and in view of the attitude of the Government of India, the House will agree to permit this Bill to go to Select Committee without a division.

**Sir Oowasji Jehangir** Sir, I do not propose to follow my Honourable friend, Sir Frederick James, into higher politics on this present occasion. I can only warn him that lecturing most important political parties from his seat in this House when he does not happen to belong to one or the other party and when he happens to be an Englishman, may do more harm than good. I do not desire to follow his arguments any further; I propose to speak on the Bill.

I was very pleased indeed to hear my Honourable friend, Mr. Jamnadas Mehta, ventilate his grievances against the Government of Bombay *vis-a-vis* the Bombay Municipal Corporation. I can well remember nearly

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forty years ago the great efforts made by the founder of Municipal Government in Bombay, Sir Phirozeshah Mehta, fighting the Government of Bombay on every conceivable occasion for greater powers of taxation. I can well remember those great fights that he put up whenever he believed that the great institution which he helped to found was deprived of the necessary revenue, revenue which they had a right to get. And I can remember those fights being continued even after Sir Phirozeshah Mehta had to leave the Corporation only when death called him away. There is no doubt that Provincial Governments are inclined, like all human beings, to grab at all they can get, and sometimes they may not be quite fair or quite equitable when they demand certain revenues for themselves. But Mr. Jamnadas Mehta forgot to inform this House that the greatest sinner in this direction was the Congress Government of Bombay for it was . . . .

**Mr. Jamnadas M. Mehta:** I am not standing up for the Congress Government.

**Sir Cowasji Jehangir:** But the Honourable Member forgot to mention that. The greatest sinner was the Congress Government of Bombay who not only refused to give the Municipal Corporation their just dues but went much further and seized revenue to the extent of over a crore to which they were not entitled. These are all old grievances and I am glad,—I repeat,—that my Honourable friend has had an opportunity of ventilating them. But what gave me great pleasure was to see my Honourable friend, the Finance Member, rise to support this Bill, a Bill for the reduction of taxation. But before he sat down he let the cat out of the bag. He said, something to the effect that this taxation was an infringement upon his preserves and since it was an infringement upon his preserves he was ready to agree to a Bill which would deprive others of getting it. Having said that, I was expecting from him a very liberal gesture that since this is taxation which ought to be given to him he would make up the difference between the present taxation and the Rs. 50 that the municipalities would be reduced to if the Bill were passed. He did not offer that. He allowed the Local Governments to do that if they choose to. It was only logical from the trend of his speech that he should have made that offer.

**The Honourable Sir Jeremy Raisman:** I would point out to the Honourable Member that grants-in-aid to local bodies is a purely provincial subject.

**Sir Cowasji Jehangir:** Yes, perfectly true. But here is a Government of India Act which says that no local bodies shall tax more than 50 rupees. Some municipalities had already taxed more. The act allowed the *status quo* to remain, but this Bill will lower the taxation to Rs. 50. The Government of Madras have very liberally come forward to make up the difference out of the provincial revenues. Well, if this is an infringement upon his preserves, it is only logical that the Government should come forward to make up the difference.

**The Honourable Sir Jeremy Raisman:** Not at all.

**Sir Cowasji Jahangir:** But as far as Bombay Government is concerned, this Bill is not effective because there is no taxation just now on professions, etc., and they cannot put it up to more than Rs. 50 under the Government of India Act. Therefore, they are deprived of nothing. It is only those municipalities which have a tax about Rs. 50 who are affected and, therefore, so far as Bombay Municipality is concerned they have no grouse. I would remind my friend, Mr. Jamnadas M. Mehta, that when he speaks for provincial local self-Governing Body that it is very essential to see that the money that is already being given to them is properly used. I think that my Honourable friend will be doing a great service if he would direct his attention and his superfluous energy in that direction.

**Mr. Jamnadas M. Mehta:** I am doing.

**Sir Cowasji Jahangir:** And if it can be shown—I am not talking of the Municipal Corporation of Bombay; I am talking of small bodies—that they can make good use of the money that is already given to them, by all means give them more. But this Legislature is not concerned with that. This is a very narrow Bill. It really seeks very little. All it seeks is that, since there is a Government of India Act passed by Parliament which restricts this taxation to Rs. 50 and if there has been taxation above Rs. 50 since the Act allows the *status quo*—let the tax be reduced to Rs. 50. Somebody will have to bear the difference.—Provincial Government or Central Government. I do not think there is anything unfair in the Bill as it stands and I congratulate my Honourable friend, Mr. Jamnadas M. Mehta, for having had an opportunity of ventilating before higher authority—the Finance Member, the Law Member and other Members of the Government of India—the great grievances that the Municipality of Bombay have suffered under for many years. And I trust that his ingenuity will be so exercised that he will find ways and means of putting his hands into the pockets of the Finance Member of the Government of India and, if he succeeds in doing that, he will have done a great service.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): Practically the debate was closed after the speech of the Mover of the Bill, but in my absentmindedness I allowed Sir Cowasji Jahangir to speak. As both of them got up together (Sir Cowasji Jahangir and Mr. Joshi), having allowed the one, I will allow the other.

**Mr. N. M. Joshi** (Nominated Non-Official): I do not wish to take advantage of the kindness which has been done by you to those who had risen to speak on this Motion without having really the right to do so. Sir, in judging this Bill I consider only one point, *viz.*, how is the incidence of taxation going to be affected. From that point of view, Sir, a tax on trades and professions is, on the whole, a good tax. It is more or less a direct tax. It falls upon people in accordance with their ability to pay. From that point of view any attempt to restrict this right of taxation is a wrong attempt and I propose to oppose this measure.

**Sardar Sant Singh** (West Punjab: Sikh): But how many taxes?

**Mr. N. M. Joshi:** Sir, it has been said that in the first place the Government of Madras will pay compensation to local bodies. Sir, it does not interest me whether the amount of the taxation is paid to the local bodies.

