

*Wednesday,  
7th March, 1917*

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

**Vol. LV**

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ABSTRACT OF PROCEEDINGS  
OF  
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ASSEMBLED FOR THE PURPOSE OF MAKING

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GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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

The Council met at the Council Chamber, Imperial Secretariat, Delhi, on  
Wednesday, the 7th March, 1917.

PRESENT :

His Excellency BARON CHELMSFORD, P.C., G.M.S.I., G.M.I.E., G.C.M.G., Viceroy  
and Governor General, *presiding*, and 54 Members, of whom 46 were  
Additional Members.

QUESTIONS AND ANSWERS.

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

1. "Do Government propose to consider the advisability of making elementary education free, at least in Municipal areas in each of the provinces as soon as conditions permit after the war is over?" Free Elementary education.

**The Hon'ble Sir C. Sankaran Nair** replied :—

"The Government of India have not under consideration any scheme for making elementary education free after the war, but they do not wish to interfere in the discretion already possessed by Local Governments and local Bodies to take such steps in respect of particular areas and classes when this may be considered educationally and financially desirable."

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

2. "What action, if any, has been taken on the memorandum *re post war reforms* which was submitted to His Excellency the Viceroy in September last by certain non-official Additional Members of the Imperial Legislative Council?" Post War reforms.

[*Sir Reginald Craddock; Mir Asad Ali, Khan Bahadur; Mr. G. R. Lowndes; Rai Sita Nath Ray Bahadur; His Excellency the Commander-in-Chief in India.*] [7TH MARCH, 1917.]

**The Hon'ble Sir Reginald Craddock** replied:—

"It has been ascertained that the opinions of the gentlemen who signed the memorandum were duly laid before His Excellency as desired."

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

Number of appointments, civil or military, made for subjects of Native States.

3. "Have the Government made any declaration under section 96-A of the Government of India Act, 1915, and has any subject of a Native State been appointed to any office, civil or military, since the passing of that Act? If so, what is the number of such appointments?"

**The Hon'ble Sir Reginald Craddock** replied:—

"The answers to the first two parts of the question are in the negative."

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

Non-official bills, resolutions and supplementary questions.

4. "With reference to my question *re* non-official bills, resolutions and supplementary questions, dated 27th September, 1916, will Government be pleased to obtain the required information from Local Governments too and place it on the table as early as possible?"

**The Hon'ble Mr. G. R. Lowndes** replied:—

"The Government of India are not prepared to call upon Local Governments to undertake the preparation of the returns asked for, as, in their opinion, the expenditure of time and labour involved would not be justified by the utility of the result."

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

Munitions Board.

5. (a) What is the constitution, scope and method of work of the newly established Munitions Board?

(b) Will the Government be pleased to consider whether it would not be conducive to the proper and smooth working of the Board if one or two Indian merchants were appointed as members of the Board?"

**His Excellency the Commander-in-Chief in India** replied:—

"The constitution and objects of the Munitions Board have been described briefly in the Gazette of India Notification No. 238 of 16th February, 1917. The details of its methods of work are now under consideration, but they must necessarily be moulded according to experience to meet our essential requirements in munitions of war. The members of the Board, except the officer representing the Financial Department as Financial Adviser, will be in direct administrative control of appropriate groups of munition supplies. They will be responsible directly to the President of the Board, who will be assisted by technical advisers, with the intention of developing or inaugurating in the country industries that will enable us to be more completely self-contained and independent of over-seas supplies.

The President hopes that opportunities for accepting the co-operation of both Indian and European commercial industrialists will frequently occur. Many of those who are obviously suitable are, however, already engaged in their private capacity in controlling concerns that are important agencies for manufacturing munitions and stores. But he hopes to persuade others who are not so entirely engaged, and who are free to suspend their competing private interests to give up their time for entire occupation in positions either of advice or of active control of appropriate sections of work. The Government

[7TH MARCH, 1917.] [His Excellency the Commander-in-Chief in India; Mr. Bhupendra Nath Basu; Sir Reginald Craddock; Mr. Kamini Kumar Chanda.]

do not propose to give the President any special instructions for the purpose of discriminating between Indian and European candidates for employment. His sympathies with Indian industrialists are well-known, and we can rely on his taking every opportunity possible of utilising the services of the commercial community consistent with their private interests."

**The Hon'ble Mr. Bhupendra Nath Basu** asked :—

6. (a) "Have the Government, in accordance with the provisions of section 6 of Bengal Regulation III of 1818, received reports from officers in charge of State prisoners regarding the unsatisfactory state of health of such prisoners and the inadequacy of the allowances granted to them or their families ? Reports as to health and allowance of State prisoners.

(b) If so, in how many cases were such reports received, and what steps have the Government taken on them ?"

**The Hon'ble Sir Reginald Craddock** replied :—

"The reports required under section 6 of the Regulation from the officer in whose custody State prisoners are placed as soon after taking such prisoners into their custody as may be practicable have been duly received in all but seven cases in regard to which they will shortly be received. These reports were satisfactory in the case of all but one man who was subsequently released from custody.

The officers in charge of these prisoners are not in a position to report as to the adequacy of the allowances fixed for the maintenance of their families, and separate reports on this subject are being received."

**The Hon'ble Mr. Kamini Kumar Chanda** asked :—

7. (a) Is it a fact that, while the Defence of India Act is being very widely applied in Bengal by the Local Government, the Government of India continue to take action in the Province under Bengal Regulation III of 1818 ? Bengal Regulation III of 1818.

(b) Is it a fact that in Bombay and Madras, respectively, the corresponding Regulation is administered by the Local Government ?

(c) If the answer to (b) is in the affirmative, will the Government be pleased to consider the desirability of assimilating the practice in Bengal to that of Bombay and Madras, and to state the special reasons, if any, for making any differentiation ?

(d) What is the number of deportees under the Regulations in Bengal since the Defence of India Act came to be enforced in the Province, and the total number of persons interned in the said Province under the Act up to now ?

(e) Is it a fact that a resolution moved by Mr. Ramsay Macdonald, M.P., in the House of Commons condemning the practice of deporting persons without trial was passed by Parliament ?

(f) Is the same treatment meted out to deportees under the Regulation now as that which was accorded to such deportees in 1908 ? If there is a difference in such treatment, will the Government be pleased to state whether it is not less liberal now than before, and if so, the special reasons justifying such differential treatment ?"

**The Hon'ble Sir Reginald Craddock** replied :—

"(a) and (b) The answer is in the affirmative.

(c) The Regulations in question date from a time when the Governor General in Council directly administered Bengal, and the relations between the Local Governments and the Government of India had not assumed their

[ *Sir Reginald Craddock* ; *Mr. Kamini Kumar Chanda*. ] [ 7TH MARCH, 1917. ]

present shape. The practice to which the Hon'ble Member refers is statutory and Government do not contemplate legislation in order to change it.

(d) There are no deportees under the Regulation in Bengal, but the number who have been held under restraint under it since the Defence of India Act came into force is 91 and the number of persons whose movements have been restricted under the Defence of India Act is 690.

(e) It is believed that the Resolution to which the Hon'ble Member refers is one which had reference to the action taken by the Government of the Union of South Africa in dealing with certain labour troubles in 1913. The course then taken by the Union Government was in effect to suspend the constitution of South Africa by proclaiming Martial Law, and then to deport nine of the labour leaders to England, subsequently legalising their proceedings by passing an Indemnity Act. The action of the Government, which had no foundation in the law of the land, was at the time the subject of considerable criticism in Parliament, and may fairly be said to have been condemned by the resolution in question. The Government of India are unable, however, to accept the suggestion of the Hon'ble Member that there is any parallel between this case and the action of the executive Government in India in putting into force in suitable cases a Regulation which is part of the law of India.

(f) The same treatment is accorded to those recently dealt with under Regulation III of 1818 as was accorded to those similarly dealt with in 1908."

**The Hon'ble Mr. Kamini Kumar Chanda** asked :—

The Public Services Commission.

8. "(a) Have the Government received a telegram from the Secretary of State asking the Government to consider and report upon the recommendations of the Public Services Commission ?

(b) Will the Government be pleased to indicate the line of action proposed to be adopted in dealing with the said recommendations ?

(c) Will the Local Governments be invited to express their opinions before any action is taken by the Government of India ? If so, will the Government of India direct the Local Governments to consult non-official Indian opinion ?

(d) Will any portion or portions of the Commission's recommendations be referred to any Committee for further consideration and report ? If so, will the Government be pleased to appoint non-official Indians to such Committee ? "

**The Hon'ble Sir Reginald Craddock** replied :—

"In communicating the Report the Secretary of State requested that the Commission's recommendations should be expeditiously dealt with, and that he should be placed in possession of the Government of India's conclusions regarding them as early as possible. The procedure which the Government of India, with his approval, have decided to follow, was explained in His Excellency the Viceroy's speech on the 7th of February last, but a detailed description is contained in the Home Department letter of the 25th January to Local Governments and Administrations, a copy of which is placed on the table.\* The Government of India have no doubt that the Local Governments will be careful to ascertain non-official opinion, including that of representative Indians, on all important questions where it will be of assistance, and they consider that the occasion and method of such consultation may safely be left to the Local Governments' discretion."