[Mr. N. M. Joshi.]

to the Provincial Governments or to the Central Government. As a taxpayer the tax has to be paid. That is what interests the taxpayer and if the Provincial Government in order to be able to pay the compensation to the local body pays that amount out of indirect taxation, I feel this Bill will be doing a wrong thing. It has been pointed out by my Honourable friend, Mr. Jamnadas M. Mehta, that it is an admitted fact that in India the indirect taxation is too large and, therefore, any attempt from that point of view to reduce the direct taxation and compel the Government to resort to indirect taxation is against the interest of the poorer taxpayers of this country. Sir, the Honourable the Finance Member said that this is double taxation and, therefore, he considers that it is his duty to support this Bill, which, to some extent, restricts double taxation. Well, Sir, in my judgment when you have got the Central authority taxing, the Provincial Government taxing and local bodies taxing, you cannot avoid double taxation. After all a taxation to be a good taxation must fall upon the people according to their ability to pay and it does not matter whether the Central Government taxes or the Provincial Government taxes or the Local Body taxes, or if all the three tax. If these three Bodies receive their revenues by good taxes then the taxpayer is bound to be not only doubly but trebly taxed. What guarantee is there, if this Bill is passed, that the Provincial Government of Madras will not recoup themselves by either imposing a Sales tax or an octroi duty or some other indirect tax which is bound to be a double tax. We have got import duties on so many articles that if you have a Sales tax it is bound to be a double tax. If the Municipalities levy, when their powers are restricted, say an octroi duty, it is bound to be a double tax. Therefore, this argument of double taxation does not hold water at all. In order to avoid double taxation, in the first place you must stop three bodies taxing in one country. I, therefore, feel, Sir, that there is no justification for the measure which has been brought forward by my Honourable friend, Sir Frederick James. The only thing in favour of this measure is that it introduces uniformity. In some provinces the tax cannot be imposed beyond Rs. 50. In some provinces it can be imposed beyond Rs. 50. Therefore the only argument in favour of this Bill is uniformity. Uniformity may be good, but uniformity at the cost of the poorer people is a wrong thing . . . .

**An Honourable Member:** Where is the cost to the poorer people?

**Mr. N. M. Joshi:** It is because if you do not allow the local bodies to have this taxation to a larger extent than will be allowed by this Bill, then the municipalities or the Local Government will have to find money by some other method of taxation . . . .

**Sardar Sant Singh:** Does my Honourable friend know that the Local Governments frame their budgets and get money but without showing the demand for it? Their present budget is quite sufficient to meet their expenditure and yet they go on levying taxes without showing what necessity there is for more money to come.

**Mr. N. M. Joshi:** That does not interest me. If a Local Government has more money than it needs, then it must reduce taxation. This Bill will prevent their reducing taxation which ought to be reduced. Therefore

in judging of this measure, I judge it from the point of view of incidence and I feel from the point of view of incidence it is a very undesirable measure.

**Mr. Deputy President (Mr. Akhil Chandra Datta):** The question is:

"That the Bill to limit to a maximum of Rs. 50 per annum the amount payable in respect of any person by way of tax on professions, trades, callings or employments, be referred to a Select Committee consisting of the Honourable Sir Jeremy Raisman, Sir George Spence, Mr. J. F. Sheehy, Lieut.-Colonel Sir Henry Gidney, Mr. C. C. Miller, Mr. Amarendra Nath Chattopadhyaya and the Mover, with instructions to report by the 4th November, 1941, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Assembly divided:

AYES—42.

Ahmad Nawaz Khan, Major Nawab Sir.	Jehangir, Sir Cowasji.
Aiyar, Mr. T. S. Sankara.	Kamaluddin Ahmed, Shams-ul-Ulema.
Ane, The Honourable Mr. M. S.	Kushalpal Singh, Raja Bahadur.
Ayers, Mr. C. W.	Lawson, Mr. C. P.
Bajoria, Babu Baijnath.	Manavedan, Raja T.
Bewoor, Sir Gurunath.	Maxwell, The Honourable Sir Reginald.
Boyle, Mr. J. D.	Miller, Mr. C. C.
Bozman, Mr. G. S.	Muazzam Sahib Bahadur, Mr. Muhammad.
Buss, Mr. L. C.	Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.
Caroe, Mr. O. K.	Parma Nand, Bhui.
Chapman-Mortimer, Mr. T.	Pillay, Mr. T. S. S.
Clow, The Honourable Sir Andrew.	Prior, Mr. H. C.
Dalal, Dr. R. D.	Raisman, The Honourable Sir Jeremy.
Dalpat Singh, Sardar Bahadur Captain.	Sant Singh, Sardar.
Gidney, Lieut.-Colonel Sir Henry.	Scott, Mr. J. Ramsay.
Gopalaswami, Mr. R. A.	Sheehy, Mr. J. F.
Gwilt, Mr. E. L. C.	Sivaraj, Rao Sahib N.
Ikramullah, Mr. Muhammad.	Spence, Sir George.
Ismail Ali Khan, Kunwar Hajee.	Sultan Ahmad, The Honourable Sir.
James, Sir F. E.	Thakur Singh, Capt.
Jawahar Singh, Sardar Bahadur Sardar Sir.	Tyson, Mr. J. D.

NOES—7.

Banerjea, Dr. P. N.	Deshmukh, Mr. Govind V.
Chattopadhyaya, Mr. Amarendra Nath.	Joshi, Mr. N. M.
Dam, Mr. Ananga Mohan.	Maitra, Pandit Lakshmi Kanta.
	Mehta, Mr. Jamnadas M.

The motion was adopted.

THE HINDU MARRIAGE DISABILITIES REMOVAL BILL.

**Mr. Govind V. Deshmukh** (Nagpur Division: Non-Muhammadan): Sir, I should like to spare this House the time and the ordeal of listening to a debate, provided a statement is made by the Honourable the Law Member on the motion I propose to make, as I understand a statement is going to be made by him. The two points I wish to make are these.

**Dr. P. N. Banerjea** (Calcutta Suburbs: Non-Muhammadan Rural): You should first move and then withdraw.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): Are you moving it?

**Mr. Govind V. Deshmukh:** Yes. I move:

"That the Bill to remove legal disabilities under Hindu Law in respect of marriage between Hindus be referred to a Select Committee consisting of the Honourable Sir Sultan Ahmad, Sir George Spence, Mr. Amarendra Nath Chattopadhyaya, Mr. N. M. Joshi, Rao Saheb N. Shiv Raj, Mr. Ananga Mohan Dam, Mr. Akhil Chandra Datta, Sardar Sant Singh, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

**Mr. Deputy President** (Mr. Akhil Chandra Datta): Motion moved:

"That the Bill to remove legal disabilities under Hindu Law in respect of marriage between Hindus be referred to a Select Committee consisting of the Honourable Sir Sultan Ahmad, Sir George Spence, Mr. Amarendra Nath Chattopadhyaya, Mr. N. M. Joshi, Rao Saheb N. Shiv Raj, Mr. Ananga Mohan Dam, Mr. Akhil Chandra Datta, Sardar Sant Singh, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

**Mr. Govind V. Deshmukh:** Sir, I wish to save the time and the ordeal, as I said before, the House will have to undergo by listening to a debate, but if a statement is made on the points which I am now going to mention. I shall be quite satisfied and withdraw this motion. The points are these. Everybody knows that the Hindu Law Committee is a Committee which has been . . . .

**Mr. Deputy President** (Mr. Akhil Chandra Datta): There cannot be a conditional withdrawal. You must make up your mind.

**Dr. P. N. Banerjee:** He wants to make a short speech.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): He did make a speech.

**The Honourable Sir Sultan Ahmad** (Law Member): Sir, before I say anything on this motion, may I, with your permission and the permission of the House, refer to a matter which has so far not attracted the notice which it deserved. I am sure the House will agree with me that there is amongst us present today a Member whose presence is most cordially welcomed by the House, and that is the presence of a representative of the biggest Party in the House,—I mean Dr. Deshmukh. I am not only speaking on behalf of the Members of this House, but I am sure I am representing the views of those new Indian Members who have come to be Members of the Government of India. We have come here with certain ambitions, and one of those ambitions being to serve the country as best as we can, and in that ambition we hope we will always have the assistance not only of those who are here, but also of those who have so far kept away from the House, and it is a relief to us, the new Members of the Government of India, to find amongst us at least one person who has got the courage to come and give us the help that we need; and we hope and trust that he will continue to give us not only today, but throughout the Sessions, all the help he can. We also hope that he will persuade the other Members of his Party to come and give us the assistance that we really need.

Now, Sir, so far as the Bill itself is concerned, the House is aware that the Bill was circulated for opinion, and I find that most of the Provincial Governments, Chief Commissioners and High Courts have not expressed

their opinion, because they felt that this was a matter really more appropriately to be discussed and decided by the Hindu community. So far as the majority of the orthodox opinion is concerned, it is dead against this Bill, and it has met with opposition from other quarters also. Mr. Deshmukh has very rightly pointed out that there is a Committee presided over by Sir B. N. Rau. That Committee has already issued one Report, which has certainly met with the approval of people both outside and inside the House, and I am sure that the objects of the present Bill will be seriously considered by that Committee. If the Bill is pressed today, Government will have no alternative but to oppose it on the grounds I have stated, that is, first of all, that it is strongly objected to by the majority of the orthodox section of the Hindu community, and secondly, this very matter which is now before the House will be considered more appropriately and more adequately by the Rau Committee whose Report, I hope, will be before the House before the next Session. We are very anxious that the Rau Committee should function and function expeditiously, and I have no doubt that it will do its level best to expedite the codification of the provisions of the Hindu law of Succession and Marriage. The only assurance therefore that I can give is, that the Rau Committee will give this Bill their fullest consideration, and the codification will go on as expeditiously as possible, and the Bills for the same may be ready before the next Budget Session. With that assurance, I hope, the learned Mover will withdraw the motion.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): Does the Honourable Member (Mr. Deshmukh) want to speak on the Bill or withdraw the motion?

**Mr. Govind V. Deshmukh**: As an assurance has been given by the Honourable the Law Member that the Hindu Law Committee will be kept alive to go through this question of marriage, to look at the marriage question from all these aspects, and that a Bill would be ready by the Budget Session and be introduced, I beg leave of the House to withdraw this motion.

The motion was, by leave of the Assembly, withdrawn.

#### THE HINDU MARRIED WOMEN'S RIGHT TO SEPARATE RESIDENCE AND MAINTENANCE BILL.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): Dr. Deshmukh.

**Dr. G. V. Deshmukh** (Bombay City: Non-Muhammadian Urban): With your permission, Sir, may I be permitted to thank the Honourable the Law Member for the very kind and graceful words in which he has alluded to me. I can assure him that not only the fresh Indian Members, but all those Indian Members who are on the Government Benches will always have the support of me and the Party to which I have the proud privilege to belong. They will always have this support so long as we are convinced—and we are convinced—that they are really working for the welfare of my country. I may go even a step further. I do not make a distinction when my country's welfare is concerned, whether it is an Indian Member or a European Member. That restriction is left for

[Dr. G. V. Deshmukh.]

European statesmen. It is for them to say that this is an European war, it is for them to say this is for European civilisation, it is for them to say that this is for European peace. If all this is for European peace and European civilisation, why then bother us? We are not Europeans. As soon as the war is over, you are not going to treat us on the same level as Europeans, and all kinds of excuses will be put forward, "Oh, well. During the time the war is on, we cannot give you any Constitution. We cannot give you now anyhow because Hindus and Mussalmans are fighting with each other." My answer to that is this. If that is so, why don't you wait to take our money and our blood till such time as Hindus and Muhammadans fraternise together? All these arguments are absolutely futile. If you ask us to wait for the Constitution, for the welfare of my country till all the minorities come together, why take our money now, why drain our blood, not only in India, but outside?

**Sir F. E. James** (Madras: European): May I interrupt my Honourable friend and ask whether he is making a statement preliminary to walking out?

**Dr. G. V. Deshmukh:** It may be a statement preliminary to coming in, which might be more uncomfortable for my Honourable friend, Sir F. E. James. It might be, I cannot assure you that it may not be. Therefore, what I say is this. This narrow view has never been taken by the Indians, I may say, even by the Asiatics, because we never had this narrow view. Even the Group, that is sitting here, calls itself the "European Group". I could have very well understood if they called themselves the "Britishers' Group", but even here they cannot get away from this idea, this obsession, this damnable obsession that everything is for Europeans, and this country and its welfare is all for the sake of the Europeans. Despite all this, when a European assists me and my country and its welfare, I am thankful and grateful to him as to any of my countrymen. Of course, when my own countrymen do it, it will be still better, and I shall be more proud. From that point of view the new Members of the Executive Council of the Government of India will always have my sympathy. Let me assure the Leader of the House as well as the Law Member that when we remain absent and do not come in, it can only be out of the courage of our conviction—it can only be out of the courage of our conviction that it is for the good of our country. If it is good for our country that we should come in, we shall come in. If we think that it is for the good of our country that we should remain absent, we will remain absent.

Coming to my motion . . . . .

**Mr. Deputy President** (Mr. Akhil Chandra Datta): The whole thing from the beginning has been irrelevant.

**Dr. G. V. Deshmukh:** I think Sir F. E. James was the first to start this after Lunch. I know that he is a very distinguished person and I cannot do better than follow in his footsteps. On a point of information, I should not like this Bill to be dead for this reason that there will be a report of the Hindu Law Committee.

**Mr. Deputy President (Mr. Akhil Chandra Datta):** Has the Honourable Member moved it?

**Dr. G. V. Deshmukh:** Not yet. If I move now, then I shall have to withdraw the motion. Only on a point of information, I can move now and then withdraw?

**Mr. Deputy President (Mr. Akhil Chandra Datta):** The Honourable Member is quite at liberty either to move, or not to move.