**The Hon'ble Mr. Kamini Kumar Chanda** asked :—

Bringing of Assam under the jurisdiction of the Calcutta High Court.

9. "(a) Have the Government of India received a memorial from Indian residents of Shillong protesting against the decision of the Local Administration which, while introducing the Criminal Procedure Code in Shillong, declares the Hon'ble Chief Commissioner to be the High Court and the

\* Not included in these Proceedings.

[ 7TH MARCH, 1917. ] [ *Mr. Kamini Kumar Chanda; Sir Reginald Craddock; Mr. K. V. Rangaswamy Ayyangar; Sir Robert Gillan.* ]

Commissioner of Surma Valley Division to be the Sessions Judge for Shillong in criminal cases ?

(b) Is it not a fact that the residents of the British portion of Shillong largely consist of educated men from Provinces where such a novel provision is unknown ?

(c) Is it not a fact that a resolution was moved in the Local Council which was supported by all the non-official Indian members of the Council, elected as well as nominated, asking that the town of Shillong be brought under the jurisdiction of the Calcutta High Court ?

(d) If the answer to (a) be in the affirmative, will the Government be pleased to take the prayer of the memorialists into favourable consideration, and bring the town under the jurisdiction of the Calcutta High Court ?

(e) Is it not a fact that the European British subjects in Shillong are under the jurisdiction of the Calcutta High Court ? ”

**The Hon'ble Sir Reginald Craddock** replied :—

“(a) and (d). The Government of India received through the Chief Commissioner of Assam a memorial purporting to be from the Khasis, but actually signed only by one man, in the terms mentioned by the Hon'ble Member, and after due consideration rejected it previously to receipt of the questions under reply. They regret that they are unable to reconsider the decision reached.

(b) The Government of India are not in a position to say whether the Hon'ble Member's statement of fact is correct.

(c) It is understood that such a resolution was moved and lost by ten votes to eight. The Government of India are not aware whether all the non-official members of the Assam Legislative Council supported it.

(e) The answer is in the affirmative in so far as criminal proceedings against them are concerned.”

**The Hon'ble Mr. K. V. Rangaswamy Ayyangar** asked :—

10. “(a) Is it a fact that many Railway Companies charge only a reasonable rent for European refreshment rooms in Railway Stations, but let out Indian refreshment rooms by auction to the highest bidder ? Indian refreshment rooms at Railway Stations.

(b) If so, will Government consider the expediency of charging only reasonable rent for Indian refreshment rooms in the same manner as for European refreshment rooms ? ”

**The Hon'ble Sir Robert Gillan** replied :—

“Inquiries have been made and it appears that the great majority of railways charge either no rent at all or only a small rent whether for European or Indian refreshment rooms. On the Madras and Southern Mahratta Railway no rent is charged for European refreshment rooms and Indian refreshment rooms are auctioned. The European refreshment rooms, however, are given under contract to one firm who are bound under agreement to open refreshment rooms where required by the railway company irrespective of their proving profitable or not and to provide their own inspectors. Indian refreshment rooms are let individually, the contracts being allowed to continue indefinitely if found to be satisfactory, and the railway company maintains inspectors. The conditions therefore differ in the two cases. The Government do not propose to take any action.”

[*Mr. K. V. Rangaswamy Ayyangar; Mr. G. R. Lowndes; Nawab Saiyed Nawab Ali Chaudhuri, Khan Bahadur; Sir C. Sankaran Nair.*] [7TH MARCH, 1917.]

**The Hon'ble Mr. K. V. Rangaswamy Ayyangar** asked:—

The Delhi session.

11. "(a) Is it not a fact that at the meeting of this Council on the 1st October 1915 Lord Hardinge said: 'I propose, therefore, unless some unforeseen occasion arises, not to have any meeting of the Legislative Council in the coming cold weather until the middle of February. \* \* \* \* I trust that you will understand that, in taking this course, I am actuated solely by the desire to avoid personal inconvenience to Hon'ble Members and unnecessary dislocation of business. Further, to allay any idea that this procedure may, in future years, be regarded as a precedent for postponing the opening meeting of the cold weather Session, I may add that there are no grounds for such a misapprehension'.

(b) Is it a fact that the Delhi Session has always a crowded programme? If so, will Government resume the Delhi Session from January?"

**The Hon'ble Mr. G. R. Lowndes** replied:—

"(a) The answer is in the affirmative.

(b) The Government have no reason to believe that adequate time has not been allotted for any business transacted in this Council during the Delhi Session. So long as the war lasts, Government do not think it necessary to summon the Council before the beginning of February."

**The Hon'ble Nawab Saiyed Nawab Ali Chaudhuri, Khan Bahadur** asked:—

Dacca University Scheme.

12. "Will the Government be pleased to state:—

- (a) in what stage the Dacca University Scheme is at present,
- (b) when they propose to introduce a Bill for the establishment of the said University,
- (c) what allotments were made from time to time for its establishment, and
- (d) how much has been actually spent on preliminary arrangements connected with it?"

**The Hon'ble Sir C. Sankaran Nair** replied:—

"(a) & (b) Further action has been postponed until the report of the Commission to be appointed to inquire into the affairs of the Calcutta University has been received.

(c) The following grants have been made from time to time by the Imperial Government towards the cost of the scheme:—

Capital.		Recurring.	
	Rs.		Rs.
April 1912 . .	10,00,000 .	April 1912 . .	45,000
March 1913 . .	15,00,000 .	March 1913 . .	5,00,000
		November 1914 .	1,00,000
			(Sanctioned for 5 years from 1914-15 to 1918-19)
<b>Total . .</b>	<b>25,00,000</b>		<b>6,45,000</b>

(d) The expenditure up to the end of 1914-15 was Rs. 30,176, and it was anticipated that Rs. 4,46,000 would be spent in 1915-16. Beyond this the Government of India have no definite information."



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**The Hon'ble Sir Ibrahim Rahimtoola** asked :—

13. "Have Government received the opinions of Local Governments and public and other bodies consulted on the question of State *versus* Company management of State Railways in India?"

State *versus* Company management of State Railways in India.

If so, will Government be pleased to place all such opinions on the table?"

**The Hon'ble Sir Robert Gillan** replied :—

"Opinions were called for from 15 Local Governments and Administrations and from 22 public bodies. Replies have been sent in by all those consulted, except the Governments of Madras and Bombay and the Indian Chamber of Commerce, Lahore.

The replies\* so far as received are placed on the table."

**The Hon'ble Sir Ibrahim Rahimtoola** asked :—

14. "Will Government be pleased to supply full and detailed information as regards the quantity, price, period of supply, etc., of Indian coal purchased by them for war purposes?"

Indian coal purchased for war purposes.

**His Excellency the Commander-in-Chief in India** replied :—

"The information asked for by the Hon'ble Member cannot be given, as it would be contrary to the public interest to do so at the present juncture."

**The Hon'ble Sir Ibrahim Rahimtoola** asked :—

15. "(1) Is it a fact that the Government of India have been able to make special arrangements for the supply from India for war purposes to His Majesty's Government, or to the Governments of His Majesty's Allies, of the following classes of war material :—

Supply of war material from India to the Allied Governments.

- (a) Manufactured jute.
- (b) Iron, steel and munitions.

(2) (a) Is it a fact that the arrangements in question were such as to enable a considerable saving to the Allied Governments as compared with the cost of obtaining these articles in the open market in India or elsewhere?

(b) Can the Government state approximately what the amount of this saving has been up to date?

(3) Are there any other important articles required for war purposes in respect of which similar special arrangements have been made, and, if so, will the Government be pleased to state what the approximate saving to the Allied Governments has been by reason of such arrangements?"

**His Excellency the Commander-in-Chief in India** replied :—

"The Government of India have been able to assist His Majesty's Government from the resources of India in many directions, but it is not in the public interests that any details should be made public at the present juncture."

**The Hon'ble Sir Ibrahim Rahimtoola** asked :—

16. "What is the total number of persons (including firms, joint-stock and other companies, etc.), assessed to Income-tax in British India for incomes—

- (a) between Rs. 5,000 and 9,999,
- (b) between Rs. 10,000 and 24,999, and
- (c) of Rs. 25,000 and upwards?"

[ *Sir William Meyer; Sir Ibrahim Rahimtoola; Sir Robert Gillan; Sir Claude Hill.* ] [7TH MARCH, 1917.]

**The Hon'ble Sir William Meyer** replied :—

"In 1915-16, the latest year for which statistics are available, 24,393 persons, firms, etc., paid income-tax on incomes between Rs. 5,000 and Rs. 9,999. The number of assesses in 1915-16, with incomes between Rs. 10,000 and Rs. 24,999, and of Rs. 25,000 and upwards, is not separately known, as these limits were not adopted for the classification of incomes in the income-tax returns prior to the current year. The forms prescribed for the returns have now been revised so as to show these limits, but the figures required by the Hon'ble Member will not be available till some time after the close of the current financial year for which the new returns will be first used. I may mention, however, that 11,378 persons, firms, etc., paid income-tax in 1915-16 on incomes of Rs. 10,000 to Rs. 29,999 and 2,336 on incomes of Rs. 30,000 and over."