**Dr. G. V. Deshmukh:** If I move now, and then in view of what the Law Member has said . . . . .

**Mr. Deputy President (Mr. Akhil Chandra Datta):** He can withdraw the motion.

**Dr. G. V. Deshmukh:** Will that kill the Bill?

**The Honourable Sir Sultan Ahmad (Law Member):** No. The Bill will not be killed.

**Dr. G. V. Deshmukh:** If so, may I move it? I beg to move:

"That the Bill to give Hindu married women a right to separate residence and maintenance under certain circumstances be referred to a Select Committee consisting of the Honourable Sir Sultan Ahmad, the Honourable Mr. M. S. Aney, Sir George Spence, Sir F. E. James, Mr. Govind V. Deshmukh, Mr. Husenbhai Abdullabhai Laljee, Babu Baijnath Bajoria, Sardar Sant Singh and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

I know from the answer given by the Honourable the Law Member to the other Bill that the Hindu Law Committee is sitting and that a specific reference was made to this Committee with regard to this particular Bill. With all that, I have given notice of this motion, because often times from a practical point of view, best is the enemy of good, and if this Hindu Law Committee wants to produce a perfect, ideal Bill or make a code dealing with the marriage laws of the whole Hindu community, it may mean that perhaps nothing will be done. It is from that point of view that I have given notice of this motion. Nobody will be more pleased than myself and those who are of my way of thinking, that a perfect code, so far as marriage laws of the Hindu community are concerned, should be produced and supported and passed through by the Government. But I know that there are difficulties because I have worked in this field for a little while—I know the difficulties which are likely to be met with from the opposition of the Hindu community as well as how Government find any pretext to keep out of doing something good for my country. I will give you an instance. Take the Sarda Act itself. After the passing of that Act, Government seem to be so frightened and so panic struck for the last nearly 12 years that they do not appear to be doing anything about it. Indeed, I had a talk with a few Law Members and Home Members and they said, "We cannot do anything. Supposing we do interfere and there is rebellion in the country, who is going to be responsible?" No doubt I should like that the Hindu Law Committee should produce an ideal codified Bill and it should be got through, but if by any chance it is not possible or other people do not accept it, or Government do not accept it, then I suggest

[Dr. G. V. Deshmukh.]

that this Bill will remove a great smudge on the Hindu society. On a point of information I may as well tell you that with regard to this question of residence and maintenance of Hindu women, this House was unanimous to the extent that even the distinguished present Leader of the House, my friend, Mr. M. S. Aney than whom there cannot be a more religiously minded Hindu agreed to it and, what is more, even my friend, Mr. Bajoria, the greatest Sanatanist of the present time, in the Assembly at any rate, wholeheartedly agreed to it. So far as this Bill is concerned, the House was unanimous and even for this particular purpose a separate committee was appointed. I do not say that the Law Member should give me an assurance. I am perfectly willing to take his word. If he will move the Hindu Law Committee to send in a Bill by January, then I will be perfectly satisfied. One thing more I will say. I hope that the Report of this Committee will be according to the majesty and grandeur of this great and ancient system of Hindu Law; but I also hope that it will be in consonance with modern ideas of freedom and liberty for women. Everybody knows that Hindu women are treated in a much worse fashion than the women of any other community. I therefore, move this motion.

**Some Honourable Members:** Withdraw.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): The motion having been moved, the Chair has got to put it to the House. The Honourable Member, if he is so advised, can thereafter ask the leave of the House to withdraw it.

Motion moved:

"That the Bill to give Hindu married women a right to separate residence and maintenance under certain circumstances be referred to a Select Committee consisting of the Honourable Sir Sultan Ahmad, the Honourable Mr. M. S. Aney, Sir George Spence, Sir F. E. James, Mr. Govind V. Deshmukh, Mr. Husenbhai Abdullabhai Laljee, Babu Baijnath Bajoria, Sardar Sant Singh and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

**The Honourable Sir Sultan Ahmad:** I repeat the statement that I made before on the earlier Bill. I cannot fix the month when the Rau Committee will be submitting a report on the codification of Hindu Law, but I will do my best to tell them that it is necessary that it should be expedited. I have no doubt that they would take this Bill into consideration and they would do their best to expedite. More than that I cannot say.

**Dr. G. V. Deshmukh:** May I ask the House to give me leave to withdraw the motion?

**Mr. Deputy President** (Mr. Akhil Chandra Datta): The Honourable Mover wants the leave of the House to withdraw his motion.

**Babu Baijnath Bajoria** (Marwari Association: Indian Commerce): Some things have been said by the Honourable the Mover of this motion and I want to say something on that. I am glad that my friend, Dr. Deshmukh, has come to the House today. I hope this will not be the

last day of the Session for him. I trust he will come here regularly every day. We all know that he is interested in such Bills relating to marriage and divorce and marriage again.

**Dr. G. V. Deshmukh:** We owe our existence to it.

**Babu Baijnath Bajoria:** Dr. Deshmukh is past marriageable age, and still he is after marriage and divorce.

**Dr. G. V. Deshmukh:** How do you know that?

**Babu Baijnath Bajoria:** This question of giving rights to Hindu women came before this House sometime ago, and then an amendment to that was moved by my Honourable friend, Mr. Deshmukh. That did not give the grounds for separate residence as is embodied in this Bill. I certainly agree that Hindu women must have the right of adequate maintenance and must be kept comfortably by the husband. To that extent I agree. I do not agree with the provision in the Bill that they should have the right of separate residence. That question did not come up before this House.

**Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban):** What is your idea of comfort for a woman? Rs. 10 a month?

**Babu Baijnath Bajoria:** I am surprised that Dr. Deshmukh who is a staunch Congressman and who has boycotted this Government and this Legislature and opposed the Government on all fronts should now be coaxing the Government and requesting them to adopt this measure as their child. It is very strange.

**Dr. G. V. Deshmukh:** If I want to make profit, I can only get it through Mr. Bajoria.

**Babu Baijnath Bajoria:** It has been said that the Hindu Law Committee under the chairmanship of Sir B. N. Rau will deal both with the previous motion about *sagotra* marriage and this Bill too, and then on the recommendation of that Committee a Bill will be framed by the Government and moved in this House in the Budget Session.

**The Honourable Sir Sultan Ahmad:** I said that the matter will be considered by the Government. Any report that is submitted to us by Sir B. N. Rau's Committee will be considered by us.

**Babu Baijnath Bajoria:** It will be considered by the Government. Speaking not only for myself but representing the Sanatanists all over the country, who have got some confidence in me, I say, Sir, as regards the codification of the Hindu Law by this committee we are entirely opposed to this procedure. Even in connection with the previous Bill it has been pointed out in no uncertain terms that we do not want any interference with our religious matters either by this Hindu Law Committee or by any committee whatsoever, by this House or by any House whatsoever. We say that the Hindu Law as it is today has been propounded by great Rishis, divine Rishis who were sent by God. We can bow only to those

[Babu Baijnath Bajoria.]

Shastras if we are to be true Hindus. If any change is to be made which is not in consonance with or in agreement with those Shastras, I for one would say that I do not agree and I will not be surprised that if any revolutionary change is made in the Hindu Law, there may be rebellion in the country. I think Dr. Deshmukh and Mr. Deshmukh and others of their way of thinking also know that after all this country is still a country of religious people who hold religion most dear and sacred to them. (Interruptions). I would like to bury this Bill but I won't interrupt the motion being withdrawn. I would say that on this Hindu Law Committee, though I do not cast any reflection on its members, there are no members who represent the Sanatanists or the orthodox school of thought. Then, again, this is a question on which you should have the opinion of the learned Pandits, those who have devoted their whole life in the reading of the Shastras. They are the proper persons who can advise on this matter and not the great lawyers or the great advocates or the great barristers. They may be great men in their own spheres, but so far as religious matters are concerned, I do not think they have got the right or the authority to speak or dictate to us on these matters. Sir, I do not want to be long because Dr. Deshmukh is restless looking at the clock and also because the motion is going to be withdrawn. I have made these remarks for the consideration of the Honourable the Law Member.

**Lieut.-Colonel Sir Henry Gidney** (Nominated Non-Official): Sir, as one who has always taken an interest in this matter and as one who has had conversations with the Mover of this motion, I feel I would be failing in my duty if I did not offer some remarks on this matter. My colleagues may think not being a Hindu it is outside the purview of my work but I do not think so. No one can deny that the old order is giving birth to the new and none in this House or outside it will deny that the progress and the regeneration of India depends, if on nothing else, it does on the emancipation of its woman-folk. I consider that there are certain things—although I am not a Hindu—which are preventing this progress, and I think the points raised by Dr. Deshmukh in this Bill are essentially the points that should be considered very seriously. Dr. Deshmukh deserves the congratulations of this House. Apart from coming here and dissociating himself from his colleagues, he has had the courage to pronounce and advocate this Bill in the teeth of orthodoxy, Government-oxy or any other oxy. The question here is a very simple one. Dr. Deshmukh wants to give to the Indian Hindu women a certain privilege which is enjoyed by all other women all over the world. That privilege is one of equality with other women. Government, on the other hand, say that it will be contrary to their policy to interfere with religious views of this country. Government have brought forward that plea very often. For how many years did we not hear Government make the same excuse when Mr. Harbilas Sarda brought his Bill before this House? Look at the opposition that he had to face and look at the extreme nullification of the practical application of that measure today. But, today, Government say that they must wait for the report of the Rau Committee. If I can read Dr. Deshmukh's mind aright, it is this. He fears that the Law Member, in his opposition to this Bill, based as it is on Hindu orthodoxy may not like to interfere with the views of the orthodox people. He fears that this Rau Committee will take so long to make its report that his Bill will die a natural death as

have so many similar Bills. He fears the Rau report will not appear and in course of time be frozen out. What he wants the Government to do is—if I am wrong he will correct me—to ask the Rau Committee to submit its report within a reasonable time so that he may have an opportunity of pressing his Bill and fighting for it in this House tooth and nail, winning or losing it on its merits. If he had made such a motion today, I should have supported him, but my great sorrow is that he has taken the trouble to come here and has been influenced to withdraw his motion. I wish he had not done that. Sir, I support it.

**Dr. G. V. Deshmukh:** Sir, in view of the statements made during the course of the discussion on this motion, I beg to withdraw the motion.

The motion was, by leave of the Assembly, withdrawn.

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#### THE KAZIS BILL.

**Qazi Muhammad Ahmad Kazmi** (Meerut Division: Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill to provide for the appointment of persons to the office of Kazi and for performing and keeping a record of marriages amongst Muslims.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): The question is:

“That leave be given to introduce a Bill to provide for the appointment of persons to the office of Kazi and for performing and keeping a record of marriages amongst Muslims.”

The motion was adopted.

**Qazi Muhammad Ahmad Kazmi:** Sir, I introduce the Bill.

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#### THE SPECIAL MARRIAGE (AMENDMENT) BILL.

**Dr. G. V. Deshmukh** (Bombay City: Non-Muhammadan Urban): Sir, I beg to move for leave to introduce a Bill further to amend the Special Marriage Act, 1872, for certain purposes.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): The question is:

“That leave be given to introduce a Bill further to amend the Special Marriage Act, 1872, for certain purposes.”

The motion was adopted.

**Dr. G. V. Deshmukh:** Sir, I introduce the Bill.

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#### THE RECIPROCITY BILL.

**Mr. Govind V. Deshmukh** (Nagpur Division: Non-Muhammadan): Sir, I beg to move for leave to introduce a Bill to make provisions in regard to entry, residence, the acquisition, holding or disposal of property, franchise, the holding of public office, or the carrying on of any occupation, trade, business or profession in British India by persons domiciled in the British Possessions on a basis of reciprocity.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): The question is:

"That leave be given to introduce a Bill to make provisions in regard to entry, residence, the acquisition, holding or disposal of property, franchise, the holding of public office, or the carrying on of any occupation, trade, business or profession in British India by persons domiciled in the British Possessions on a basis of reciprocity."

The motion was adopted.

**Mr. Govind V. Deshmukh**: Sir, I introduce the Bill.

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THE MUSLIM PERSONAL LAW (*SHARIAT*) APPLICATION  
(AMENDMENT) BILL.

**Qazi Muhammad Ahmad Kazmi** (Meerut Division, Muhammadan Rural): Sir, I move for leave to introduce a Bill to amend the Muslim Personal Law (*Shariat*) Application Act, 1937.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): The question is that leave be granted to introduce a Bill to amend the Muslim Personal Law (*Shariat*) Application Act, 1937.

The motion was adopted.

**Qazi Muhammad Ahmad Kazmi**: Sir, I introduce the Bill.

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MOTION FOR ADJOURNMENT.

BANNING OF KHAKSAR VOLUNTEERS.

**Mr. Deputy President** (Mr. Akhil Chandra Datta): The Honourable the President has directed this morning that the Motion for adjournment may be taken up earlier than four o'clock, if the business of the House is finished before then. Qazi Muhammad Ahmad Kazmi.

**Qazi Muhammad Ahmad Kazmi** (Meerut Division: Muhammadan Rural): Sir, I move:

"That the House do now adjourn to discuss a definite matter of urgent public importance, namely, the banning of Khaksar volunteers by the Government of India and thereby hampering the development of indigenous organizations which are a necessity for the defence of the country in times of war."