**The Hon'ble Sir Ibrahim Rahimtoola** asked :—

System of company management of State-owned railways.

17. "Will Government be pleased to state whether the system of company management of State-owned railways prevails in any country in the world other than India and, if so, to furnish the names of such countries?"

**The Hon'ble Sir Robert Gillan** replied :—

"The only country in which, so far as the Government are aware, the railways owned by the State are leased to companies is Holland. On the report of a Commission appointed in that country to investigate the question in the year 1908, the States General rejected the proposal that the railways owned by the State should be operated by the State, and decided that the State-owned railways should continue under company management.

With regard to State-owned railways in France, the Railway Board have not got full information, but in the year 1883 most of the railway mileage purchased or built by the State was incorporated in companies' systems, and conventions were concluded between the State and companies on the basis of close co-operation between the State and companies."

**The Hon'ble Sir Ibrahim Rahimtoola** asked :—

Supply of wheat to Great Britain, Russia and France.

18. "(a) Is it a fact that the Government of India have been required by the Home Government to supply 400,000 tons of wheat to Great Britain, Russia and France during recent months.

(b) If so, will Government be pleased to state—

(i) the quantity supplied to each country;

(ii) the price charged and whether it was based on the actual cost to Government or on the current market rates prevailing in each country supplied; and

(iii) if the former, the total difference in amount between the price charged and the current market rates prevailing in the country supplied?"

**The Hon'ble Sir Claude Hill** replied :—

"The reply to (a) is in the negative. As, however, the Hon'ble Member's question exhibits the existence of certain misconceptions regarding the wheat transactions, I may explain what has happened. Considerable purchases of wheat have been made in India in the last few months by a Royal Commission appointed in England, but all these purchases have been made in the open market through the agency of the firms which ordinarily engage in this business. The Government of India have not been concerned with these transactions, except in so far as it was necessary to restrict them in order to prevent an undue rise in internal prices. In specifying the figure of 400,000 tons the Hon'ble Member presumably refers to the statement made in a Reuter's telegram in November last that this amount would be exported in the period

[7TH MARCH, 1917.] [*Sir Claude Hill; Sir Ibrahim Rahimtoola; Sir Reginald Craddock; Sir William Meyer; Mr. M. B. Dadabhoy.*]

November—January. I take this opportunity of explaining that the above figure was merely an estimate of the surplus that would probably be available for export from India in the three months November 1916 to January 1917. The actual exports fell considerably short of this estimate."

**The Hon'ble Sir Ibrahim Rahimtoola** asked:—

19. "Will Government be pleased to state whether it is their intention to publish immediately on the conclusion of peace, employing a special agency for the purpose, if necessary, a full and complete report of the contributions made by India in various ways towards the prosecution of the present war?" Contributions made by India towards the war.

**The Hon'ble Sir Reginald Craddock** replied:—

"Government readily accept the Hon'ble Member's suggestion which coincides with their own views of what is desirable. They will endeavour to make the report as complete as possible, and to secure its issue as soon as possible after the war is over. They do not feel certain, however, that the employment of any special agency will be necessary as the information will be all available in the records of the various departments of the Government of India and in those of the Local Governments. But if it becomes clear that the compilation requires the assistance of special agency, they will have no hesitation in employing it."

## THE INDIAN TARIFF (AMENDMENT) BILL.

**The Hon'ble Sir William Meyer**:—"My Lord, I beg to move that the Bill further to amend the Indian Tariff Act, 1894, be taken into consideration." 11-24 A.M.

"I have explained the objects and scope of this Bill in my speech introducing the Financial Statement and in my further speech introducing the Bill itself, and I need not add anything more now, especially as, although the Bill has been published for the information of the public, we have received no objections thereto.

"I beg to move that the Bill be taken into consideration."

**The Hon'ble Mr. M. B. Dadabhoy**:—"My Lord, the Council will have another opportunity of congratulating the Finance Minister on the general features of his Budget, but I feel quite certain that there ought to be no opposition to the principle embodied in this Bill. The scheme of taxation now devised is in entire consonance with the repeated suggestions of the people and the non-official Members of this Council. This Council is fully aware that the public opinion in this country has all along insisted on the Government imposing a reasonable tariff, not only for the purpose of meeting revenue deficits, but also for the protection it unquestionably affords to our indigenous industries. I shall take the liberty of drawing the attention of this Council to the statement which I made last year when the Tariff Bill came up for consideration. I then said that 'the Indian public will only look forward with hope to the maintenance of the increased scale of import duties for a sufficiently long time. Should the Hon'ble Sir William Meyer's estimate of our future liabilities prove correct, all the additional revenue required may be easily had by judicious handling of the tariff. We should be ready to support Government if after a few years the duties now imposed have to be further enhanced.' Unfortunately, My Lord, this necessity has come much sooner than I then anticipated." 11-25 A.M.

"My Lord, the Bill before us will therefore command general approval, though the necessity for fresh taxation is undoubtedly regrettable. The principle of taxation devised in this Bill is a distinct indication of the sign that the

[ *Mr. M. B. Dadabhoj; The President.* ] [ 7TH MARCH, 1917. ]

Government is more and more in touch with the popular opinion, and that it has come to the conclusion that its future policy in the matter of taxation shall be, as far as practicable, in the direction of a well-considered system of protective tariffs. It is needless to remind the Council that a revision of the tariff has all along been demanded by public opinion whether or not such revision is absolutely necessary in the exigencies of our public finance. It must be conceded that, when new and additional taxation has been unavoidably forced upon the country by the exigencies of this great war, both considerations of policy and expediency justify the enhancement of tariffs, instead of a levy of other imposts which would fall oppressively on the masses. The most agreeable feature of this Bill is, that the tariffs have been so skilfully revised and re-adjusted as to secure the largest portion of the revenue from classes who have been materially benefited by the war, and who are able to bear the additional strain and burden without serious inconvenience, and who owe their business prosperity materially to the security afforded by the British Navy for free and uninterrupted international commerce even in these anxious and troublesome times.

“Last year several of my Hon'ble colleagues vigorously pointed out in this Council that the Government had not raised the duty on imported cotton goods, and that omission was viewed with keen disappointment by the country, but it is a matter of great satisfaction that the Finance Minister, in conformity with his sympathetic assurances then given, has now succeeded in inducing His Majesty's Government to raise the import duty on cotton goods from 3½ per cent. which is our present general tariff rate to 7½ per cent. I am confident that this action of His Majesty's Government will meet with the greatest appreciation in India. There is not the slightest apprehension that by this additional duty the Lancashire industry will be handicapped or affected in any manner, but one thing is absolutely certain that this country will be protected against the unfair competition of cheap foreign piece-goods. It will undoubtedly further enhance the prestige of His Majesty's Government in having at last redressed a real and portentous grievance. The decision of Government to double the rates of export duties on raw jute and jute manufactures is equally satisfactory and gratifying. Hon'ble Members who were in this Council last year will remember that I had brought forward a Resolution in the nature of an amendment to the Tariff Bill then introduced that the export duties proposed to be imposed on raw jute and manufactures be doubled, but I was not fortunate enough to receive any encouragement or support from the Finance Minister, and I was therefore compelled to withdraw my amendment. I am glad that the Hon'ble the Finance Minister has now come to my way of thinking, and has seen the advisability of doubling the duty on these articles. I feel certain that this enhanced duty will not be severely felt by the people dealing in jute who have already made enormous profits, and who have fortunately escaped from a more unpleasant form of impost—I mean excess profits tax.

“Not unlike the outgoing year the new taxation will be realized from trade to a considerable extent. The Finance Minister's statement regarding the new sources of revenue has been already very favourably received by the various trade unions and associations, and by the influential commercial communities of Calcutta and Bombay. But I feel constrained to point out that, though the scheme of taxation is, on the whole, eminently satisfactory, still such an expert financier as Sir William Meyer has left room for some slight disappointment. I am sorry he is not yet converted to the widely held view that an export duty on cotton would be both suitable and justifiable, while it would not affect the cultivator. He had an excellent opportunity this year of trying at least tentatively that form of impost. In any case, I feel certain that the introduction of that tax would have made his Budget infinitely more popular, secured the extra revenue he requires, and obviated the necessity of a super-tax, which is not quite suitable to Indian conditions.....”

**His Excellency the President** :—“I would draw the Hon'ble Member's attention to the fact that that point is not before the Council.”

[7TH MARCH, 1917.] [ *Mr. M. B. Dadabhoj; Rai Bahadur Bishan Dutt Shukul; Rao Bahadur B. N. Sarma.* ]

**The Hon'ble Mr. M. B. Dadabhoj:**—"But, My Lord, having regard to the existing political and financial situation, this would be an inopportune time to protest against any particular taxation. The Government must be supported and allowed the greatest latitude and the widest discretion. Though we one and all deeply deplore an additional taxation this year, the uncertainties of the financial and military situation and our prospective obligations have solely necessitated the same. It is true that it may seem even paradoxical, that in a year of huge surplus this Government should levy fresh taxation, but, as the Finance Minister wisely pointed out 'The necessity for ample resources in the present year and during the twelve months to come will, however, be still more evident to those who study our Ways and Means position with attention, and thus realize that it is not necessarily on the revenue side that our chief difficulties lie.' In view of all this, however unwilling I may be otherwise to support any scheme of additions to our existing taxes, I feel it my duty to accord my support to this measure."

**The Hon'ble Rai Bahadur Bishan Dutt Shukul:**—"My Lord, as has been so rightly pointed out by my colleague, the Hon'ble Mr. Dadabhoj, the present Tariff Amendment Bill has been most welcome to the whole country as a wholesome departure in the fiscal policy of the Government. The popular view has at last gained ground and received the support of both the Finance Member as well as the Government of India. The raising of the import duty on cotton goods from  $3\frac{1}{2}$  to  $7\frac{1}{2}$  per cent. has removed a long-standing grievance. It will save the country from the pernicious effect of unfair competition. It is now the earnest desire of the Indian public that, as soon as the circumstances will permit, the countervailing excise duty on cotton should be abolished. 11-30 A.M.

"This duty, My Lord, has already proved to be a clog to industry, and as such the sooner it is done away with the better it would be. The assurances given by the Hon'ble the Finance Member led me to hope that the matter has been engaging the careful attention of the Government of India, and that ere long the duty will be abolished.

"At the present stage any taxation levied with a view to get surplus revenue to meet the exorbitant expenditure of war should receive unanimous support of us all. Whatever sources of revenue could be tapped without causing unnecessary hardship, and without disturbing the general conditions of trade and commerce of our country, the Government would be justly entitled to them, and it should be our bounden duty to lend our unanimous support thereto.

"I would have taken this opportunity of pressing on the attention of the Government the desirability of the exclusion of machinery imported for agricultural and industrial development from the Tariff Schedule in the interest of our poor agriculturists, but I have refrained from doing so, as such exclusion, at the present moment, would cause certain inconvenience to the Government. However, I may hope and trust that when, after the termination of this war, the question of the revision of the wholesale Tariff Act would be taken up, this matter will not be overlooked.

"With these few words, My Lord, I beg to support the motion now before us."

**The Hon'ble Rao Bahadur B. N. Sarma:**—"My Lord, I may be permitted to congratulate Your Excellency's Government, and the Hon'ble the Finance Member, in particular, for manfully fighting the battle of India, and securing a measure of justice from His Majesty's Government. We know that the battle has been fought strenuously and for many a long year in the secret Councils of the Empire—possibly without our knowing it then; but at last the advice of the Government of India has borne fruit. I should have congratulated His Majesty's Government if this announcement had been made last year. I only thank them this year. I cannot help saying that 11-35 A.M.

[*Rao Bahadur B. N. Sarma; Raja Sir Rampal Singh; Sir William Meyer; The President.*] [7TH MARCH, 1917.]

if this announcement had been made last year under different circumstances, the impression which would have been created on the public mind would have been immense. I treat this additional taxation, My Lord, as a financial reserve in this momentous crisis through which we are passing, and in that view, I cordially support the motion."

11-37 A.M.

**The Hon'ble Raja Sir Rampal Singh:**—"My Lord, I beg to rise to extend my whole-hearted support to the Tariff Amendment Bill that is before the Council. It is needless for me to say that the Bill provides in unmistakable manner the oft-repeated wishes of the people of this country with regard to tariff, and I cannot but congratulate the Government of India on the happy measure that they are going to pass in order to augment the revenues of India, with a view to meet the extra charges which the proposed war contribution would entail on them. It is a matter of great satisfaction that the Government have since some time seen their way to introduce a reform in the tariff whereby some protection will be afforded to indigenous industries, and I am sure the Bill, when passed into law, will be hailed with joy in this country. My Lord, there is nothing like unmixed good in this world, and it is possible here and there a dissentient voice might be raised that the burden of import duties on cotton piece-goods would fall on our poor people, and that export duty on jute might have a detrimental effect on the agricultural industry of that commodity. I lay no claim to be an expert on such matters, but I must say that I do not share these misgivings with any feeling of uneasiness. As a layman I strongly believe that India needs protection for her industries, and it ought to be a matter of great consolation to all of us that the Government of India have not only accepted that principle, but are gradually introducing it into practice. As for the export duties on jute, the assurances of the Finance Member are more than enough that they will fall on the customers outside the country without in any way affecting its agricultural industry: I wish the countervailing excise duties on cotton piece-goods could have been abolished, because the country has been clamouring for their abolition since a long, long time, and they are not defensible on grounds of equity and justice. However, the feelings of sympathy given expression to by the Finance Member last year in that direction go a far way to inspire hope in us that when after the war the trade relations between India and foreign countries will be re-adjusted, our wishes, as well as our needs and requirements, will be fully considered in the light of our best interests. With these few words, My Lord, I accord my cordial support to the Bill."

The motion was put and agreed to.

11-39 A.M.

**The Hon'ble Sir William Meyer:**—"I now move, My Lord, that the Bill be passed, and I will only add that it is a source of great gratification to the Government to find that the taxes imposed by the Bill have been so warmly received."

The motion was put and agreed to.

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

11-40 A.M.

**The Hon'ble Sir William Meyer:**—"My Lord, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Income-tax Act, 1886, and also to move Your Excellency to suspend the Rules of Business to admit of the Report of the Select Committee being taken into consideration."

**His Excellency the President:**—"I suspend the Rules of Business."

[7TH MARCH, 1917.] [Sir William Meyer; Rao Bahadur B. N. Sarma.]

**The Hon'ble Sir William Meyer:**—“My Lord, I explained the scope of this Bill on the 1st instant as being a measure for the improvement of our machinery, any radical amendment of the Income-tax Act being left over, as I said in my speech introducing the Financial Statement, to a time of greater leisure. I need only draw attention now to the amendment of clause 4 of the Bill in Select Committee. As I said in my introducing speech, we consider it improper to allow a statutory right of objection to assessment by a person who is still defying a statutory order to declare his income, or as it was put very succinctly in legal language by my Hon'ble friend Mr. Lowndes in the Select Committee, a Court ought not to admit to hearing a person who remains in contempt. Such contempt might, however, be really accidental, due to circumstances which admitted of satisfactory explanation. We have, therefore, altered the clause so as to confine the disqualification to wilful non-compliance with the requirements of any notice served under section 14-A. of the Income-tax Act.

11-11 A.M.

“I now move that the Report of the Select Committee be taken into consideration.”

The motion was put and agreed to.

**The Hon'ble Rao Bahadur B. N. Sarma:**—“My Lord, I move as an amendment that at the end of clause 4 the following be added:—

11-13 A.M.

‘or in case of non-compliance shows sufficient cause to be excused by the Collector, or pays a penalty of Rs. 10.’

Hon'ble Members will see that the object of my amendment is to secure to the assessee a right to apply to the Collector, the assessing authority, for revision of the assessment made by him. The Hon'ble the Finance Minister stated that ordinarily if a person refuses to submit a statement in accordance with the law, he has no grievance, if the Collector, acting upon such information as he may possess, invokes the aid of the machinery provided by the Act, inasmuch as the person would be guilty of contempt in the first instance. But on later consideration it was resolved that where a person could show that he did not wilfully disobey the mandate or request of the Collector to submit a return, he should be given this right of appealing for revision of assessment. We thankfully accept the amendment that has been suggested by the Select Committee. But my submission is that this amendment does not go far enough, and is likely in practice to prove ineffectual—I may even go so far as to say, to deny justice in a large number of cases. I would not attribute the slightest motive to assessing officers, but I say the Collector might unconsciously, in arriving at a decision, be prejudiced by the fact that the person who comes before him has been guilty of disobeying his injunctions in the first instance, and it would leave in the public mind an impression that justice has been denied by the revenue authority, who happens also to be interested or is supposed to be interested in the result, that justice has been denied to the subject on the pretext that the subject has been guilty of, knowingly and wilfully failing to comply with the request. Hon'ble Members will see that power has been taken already in this Bill to punish such contempt, by putting the man before a Magistrate and getting him convicted with a fine of Rs. 10 for every day of default. I should think that that punishment to which the subject would render himself liable would be a sufficient deterrent, or ought to be a sufficient deterrent, and there ought not to be the slightest difficulty in the way of the Collector getting such wilful and knowing failures punished. My Lord, I submit that the border line is very difficult to be drawn, and that justice would be met by asking the man who fails to make a return to pay a penalty of Rs. 10 or some sum that may be fixed by this Council, and allow him to prosecute his petition instead of asking him to show positively that the default was not wilful. I put the sum at Rs. 10 because the lowest assessment is Rs. 20, and I thought that 50 per cent. of the assessment would not be unduly low. It may be that if we take the super tax into consideration, the sum of Rs. 10 may appear to be practically insignificant: that is the difficulty of