Sir, the position of the Government of India is very peculiar today. India has been dragged into the war which is called a European war. But in spite of its being a European War, the Government of India are taxing the strength and the finances of this country as well. Not only that, unfortunately, that European war is spreading day after day and there is every chance of the war spreading not only to Asia but to India as well. Situated as we are we have got to face the danger of war so near our homes. We have to see as a nation what are the duties of every Indian and of any Government which purports to call itself the Government of India at this time of danger.

Only recently I read an appeal in the newspapers from Mr. Stalin the Chief of the Soviet Russian Republic, that every person who knows how to handle a rifle must come forward to help Russia. In a war of this magnitude it is only with the help of every one of the people inhabiting the country and of every Indian that we can meet such a big danger. Unfortunately as we have got at the head a foreign government, there is no such preparation and no steps are being taken in the direction of protecting India. Do you expect that a few thousand Europeans or a few thousands of persons whom the European Government chooses to take into their confidence, are sufficient to meet this danger? Is it not a fact that in this war even the European countries are depending upon India's man power. Then how can you reconcile on the one hand the attitude of the present Government in exploiting the man-power and finances of India and on the other, suppressing every indigenous organisation. Every attempt on the part of the people of this country to organize themselves and to prepare themselves in a way in which they can easily join the army and defend their hearth and home is suppressed. Unfortunately the present Government—the British element in the Government—do not realise that we Indians have got our own homes. As soon as the salaries of these high officials are stopped they can afford to leave this place saying we have got no concern with India. But in our case, there is no question of leaving and we have got to defend our country in the best possible way. Ultimately it is Indians who will have to do everything to defend India and not outsiders and foreigners. These foreigners, in order to keep up their own prestige, to keep their own power, to make their own position safe according to their own ideas consider every Indian to be an enemy of India. This is the policy of a foreign Government which we find have been employed by the present bureaucracy.

The Congress started its movement as a non-violent organisation. There was no act of violence that was attributed to them from beginning to end. But even the volunteers of that organisation were not allowed to drill in parade or to have any training which in any way may be akin to military training. Not only that, but even ordinary drill, moving in flanks was prohibited. People were arrested and imprisoned for breaking that order. Uniforms of all kinds were prohibited. Military exercises of all types and descriptions are prohibited. Why? Only because India is being governed by a foreign Government which according to its own ideas thinks that it is the only body entitled to talk in the name of India. Why should not the congress organisation, which was undoubtedly led by people whose patriotism could not be doubted—no doubt has ever been cast on that even by persons who are in power today—why should not such an organisation be depended to serve India in times of war? Have we not seen that even the Muslim League, which is not non-co-operating with the Government, was not allowed to have its own national guard. They are not allowed to have volunteers who can parade in streets. What is the reason? Do they think that even the leaders of the Muslim League who have not been non-co-operating and whose leader this very morning in very loud voice said that from beginning to end their aim and their ideal was to help this Government in their war efforts and to give the greatest possible help to the Government to defend India, do they think that even such leaders could not be trusted? Is he not to be trusted with an organisation which can develop itself into an army or at least an army of defence which can keep India safe at the time of danger from internal disorder?

[Qazi Muhammad Ahmad Kazmi.]

How can Government justify their position in banning all indigenous volunteer organisations? One after another they have been  
 4 P.M. banned and the banning of the Khaksar movement is a link in the same chain. The Khaksars were a body who had an organisation of their own, and I who belong to the Ahrar party can say that our domestic relations with the Khaksars were not good and we did not consider them to be working on right lines. The Ahrar volunteers were banned, banned in the sense that they had to follow the orders of Government in not having any kind of drill or training which may be taken as military training or an organisation in which men can join together to work for public peace. The banning of the Khaksar movement came as the only object of that organisation was having these volunteers. The other bodies had volunteers as subsidiary to their own organisation but the Khaksar movement was a volunteer organisation pure and simple. This body as I said before had differences domestically with the body to which I belong. But these differences will not allow me to keep quiet when such a body is declared illegal or banned merely because it is an Indian organisation. Government may say that for the defence of India they have started civic guards. To tell you the truth, Sir, I am not in favour of these civic guards. On a previous occasion I made a protest in this House when financial help was sought to be given to that body. I want to bring to the notice of this House the regard that this Government have got for Indians. Are they trusting the civic guards and giving them training in rifles and guns or any kind of military training.

**An Honourable Member:** They are given sticks . . . .

**Qazi Muhammad Ahmad Kazmi:** They are given sticks which will be useful against foreign invasion. Do the present Government want to defend themselves or do they want to prepare us for that work? What has happened in the matter of the allocation of the Executive Councillors? What are the portfolios that have been given to the new Indian Members? Not Finance or Railways which are considered material for Indians. What has the Minister of Information got to do? To give us information about the war?

**Mr. Deputy President (Mr. Akhil Chandra Datta):** The Honourable Member has got one minute more.

**Qazi Muhammad Ahmad Kazmi:** The Berlin radio and the Ankara radio give us information about the war every night and we do not want a Minister of Information on Rs. 5,000 a month for that purpose. Then there is a Member for Indians Overseas. The humiliation . . . .

**Mr. N. M. Joshi (Nominated Non-official):** What has that got to do with Khaksars?

**Qazi Muhammad Ahmad Kazmi:** The banning of the Khaksar movement is based upon distrust of Indian organisations and that distrust is to be found in every department of the present Government. Sir, I move.

**Mr. Deputy President (Mr. Akhil Chandra Datta):** Motion moved:

"That the House do now adjourn."