[*Rao Bahadur B. N. Sarma; Pandit Madan Mohan Malaviya; Mr. G. R. Lowndes; Mr. Bhupendra Nath Basu.*] [7TH MARCH, 1917.]

dealing with a subject like this in which the Super-tax Bill and the Income-tax Bill are practically incorporated together. But apart from that, my submission is that some sum may be fixed by the Council (I think Rs 10 is reasonable having regard to the penalties which a man would subject himself to) by way of penalty, and that an impression might not be allowed to be created that the executive are taking to themselves very wide powers unduly with a view to raise revenue. My Lord, I remember thirty years ago, shortly after the Income-tax Act was passed, how in almost every conference and every meeting the subject of Income-tax assessment and administration was the theme of discussion and complaint and of resolution. There was hardly a meeting in which this subject was not dealt with, but luckily, owing to the raising of the minimum amount, there has not been latterly the same outcry. I hope the legislature will not allow by the granting of such wide powers to the executive the creation of another political trouble, because I feel that, unless the rules are relaxed and the assessee is allowed to have his say, an impression would be created that justice is denied for the sake of revenue. I, therefore, respectfully submit that my amendment may be accepted."

11-50 A.M.

**The Hon'ble Pandit Madan Mohan Malaviya** :—" My Lord, I suggested the omission of this section 4 in the Select Committee, and I think I should briefly state my reasons for doing so. This, My Lord, is a new measure which is being introduced at present to simplify the procedure under the Income-tax Act in certain matters only. I understand it is in contemplation to revise the Income-tax Act at an early date, and I suggest that at this time the section might be left as it is in the existing Act. Under the Income-tax Act matters relating to the assessment of income are dealt with by the Revenue Officers of Government. They do not go before a regular Court of Justice, and I think that for this reason alone, such opportunities as are given to the public under the existing Act to have an assessment duly considered by the Collector should not be restricted. It is true that the words 'unless he has knowingly and wilfully failed to comply with the requirements of the notice' do not entirely take away that opportunity, but I fear that the new provision will give rise to false statements being put before a Magistrate, pleas of illness, and what not, in order to satisfy him that the man had not knowingly and wilfully failed to comply with the requirements of the notice, and it will be very hard for a Magistrate to be satisfied in many cases that the applicant had not knowingly and wilfully failed to comply with the notice. The advantage to be gained on one side is very slight, and on the contrary, the inconvenience to the person concerned in having the assessment made on him considered by a Magistrate will be serious. Perhaps he will have to engage a lawyer; perhaps he will have to set up some persons as witnesses to establish that he was not to blame, etc. The balance of the advantage that is likely to be gained by the addition of the new provision will be small compared to the inconvenience and possible injustice which may result from it. For these reasons, I support the suggestion that section 4 should be omitted for the present, and that when we are revising the Act as a whole, this might be considered....."

**The Hon'ble Mr. G. R. Lowndes** :—" My Lord, I rise to a point of order. There is a specific amendment moved by the Hon'ble Mr. Sarma, and I understood that the Hon'ble Pandit was speaking to it, but now he is practically moving another amendment, to the effect that the whole clause be omitted."

**The Hon'ble Pandit Madan Mohan Malaviya** :—" I am sorry, My Lord, I did not note Mr. Sarma's amendment."

11-55 A.M.

**The Hon'ble Mr. Bhupendra Nath Basu** :—" My Lord, it does seem to me, and I think it must seem to others also who may be affected



[7TH MARCH, 1917.] [Mr. Bhupendra Nath Basu; Mr. G. R. Lowndes.]

by the provisions of this Bill, that the Government is providing a two-fold penalty. In the first place, My Lord, there is section 34 of the existing Act by which certain offences are made punishable. We are including in that list the offence of not submitting a return in time. Consequently under section 34 a person who fails to make a return will be called upon to incur the penalty thereby provided and that, it has been pointed out, may extend to Rs. 10 for every day in which the default continues. Then comes a second stage. Not having made the return, the Collector makes his assessment and we have, under the law as it now stands, the right to put in a petition of objection to the Collector's assessment. This petition, as it must be known to the the Hon'ble the Finance Member, is first of all disposed of by the Collector, and then, if the party is dissatisfied, he may go up to the Commissioner and, further, to the Board of Revenue. What now is proposed to be done is this, that the person assessed will be deprived of his right of objection, unless he has put in a return at the first stage, or unless he has knowingly and wilfully failed to comply with the requirements of any notice served upon him under section 14A. Well, My Lord, in the first case, where I fail to submit my return, I am brought up before a Magistrate. I have got there a Judicial Officer deciding the question as to whether I should or should not be fined in the circumstances of the case. That is an understandable position. There the Revenue Officer takes proceedings against the assessee and the Judicial Officer decides the case, and the whole case is decided between themselves. But here the protection of a Judicial Officer is done away with, and here all that the party had got to do is either to have his petition of objection rejected, or to satisfy the Collector, who is the Revenue Officer, that he had not knowingly and wilfully failed to comply with the requirements. I say nothing against the Collector, My Lord, but is it fair to the Collector who has got to make his collections of revenue and who is often-times overburdened with a heavy amount of work, specially in presidency-towns, is it fair to ask him to decide between the assessee and his own department as to whether the assessee has knowingly and wilfully made the default? My Lord, if I may without impertinence appeal to the experience of Your Lordship and also of the Hon'ble the Law Member, the question of wilful default and neglect is one of the most thorny questions in law, and you throw the whole burden of this upon the Collector who has to decide the matter as between himself and the assessee. He may decide rightly and he may say to the assessee that he has wilfully and knowingly failed. But would that decision satisfy the assessee? Is it not one of the elementary principles in the administration of law that not only should the law be justly administered, but the person who is affected should also feel that it is justly administered? Would I feel that I have got justice before a Collector? Would I be satisfied that the Collector has decided fairly in my case if I were the assessee that I had knowingly and wilfully failed? I think, therefore, My Lord, that it is investing too great a power in the Collector, and, in the second place, I think that the investing of this power at present is not necessary. These difficulties always happen when we are amending an Act in instalments as it were, and we do not foresee the difficulties, or the practical effects of which we cannot anticipate. Therefore, having regard to these difficulties, and having regard to the fact that the finances are sufficiently protected by the penal provisions already existing in the Act, I would support the amendment brought forward by my Hon'ble friend, and I would respectfully appeal to the conscience of the Finance Department, if that Department has any conscience at all, I would respectfully appeal to their sentiment that, until we take up the whole Act for revision, to let this remain. I say, My Lord, 'sufficient unto the day is the evil thereof,' and you have brought in enough taxation even to satisfy the insatiable appetite of the Finance Department."

**The Hon'ble Mr. G. R. Lowndes** :—"I think my Hon'ble friends a little forgot that what we want in this case is the return and not the penalty, and that the payment of a penalty is no adequate recompense for not getting the return upon which the income has to be assessed, and therefore really what we want to insist on by every means possible, is that people shall

12 noon.

[ *Mr. G. R. Lowndes; Sir William Meyer; Pandit Madan Mohan Malaviya; The President.* ] [ 7TH MARCH, 1917. ]

make their returns. From every one to whom one of these forms is sent out we want to get a return, and I venture to say, even in the face of three Hon'ble members of my own profession, that it is largely a matter of common sense that if a man has declined to give the Collector the materials upon which his income-tax ought to be assessed, it is absurd to allow him to appeal against the assessment which the Collector has been forced to make in the absence of those materials. My Hon'ble friend, Mr. Sarma, says, 'Oh! everything can be got over by a fine, let him pay ten rupees, But take the case of a man whose income-tax ought to be assessed at a lakh of rupees. Is it any adequate compensation to the Government that they will get ten rupees as a fine, while the man may still appeal, having concealed everything by his failure to make the return which the law demands from him?'

"There is one other argument which was addressed almost to me individually by my Hon'ble friend, Mr. Basu. He said surely one of the objects of the law is to make provisions which will be acceptable to the persons against whom they are to be enforced. Well I would ask my Hon'ble friend to consider whether any person who is assessed to income-tax against his will is likely to be satisfied with an assessment made by the Collector or maintained on appeal. I always think that these assessments to income-tax are a little like an umpire's decision at cricket, that a man is out 'leg before wicket'. There are very, very few people against whom the penalty is enforced who go away believing that they have been fairly treated."

12-2 P.M.

**The Hon'ble Sir William Meyer:**—"The case has been so fully dealt with by my Hon'ble friend and colleague, Mr. Lowndes, that I need say very little more.

"The Hon'ble Mr. Basu has appealed to the 'conscience or want of conscience' of the Finance Department. I say we have shown our ample possession of conscience, and have tried to give some part of it to dishonest tax-payers. We want to bring home to dishonest tax-payers the fact that, after all, honesty is the best policy.

"My Hon'ble friend the Pandit asked what is to be gained by this measure? I say, respect for the law is to be gained; greater honesty is to be gained.

"Finally, my Hon'ble friend, Mr. Basu, says that there is a two-fold penalty. A man may be fined magisterially under section 34 of the Act, and here we disqualify him on appeal. That is no new thing. There are constant restrictions on the free right of appeal; it is constantly qualified by time-limits and so forth; and one would think that this is a very reasonable restriction indeed. As for the two-fold penalty, let me take an instance. It frequently happens that men are disqualified from holding certain offences by reason of having been convicted of certain criminal offences. My Hon'ble friend would apparently say in such a case—'Poor fellow, he has already been in jail for (say) forgery, why should not he be a member of the Legislative Council, or whatever public body the law provides such disqualifications for?' I should not be moved by any such argument of double penalty in that case, and I am not going to be moved by it in this case. I cannot possibly accept the amendment."

**The Hon'ble Pandit Madan Mohan Malaviya:**—"On the Hon'ble Member rising to speak....."

**His Excellency the President:**—"The Hon'ble Member has already spoken."

**The Hon'ble Pandit Madan Mohan Malaviya:**—"Yes, My Lord, but I did not speak to the amendment."

[7TH MARCH, 1917.] [ *The President; Rao Bahadur B. N. Sarma; Sir William Meyer.* ]

**His Excellency the President** :—“ I cannot accept that from the Hon'ble Member, because I was under the impression, until the last words of the Hon'ble Member's speech, that he was speaking to the amendment. I am afraid, therefore, that I cannot help him.”

**The Hon'ble Rao Bahadur B. N. Sarma**.—“ My submission was that if the Collector could not proceed without a return, he had the option of having a man fined Rs. 10 for every day's default, and that would be a very good inducement to any man to make his return. That would be a sufficient punishment and would secure the object. Again, if a man files a revision petition or an appeal petition he will have to submit a return, and the presumption of not having submitted the return and the accounts in proper time would be raised against him, and it would be for the Collector and the superior revenue authority to judge whether justice had been done in the first instance or not. My Lord, I do not think that in any event the exchequer is likely to suffer, it is likely to gain.

12-4 P.M.

“ Then, My Lord, I submit that anomaly and difficulty would arise. To take a case, an assessee appeals; the appeal petition is rejected; and the man is put before the Magistrate; I do not think any Magistrate could convict a man if he could show that he has sufficient cause. Supposing the Collector comes to the decision that he had no sufficient cause and the Magistrate comes to the decision that he had sufficient cause, there would be an awkward anomaly indeed. I do not know whether the revision petition would be heard then. Then the principal point is it is difficult in actual practice to distinguish between a case of negligence and one of wilful default. It is because it is so difficult and because you should not throw a person interested in securing revenue into the awkward position of having to decide such questions before entertaining an objection, that I say that this amendment should be accepted. These, My Lord, are my reasons for still pressing the amendment.”

The amendment was put and lost.

**The Hon'ble Sir William Meyer** :—“ My Lord, I now move that the Bill, as amended by the Select Committee, be passed.”

The motion was put and agreed to.

## THE SUPER-TAX BILL.

**The Hon'ble Sir William Meyer** :—“ My Lord, I beg to present the Report of the Select Committee on the Bill to impose a tax on income in addition to that imposed by the Indian Income-tax Act, 1886, and also to move Your Excellency to suspend the Rules of Business to admit of the Report of the Select Committee being taken into consideration.”

12-6 P.M.

**His Excellency the President** :—“ I suspend the Rules of Business.”

**The Hon'ble Sir William Meyer** :—“ My Lord, I explained the intention and scope of this Bill in my speech introducing the Financial Statement, and in the further speech introducing the Bill itself; and the extent to which the Bill has been amended in Select Committee is explained in the Committee's Report. I need only confine myself, therefore, to emphasising a few further points.

“ In the first place, we are going on the principle of taxing in one year the profits made in the year previous. That is the principle already applied in respect of profits of companies and 'other sources' of income in the existing Act. It is in fact the only feasible method, since we tax the profits actually ascertained, whereas if we taxed current profits, we should be dealing with

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uncertainties. In so far as a man is taxed in a year in which he has not been doing so well on larger profits in the previous year, he will have the compensation that in the third year the poorer business of the second will relieve him of some taxation. We also have to take into account the fact that certain companies, firms and persons have made large profits in 1916-17 owing to the war, and that, as I indicated in paragraph 61 of my Budget speech, we propose to secure a portion of these excess profits to the State.

"It follows that section 33 of the principal Act, which is quite inconsistent with this system, would be out of place in the present Bill, and is therefore not among the sections of that Act made applicable in the Bill. I may add, too, that it is out of place in the principal Act having regard to the method of assessment there adopted, and is marked for omission when we come to the general revision of that Act.

"As regards the argument that it is a hardship to tax profits of a past year that have already been allocated, I need only say that any new tax involves unexpected calls on peoples' incomes; and, in the present case, the tax can hardly have been altogether unexpected for there was certainly anticipation of either an increased income-tax, a super-tax, or an excess profits tax.

"As indicated in the Select Committee's Report, we fully debated the question as to taxing companies and firms in respect of undistributed profit. That is the British practice, and *prima facie* we should be quite justified in standing by it. But, as indicated in the Report, we have made an important concession with reference to the special circumstances of India at the present time, that is, besides exempting from the 'taxable' undistributed profits the Rs. 50,000 previously contemplated, *i.e.* the difference between total and taxable income, we make a further allowance not exceeding 10 per cent. on the whole profits, *i.e.*, the whole sum on which the ordinary income-tax is paid for amounts left undistributed in the business. Thus, if a company had made 40 lakhs and had distributed 32, leaving 8 allocated to reserve or otherwise applied to the purposes of the business, that 8 lakhs would be reduced by Rs. 50,000 plus 4 lakhs and the super-tax, so far as undistributed profits are concerned would be paid on Rs. 3½ lakhs only.

"As has been indicated in the Report, in making this concession, we have had regard to the special circumstances of Indian enterprise and industry, *i. e.*, we wish to encourage the expansion of capital applied to industrial enterprises by allocation thereto of part of the profits already made. We have also taken into consideration the fact that the assessments this year will be made on profits of 1916-17, and that those profits have in many cases been obtained at the cost of special strain on plant and machinery, which would not be adequately covered by the general allowances made for depreciation. The 10 per cent. concession is intended to cover this also, and I desire to emphasise the fact that it is a very special concession not covered by British practice, and that we reserve to ourselves liberty to re-consider it later on when things have become more normal, if circumstances seem then to point to the fact that the concession is needlessly large. Further, I should like to say that it must not be in any way understood that by giving a concession up to 10 per cent. of total profits, the Government consider that that is the maximum amount which ought to be put into the expansion of the business. There may well be cases in which a company or firm would find it to its own ultimate interests to utilise more than this sum in business expansion, even at the cost of paying somewhat more in the way of super-tax.

"Another point which has been brought to my notice by my Hon'ble friend, Mr. Bray, is this. In the case of companies and firms which make profits in India, but have also an English domicile, they are subject to the English income-tax and super-tax as well as to ordinary Indian income-tax. That raises what may be called the double-income-tax question, which the Home Government have already promised to consider, and which must indeed be considered in connection with *post bellum* measures calculated to draw the bonds of Empire closer. But, for the present, we must take things as we find them, and we cannot give up any portion of our ordinary income-tax.

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“ I may point out, too, that it is not exactly a question of full double-income-tax, seeing that for purposes of Home assessment income-tax paid in India is deducted from the assessable income in England.

“ Well, now as to the application of this to the super-tax. We cannot take into account at present the operation of income-tax and super-tax in England, but the excess profits tax levied there as a temporary war measure is on a somewhat different footing, and we propose, as a measure of equity, to lay down that where evidence has been given that in respect of Indian transactions coming under this Bill, a specific sum has been paid to the British authorities in the way of excess profits tax, that amount shall be treated for Indian purposes as working-expenses, and shall not be taken into account in calculating the taxable income.

“ Another point raised in Select Committee by my Hon'ble friends, Mr. Bray and Mr. Wardlaw Milne, was the practical operation of section 21 of the principal Act, which is one of the sections to be made applicable in the present Bill. That section runs as follows :—

‘ Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income chargeable under Part IV, shall be chargeable under that Part in the name of the agent in the like manner and to the like amount as he would be chargeable if he were resident in British India and in direct receipt of that income.’

“ I was asked whether, if a company or firm remitted directly to a partner or shareholder resident out of India the amounts accruing to such partner or shareholder by reason of profits or dividends, that transaction would be treated as an agency transaction within the scope of section 21. My reply is that this would be a strained reading of section 21 as it stands. We should regard the transaction described as a direct remittance to the beneficiary, and the agency provision would only come in where a third party was employed as an agent. We are prepared to make this point clear by executive instructions; our intention in connection with the present legislation being, as I stated at the last sitting, to disturb the existing law and practice as little as possible.