**The Honourable Sir Reginald Maxwell** (Home Member): Sir, it is gratifying to find the Honourable Member urging Government to make further efforts to mobilise India's resources in the defence of the country; but the question before the House on a motion of this kind is what kind of agency they are prepared to entrust their safety to; whether the Khaksar organisation whose cause the Honourable Member advocates is an agency such as would command the confidence of the people of this country and incidentally provide a suitable target for the massed tanks of the Nazi army. Personally I do not see *belchas* coming in very well against a tank formation but the Honourable Member appears to have other opinions. As regards the Khaksar movement and the main question whether it is a useful body which should have been encouraged by Government for its contribution to the defence of the country, I need only remind the House very briefly of the history of this movement. It was started in 1931 and it was in 1939 that it first came into conflict with the authorities of the United Provinces, then under a Congress Government. After considerable trouble there which necessitated firing on one occasion, we come to the well-known Punjab disturbances of 1940 where again it proceeded to attack a popularly elected Government. The offence of this Government was that it had prohibited military drill by non-official bodies and the carrying of arms in processions of certain descriptions and therefore Khaksars set themselves to intimidate their own Government in order to get this order withdrawn. The result, which the House will remember, was that there was a serious clash with the police and the military. The leader of the Khaksars issued a violent statement attacking the Premier of the Punjab and announcing that the orders would be defied and declaring that if there were to be a clash with Government they would surround Sir Sikandar's bed with corpses. This is the kind of body which the Honourable member wants us to trust . . . In a clash which followed the Superintendent of Police was seriously injured, a Deputy Superintendent was injured, two policemen were killed and 17 more received serious injuries. The police had to open fire and a number of Khaksars were killed or injured. Then the Khaksars took refuge in the mosques in Lahore and proceeded to make them bases for marching out in small parties armed with spades and attacking the police who came to arrest them. As a result of these proceedings the Association was declared unlawful in the Punjab and Delhi. After a while the Government were prepared to give another chance to this Association on certain assurances which they had received and the ban was withdrawn. Agitation however continued for the release of their leader who remained under detention until Government were satisfied that there was no further danger of such disturbances arising. In pursuance of this agitation, on the 23rd of May, 1941 the organ of the Khaksars, the *Al-Islah*, issued an order directing that the Khaksars should proceed to the mosques in five different centres—Delhi, Lahore, Peshawar, Hyderabad (Sind), and Nagpur. They were to gather there on the 6th of June before Friday prayers in uniform and armed with *belchas*. In other words, they were prepared to repeat the proceedings which had led to such a serious loss of life and serious disturbances in Lahore. When Government received information of this design, they did not even then declare the Association unlawful at once, but they conveyed a warning to the leaders who were holding a meeting in Peshawar to consider their plan of action. These leaders were given to understand that action of this kind would merely prejudice consideration of their case and the restoration of happier relations between them and Government. They refused to take any notice

[Sir Reginald Maxwell.]

of this advice and, therefore, the Association as a whole was declared unlawful.

Now, I will just remind the House of the nature of the Khaksar Association. I have here a translation of the aims and objects of the movement as published in their own organ, the *Al-Islah*, in 1937. I will only quote one or two of these items so as not to take up too much time:

"1. The teachings of Maulvis are wrong: the Khaksar soldier has arisen to wipe out these false doctrines from the face of the world and to teach the doctrine of Islam in accordance with the principles laid down by the Holy Prophet.

2. The terms 'Maulvi' or 'Maulana' must be abolished and must be replaced by such terms as 'Sheikh' or 'Fazal'.

3. Khaksar soldiers consider it the religious right of every Muslim to act in accordance with the teachings of the Holy Prophet, and are prepared to make every sacrifice to prevent the Government of the time from exercising political or legal control in this respect.

4. The goal of the Khaksar soldier is the Kingdom of the World and the collective and political domination of the community."

This is the body the Honourable Member wishes us to trust.

**Sardar Sant Singh** (West Punjab: Sikh): May I know whether these aims and objects were published in 1937 or 1940?

**The Honourable Sir Reginald Maxwell:** They were published in the *Al-Islah* in 1937.

**Sardar Sant Singh:** And the Government did not take notice of them.

**The Honourable Sir Reginald Maxwell:** We have been attacked for not doing something sooner. The object of the Honourable Member is to censure Government for doing something now.

**Sardar Sant Singh:** May I know whether this body was being paid by a foreign country?

**The Honourable Sir Reginald Maxwell:** I will only quote one more item:

"Khaksars are deadly enemies of treacherous leaders, hostile editors and newspapers, and communal mischief-mongers". . . . "*(The Honourable Member had better look out for himself)*". . . . "and desire to wreak vengeance on them even if this involves sacrifices."

I think I have quoted enough to illustrate the nature of this organization which we are talking about. And now as regards private armies. The Honourable Member has attacked Government for taking any action against volunteer organisations. Well, Government have taken the public into their confidence in this respect. The Honourable Member has presumably forgotten the long communique which was issued on the 5th of August, 1940. There the reasons of Government for not looking with favour upon voluntary organisations of a military character were carefully explained. The principle at issue is that Government have the right and duty of protecting all members of the public, whether against foreign invasion or against dangers within the country, and they cannot surrender that right to any self-appointed body which chooses to arm itself and drill itself and calls itself an army. The very fact that such a body

resorts to drilling is in itself an evidence that it intends to attain its object by the use of force and this presumption is aggravated when it wears uniform and when it carries arms, as the Khaksars do. Such a body can only exist for the purpose of intimidating someone, whether it be intimidating the Government or the members of another community. And this was all pointed out by Government to the public and the general opinion of the country was that this action taken was entirely right. At the same time it was pointed out that for all those who wished to offer voluntary service for the protection of the public in times of danger, the civic guards provided a suitable outlet and I entirely disagree with the attempts of the Honourable Member to cast aspersions on the usefulness of these civic guards. The success of this organisation of civic guards has been one of the very encouraging things that has happened during this war. They have enabled all persons of good intent to mobilize themselves as volunteers for the protection of the community, and the civic sense which these volunteers have shown has been of a very high order. I entirely repudiate any suggestion that they are useless or superfluous bodies. Of course for those who wish to give their whole time in fighting the enemy there is an ample field open to them. There is no limit, practically speaking, to the number of able-bodied recruits we require for the army, and it is absurd for the Honourable Gentleman to say that Government are not offering Indians opportunities for enlisting themselves, for arming themselves or training themselves for their own defence.

[At this stage Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

That is all I need say against the motion, except that I may remind the Honourable Gentleman that when the ban was placed on the Khaksar movement the public and the press generally supported the action of the Government, including a number of Congress papers which usually are not too well disposed towards any form of repressive action by the Government. I have here a cutting from the *Hindustan Times* and even from the *National Herald*—the latter gave me some misgivings lest I should have done the wrong thing, but still there it is—the *National Herald*, the *Hindustan Standard*, the *Searchlight* of Patna, the *Ananda Bazar Patrika* of Calcutta, the *Advance* of Calcutta, the *Indian Social Reformer*, the *Indian Nation* of Patna, and so on. I do not know whether the Honourable Member has entirely renounced his association with the empty benches opposite, but I feel fairly certain that he would not have the support of those who were his erstwhile colleagues on this particular affair. Sir, I oppose the motion.

**Sardar Sant Singh:** Sir, I must say that the Honourable the Home Member has been too modest in imparting information about the Khaksars to this House, and, through this House, to the public at large. I have been drawing his attention to the dangers of this movement and the menace it offers to other communities in this country, for a very long time. I wish that he had disclosed a few more facts about these, and I am putting specific questions to the Honourable the Home Member to answer because I feel that they are in the public interest and that the information should go abroad and be known to everybody. May I know if it is a fact or not that Rs. 3,000 was paid monthly by an unknown gentleman in Lahore, through a German company dealing with electrical goods at Lahore, before the war? Is it a fact

[Sardar Sant Singh.]

or not that certain letters were in the possession of the Government, which were written by the leader of this movement from jail and which were intercepted by the Government? I wish the Government would have the courage to publish those letters and this might tell us that this movement had connections with the foreign enemy of the country. I am asking the Honourable the Home Member to enlighten the country about this . . . . .