“ As stated in the Select Committee's Report, we desire to treat Hindu joint-families on the same footing as far as possible as firms.

“ I need say nothing more at this stage, and would now move that the Report of the Select Committee be taken into consideration.”

The motion was put and agreed to.

**The Hon'ble Mr. Rangaswamy Ayyangar** withdrew his amendment to clause 1 (3) which ran as follows :—

‘ That the words and shall cease to be valid after March 31st of the year following the close of the present war be added to clause 1 (3), after the words the first day of April, 1917.’

**The Hon'ble Rao Bahadur B. N. Sarma** :—“ My Lord, I beg 12-17 P.M.  
to move that to sub-clause (3) of clause 1 the following be added :—

‘ and continue in force during the period of the war, and for six months thereafter.’

“ I ask the Council by accepting this amendment to confine the operation of this Bill when it becomes law to the period of the war and for six months thereafter, or, in other words, that this Council and the Government should treat this as a special war measure. It is not the intention of anyone here; it is not my intention to embarrass the Government of India in the slightest degree, or to decline in any way to permit them to raise what money may be needed for the defence of the country or for the progress of the war which is in operation. I readily therefore consent to the Government raising, by means of this taxation, the sum that they hope to obtain in order that the war might be helped during the year. I only ask that the consideration of the large questions raised by this Bill may be deferred to a future date when everybody's mind would be free to consider dispassionately as to the best ways and means whereby money can be raised, and how much has to be raised.

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When I tried to raise, on the last occasion, the question as to whether it was competent to the Government to raise revenue in anticipation for unsanctioned expenditure, for a non-Government of India purpose, I was overruled and I bow to that ruling, and I cannot, and I will not, raise that question. But all that I ask the Council now to consider is, whether it would be right to legislate for an indefinite period when we have not at the present moment the actual sanction of Parliament and do not know anything with regard to the measures which it may be proposed to take with reference to India and the British Empire in general. It would be, if I may say so and I may be pardoned for saying so, wrong and unwise to do it—it would be as suicidal as for a ward to tempt his guardian to cast aside the safeguards the guardian himself has proposed for the ward's protection, and to consider in a time of crisis as to what may be done in adjustment of the relations between the ward and the guardian for the guardian's benefit. I take it, My Lord, that the legislation since 1858 has been enacted on the footing that India is a dependant country, that the Government of India are only the mouthpiece of the Secretary of State, that the Secretary of State is responsible to the Cabinet and to Parliament, and that consequently in vital matters the Government of India has virtually no discretion to act independently. And acting on that footing neither the Government of India nor we can have any real voice in changing or directing policy. Further, the attitude of the Government shows clearly that we are but a deliberative assembly in substance, and all that we, on the non-official side, can do is but to advise the Sovereign or Your Excellency as his Vice-Regent sitting on the throne of the ancient Hindu and Muhammadan Kings. Now the question which under the circumstances I put to myself was, whether I would be acting honestly if I should not ask the Council to protect itself for some time until the end of the war with the safeguards which the Parliament has enacted for our benefit. I do not ask you on this amendment to judge as to whether at the present moment one hundred millions are necessary, or whether we shall have to find the interest on that amount or the sinking fund. We claim to be partners in the Empire; we shall have to bear the burdens, and we shall cheerfully do so when the time comes when we are treated on an equal footing. That day, we hope, will come sooner or later, and at the end of the war, we shall have to adjust our relations on that footing. But, meanwhile, let the relations continue as they have been; sections 20, 22 and 28 read together seem to my mind to show, and the ancient practice of this Council also seems to show, that we only budget for sanctioned expenditure for a purpose which is understood to be a Government of India purpose, and that the Secretary of State or the British Cabinet has no power to borrow from any one for any purpose whatever unconnected with the Government of India. I agree that we should provide funds for the current year without defeating the purpose which His Majesty's Government and the Indian Government have equally at heart, that of prosecuting the war to a successful conclusion. I take it that it is perfectly open to the Parliament to consider the representations of this Council and of the Government of India or His Majesty's Government, and arrive at a decision as to whether the revenues of the Government of India can be applied for the purpose of maintaining His Majesty's forces outside the Indian borders. I hitherto took it that that that section was meant to mean borders within the sphere of influence of India. Charges in connection with Egypt, charges in connection with Persia, in connection with Burma, in connection with China....."

**His Excellency the President** :—"Order, Order. I should like the Hon'ble Member to confine himself, as far as possible, to the amendment which he is moving and to the Bill. I do not wish to interrupt him, but I should like him to confine his remarks within a brief space to the wider aspects."

**The Hon'ble Rao Bahadur B. N. Sarma** :—"I say, therefore, that the practice has been that. We should not weaken in the slightest degree

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the hands of the Government in what they have done already in providing for the current year's expenditure, or embarrass them. At the same time, we should not weaken the people's representations if there should be any on a wider consideration of the proposals before the country. I submit it would be perfectly competent and wise on our part to raise as much money as we can, even by further taxation if need be, by a supplementary Bill later on, all the money that may be actually needed for the prosecution of the war. That is the reason why I ask the Council to confine the operation of this Bill to the period of the war and six months thereafter. I do not want it to be said that we, Indians, grudge showing to the best of our ability our active co-operation in the cause of the war, and therefore I should not like to jeopardise the chances of India for a fair hearing. But, at the same time, I do not want it to be said that we have not attempted to protect the interests of the people, because after all it will be said that this offer of the Government of India to His Majesty's Government is by an agent to the principal. I hope that, in future, the relations of the Government of India will be such as to practically represent us; that is what we have been praying for in Congress, and until that time arrives people would say that it is from one agent to another or by an agent to the principal. I should not like that to be said. No inconvenience would be felt at the moment if my position be conceded by the Council; the money can be raised by taxation, and it can be applied in any way the Government thinks fit. There is nothing in law to prevent Government from coming up for further funds, if necessary. I do not think, therefore, that we shall be jeopardising any interests if the Council accedes to my request that this question be further deferred, and that its operation be confined to six months after the war. I shall not go into the further question now, but shall deal with it later."

**The Hon'ble Sir William Meyer** :—" My Lord, I cannot accept this amendment. I made it clear in my speech introducing the Financial Statement that we had undertaken abiding liabilities, and that we had to frame our taxation accordingly; that was one of the reasons I gave for rejecting a temporary Excess Profits tax and for falling back on Super-tax. Therefore, we desire this Bills when it become, law, to be a permanent part of our Statute-book, permanent in this sense that it may come under revision when circumstances require it, but that it remains in force till it is definitely modified or repealed. I think the Hon'ble Member said that there would be no inconvenience in framing a Bill for a temporary period only and then coming up again. I say there is every inconvenience in doing that. You will unsettle peoples' minds, you will leave them to cherish illusory hopes of remissions of taxation. When you have got to impose taxation of this sort, it is much better to do it once and have done with it. As for the Hon'ble Member's legal qualms, I can leave it at this, that the Government of India Act is an Imperial Statute, that it is for the law officers of the Crown at Home to interpret it; and that if anything is required it will be done by Parliamentary Resolution, as was done in 1914 in respect of our then contribution to the war." 12-29 P.M.

The amendment was put and lost.

**The Hon'ble Mr. Kamini Kumar Chanda** :—" With regard to these amendments which stand against my name— 12-30 P.M.

1. That in clause 2 (1) (a) the letter and brackets ' (f) ' be inserted between the letters and brackets ' (e) ' and ' (g) .'

2. That in clause 2 (1), sub-heads (b), (c) and (d) and the proviso be omitted.'

I wish to say this: that I sent notice of them before I had received a copy of the Report of the Select Committee. After having read that Report and further considered the matter, I do not press these amendments. I ask for permission to withdraw them."

The two amendments were, by permission, withdrawn.

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12-32 P.M.

**The Hon'ble Rai Sita Nath Ray Bahadur:**—"My Lord, I also gave notice of a similar amendment, namely:—

'That in clause 2 (1), for sub-clauses (b), (c) and (d) and the proviso the following be substituted:—

(b) any income which a person enjoys as a member of a company or of a firm or of a Hindu undivided family when the company or the firm or the family is liable to the tax,'

and I honestly believe that the provisions of the Bill, as at present worded, will press very heavily on certain individuals. But, in view of the present emergency, it is not desirable that I should embarrass the Government by striking a discordant note. I, therefore, beg to withdraw the amendment, and at the same time I desire to take this opportunity to express my acquiescence in the proposal to make a suitable contribution to the Home Government for the successful prosecution of the war."

The amendment was, by permission, withdrawn.

12-33 P.M.

**The Hon'ble Rao Bahadur B. N. Sarma:**—"My Lord, I beg to move the following amendments:—

'That in clause 2 (1) for clause (b) of the definition of 'total income' the following be substituted:—

(b) in the case of a Hindu undivided family, so much of the joint income of such family as would not be liable to assessment under this Act if all the members of the family had been divided on the date of the assessment.'