**Dr. P. N. Banerjea** (Calcutta Suburbs: Non-Muhammadan Urban): Sir Sikander Hayat Khan himself said that.

**Qazi Muhammad Ahmad Kazmi:** Sir Sikandar Hayat Khan used them against the Congress Governments and then denounced them.

**Mr. President** (The Honourable Sir Abdur Rahim): If the Honourable Member wishes to say anything, he must go back to his seat.

**Sardar Sant Singh:** Whatever it is, the movement was pampered in the Punjab, and with all the good inclinations of the Punjab Government towards it, that Government was compelled by the activities of the members of this Khaksar movement to declare them as unlawful bodies. They were compelled, against their wishes, to do so. I know when Dr. Gopi Chand Bhargava, the Leader of the Opposition in the Punjab Assembly, was not allowed to see the Prime Minister during the session of the Assembly because the Prime Minister was engaged in talking with the leader of the Khaksars, and a Khaksar was standing outside in the room. A Khaksar was keeping guard on the room of the Premier in the Secretariat building where the Punjab Assembly was sitting and was not permitting the Leader of the Opposition to see the Leader of the Government. Matters went so far. Why be so modest as not to tell the people what the danger was and what the menace was? If constitutionalism is to prevail in this country, if democracy is to make headway amongst the people of this country, the people of the country should be taken into confidence not only where the administration of the country is concerned but where the danger to the country lurks. Therefore, I wish the Honourable the Home Member and the Government of India will decide to publish the information about this movement in more detail and in a more descriptive manner than they have done and thus remove the fears on the one side of those who had genuine fears from this movement, and the sympathies of those who from ignorance of the real facts tried to sympathise with this movement. I have nothing more to add.

**Pandit Lakshmi Kanta Maitra** (Presidency Division: Non-Muhammadan Rural): Mr. President, I had not the least desire to take part in this debate, but for the reply given by the Honourable the Home Member in connection with this Adjournment Motion. Personally I had very little knowledge of these Khaksars and of the Khaksar movement. It was only a couple of years back when I first came in contact with a batch of Khaksars, that I got the impression of my life of what that organisation was. Armed from head to foot with *belchas* and other things they stood in front of my car and I had considerable difficulty in making my way through them. I then asked myself, was this really the kind of innocent organization it was described

to be? I had to keep quiet as I was told in season and out of season that it was a social service organisation, and that its main object was to serve humanity irrespective of colour or creed. Later on, newspapers all over the country, began to question the advisability of allowing these Khaksars to roam about in the way they did. Sir, on one occasion, on the floor of this House, there was a question or rather a supplementary question whether it was not a fact that these Khaksars had been described by a responsible authority, no less than the Premier of the Punjab, as the Fifth Columnists in the country. I remember the Home Member then said: "The Government are not aware" I took him at his word because this Government have a peculiar method of deriving their own knowledge and they become conscious or unconscious of things going on in this world according to their own convenience. I think year before last, in the lobby I was first told that there was a clash at Lahore between the Khaksars and the Police and firing was resorted to. The matter was discussed on the floor of the Punjab Assembly in connexion with an Adjournment Motion over the firing on the Khaksars and it was defeated by the votes of the Government vindicating the action taken by them. Even then the Government of India would not wake up. I am surprised today to see the Honourable the Home Member giving an apologetic reply instead of a straightforward one defending the action of the Government. He says: "It was a good organisation to begin with and we argued with them when they went wrong and we released their Leader on their giving us assurances of orderly conduct. But when we found that our position was untenable then at last on the 28rd May, 1941, we decided that their activities should be stopped". Well, he has stated on the floor of the House that as early as 1937 he knew the aims and objects of this organisation which we did not. We have been given this information today, and probably we would not have got it at all but for the walk-out of the Muslim League Party.

**The Honourable Sir Reginald Maxwell:** I quoted it from a published paper.

**Pandit Lakshmi Kanta Maitra:** Yes, and this is the first time that the Central Government of this country have come out through their spokesman in the Home Department to tell us that the Khaksar organisation had for its professed ends the intimidation of communities, the taking the law into their own hands, coercion, violence and the like.

May I ask the Honourable the Home Member what he and his Department had been doing all this time? Sir, at one time they painted the Khaksars in bright colours, but today they have painted them in the darkest colours, and I am sure if the Muslim League Party had not left the House today, Government would not have declared the attitude they have now adopted in regard to these Khaksars. I want the Government to be realistic, and to open their eyes to the actualities of the situation. But they won't see things straight in the face and they won't make their position clear when occasion demands it. It is only when they find that they have been deceived that they come forward and make statement in explanation of their conduct.

**An Honourable Member:** Lack of courage.

**Pandit Lakshmi Kanta Maitra:** Did they show courage, statesmanship and magnanimity when banning the volunteer organization of the Congress, which is essentially a non-violent organization? And did the Government come forward and make this kind of apologetic speech when they banned the congress-volunteer organizations, the Seva Sanghs, volunteer organisations of the Hindu Mahasabha? No, nothing of the kind. Sir, we want it to be definitely understood that we are against curtailment of civil liberties in any shape or form, but having banned the other great peaceful organizations which had no aim of intimidating communities or committing violence on anybody, why did it take you three long years to take steps against the Khaksar organization, and you did it only in May last? And you did it only when trouble broke out in the neighbouring Muslim countries as you thought that you had allowed the Khaksars too long a rope, and that it was time to take some steps for your own safety. This is very bad statesmanship. I am not going to censure you for the belated action you have taken. My grievance against you is that wisdom did not dawn on you much earlier. In my province, demonstrations by Khaksars had been going on in the early hours of the morning even after the imposition of the ban. A friend of mine had a servant who used to rise very late in the morning. My friend asked him why he was rising so late, and his reply was: 'I practise parading, I am a Khaksar, I have to parade till 2 or 3 a. m. and, therefore, I have to rise late'. This is the kind of thing that had been going on under the very nose of this Government, and they did not take any action till they found that they could not any longer ignore the danger. So long as they could help it, they allowed the movement to continue and exploited it to suit their own ends. But when it did not suit them, they described them as undesirables and banned the institution. This is only in consonance with the ways of this Government. Sir, I cannot congratulate this Government on this belated move nor do I propose to censure them, though they have seriously blundered in this matter in not taking action earlier.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is:

"That the Assembly do now adjourn."

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 29th October, 1941.