'Provided that the total amounts payable by such joint-family does not exceed the aggregate of the sums which would have been payable by the several members of the family in respect of their shares of the income, if they had been divided.

"I shall present a concrete instance of how the Act works and how it will work under my amendments, and leave it to the Council to judge as to whether the amendments that I have sought to put in are reasonable or not. With Your Lordship's permission, I may give my reasons on both the amendments, and Your Lordship may put them separately; it would save time."

**His Excellency the President:**—"Yes."

**The Hon'ble Rao Bahadur B. N. Sarma:**—"Supposing an undivided family consisting of four brothers, has an annual income of 2 lakhs of rupees. If the family be divided, or if their shares are defined, each share would be 50,000 rupees, and not be liable to this super-tax. But if the brothers continue as members of an undivided family, and spend Rs. 10,000, then they would be liable to pay assessment on a lakh and 90,000 rupees, on 50,000 rupees at the usual rate and on 40,000 rupees at a higher rate. In the case of an undivided Muhammadan family there would be no hardship, because the assessment would be only on the undivided share of each individual member of it. I take it that, as the wording stands, a *Dayabhaga* family in Bengal, although there is no survivorship among the members, would fall within the definition of an undivided family and be liable to assessment at the higher rate although the family cannot be said to be a corporation strictly. Now, My Lord, in actual practice, therefore, the law would be penalising the Hindu religion, would be placing a disability upon those following the Hindu law, and would encourage the division of Hindu families. I am not here to defend the undivided family system or to argue as to whether it would be wise to encourage division in undivided families; that is not the question before the Council, but the question is, whether we as a legislature should interfere with the usages of the people in an indirect manner and encourage division by making it their interest to do so. My humble submission is that it would not be wise or expedient or proper.

"Then, with regard to the incidence of taxation, my amendment is this, supposing it was three lakhs and four brothers. If they divided, each of them would get 75,000 rupees; each of them would be liable to pay super-tax on 25,000 rupees not at the higher rate, but one of



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the lower rates, whereas, if they continued to be an undivided family, deducting Rs. 10,000 or Rs. 20,000, the amount they may spend during that year, on the Rs. 2,90,000 or Rs. 2,80,000 they would be liable to pay at the higher rate. I submit that that would be unjust too. Therefore, I suggested that for the purposes of assessment the family should be treated as if it were divided, that only the incomes of the several members as they would have been if they had been divided should be assessed. No doubt there were some difficulties under the old Act, but those difficulties were not greatly felt so long as the tax was low. The taxes were raised only last year, and there has not been sufficient time for people to understand them or to feel them. But this is a permanent Act, the rate is very high and the consequences would be irresistible. It would lead to disruption of Hindu families. It would lead to heart-burning on the ground that there is a discrimination between Hindus and others, although I am sure the Government never meant it, and they are only following the precedent of the previous Income-tax Act. I, therefore, hope that the Government will be pleased to accept this amendment. Of course it may be said that it would be difficult to determine the shares, but in the case of a Muhammadan family, the same difficulty would arise, whether the share was  $\frac{1}{2}$  or  $\frac{1}{5}$ . There is some difficulty no doubt, but there is no essential difference in the difficulty between what the position would be in the case of an undivided Hindu family and an undivided Muhammadan family. The difficulty would be still less in the case of a *Dayabhaga* family. In any event under the existing provisions there would be real hardship, and I hope the Government and the Council will deal with the amendment sympathetically.

**The Hon'ble Pandit Madan Mohan Malaviya :—**“ My Lord, I have already stated in my note the reasons which led me to dissent from my Hon'ble colleagues on the Select Committee on the point now before the Council. I think that while the object of the Committee has without doubt been to treat undivided Hindu families as standing on the same footing as firms, owing to the peculiar constitution of the joint Hindu family, members of such families would be exposed to a serious disadvantage, unless an amendment like the one proposed by the Hon'ble Mr. Sarma is accepted. In the case of a firm as soon as profits will be paid or finally allotted to a member, they will become the separate property of the individual; so also in the case of a company as soon as dividends will be paid or declared for payment; no difficulty will arise here. But in the case of a joint Hindu family the moment any amount will be finally allotted to a member of such a family, *i.e.*, that amount will by law become the separate property of that member, and if that member should happen to die, the course of succession to the property will in many cases be diverted. Therefore, either members of a joint Hindu family must submit to a higher taxation than what the Government contemplates they should be subject to, or they must expose themselves to the danger of the breaking up of the joint-family. I know that the Committee did not intend this; I know that the Government did not intend this. I know that the Hon'ble the Law Member has been anxious to do something to remedy a defect which is obvious. I regret that when the matter was before the Select Committee, I was not able to see clearly myself what the exact form of amendment to recommend should be. I have since put it in the form in which it stands in my note, and that is the form which the Hon'ble Mr. Sarma also has suggested. I hope the amendment will commend itself to the Hon'ble the Law Member, and that Government will see their way to accept it.”

**The Hon'ble Mr. G. R. Lowndes :—**“ My Lord, I feel and have felt from the commencement that there is considerable difficulty in dealing with the case of the undivided Hindu family, because, in the first place, we get no help in dealing with a semi-corporation of that nature from the provisions of the English Super-tax Law, as such a semi-corporation does not, of course, exist there. It is an institution which is peculiar to India, and it does undoubtedly cause some difficulty in assessing anything in the nature of a super-tax.”

But the only fair way of dealing with it has appeared to us to be to put undivided Hindu families on the same footing as firms. If in India you exempt, as we do under the Super-tax Act, all kinds of agricultural income and therefore put aside what I may call the agricultural joint-families of India (which, I fancy, are very much the larger number), the only joint-families which will eventually be subject to super-tax are the trading ones, and the dividing line between a firm and a trading family is a very thin one; in fact in many aspects of the law they are already treated on exactly the same footing. They are trading associations, but instead of being a partnership at will between a certain number of persons who come together by contract as partners, they are a partnership by custom, one of the incidents of which is that when a male child is born in the partnership, he takes a definite interest in it by birth. But the nearest analogy you can get to the Hindu joint-family is undoubtedly a partnership, or what we call in this Bill a firm. Therefore, where you have a family of this sort, the only really fair way of dealing with it is to treat it on the same lines as if it were a firm. It has been treated on exactly the same footing as a firm ever since 1886 without, so far as I know, any objection. For thirty years Hindu families have been taxed exactly in the same way as firms, and the only exempting provision under the Act of 1886 was that, where a family had paid the tax, an individual member of the family should not be asked to pay it over again.

“ We have in the Super-tax Act got away from the principle of what I may call taxation at the source, namely, taxing a company on what the company makes, taxing a firm on what the firm makes, and taxing a trading Hindu family on what the family makes. We have said that we would tax in the first place the individuals. The reason for that is obvious. If you tax at the source, as you do in the Income-tax Act, you will have to give a great number of refunds. In our income-tax legislation of last year, a graduated tax was adopted. In the case of a company, where the profits are divided up among the share-holders, individual share-holders who do not come within the one-anna rate get a refund of the amount of tax over and above the particular rate which would have been applicable to them—the 5-pie rate or the 6-pie rate, or whatever it might be. It is quite obvious that if you were to adopt that principle under the Super-tax Act—and it would, I think, be the fairest of all—you would have such an enormous number of refunds to deal with, that it would be quite impossible. Therefore, we had to get away from this principle at once. Getting away from the idea of taxation at the source, we started with the principle of taxing the individual according to his income at whatever the rate of super-tax he might be liable to. But directly you come to consider the matter from this point of view, you find that there is always a residue left in the hands of these semi-corporations, *i.e.*, a company does not divide the whole of its profits, but keeps a considerable sum back and puts it to reserve. In the same way partners do not spend all the income they have made; they leave a considerable portion with the firm; and in the same way, a Hindu family, as we all know, does not spend the whole of its income, at all events in a good year, but leaves some in the family purse which goes on accumulating. Therefore, while the main idea is to tax the individuals, it is clear that you cannot let off from taxation the residue which is kept by each of these semi-corporations, and you must devise some means of taxing, to a fair extent, the reserve taken out of profits by a company, the reserve kept in the firm by the partners and the reserve in the common family purse of a Hindu family. I quite admit that the Hindu family would be entitled to divide that reserve if they chose, and in that case, if each member of the family took his own share, you could only tax the individual's share if he came within the super-tax rate. Exactly the same thing occurs in the case of a firm which, as I have said, is the nearest analogy we can get. Supposing the partners choose to divide the whole of the profits made in the year, each partner will be taxable solely on what he gets. There will be no residue in the firm, and the firm as an association will not be taxable at all, because it has put aside no reserve from the income of the year, and, exactly the same principle applies to the company. Therefore, it is clear that so far the Hindu family and the

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firm are treated on the same footing. But it is said that you will drive the Hindu family to divide in order to escape taxation. I have no doubt that my Hon'ble friend, Mr. Sarma and the Hon'ble Pandit, are taking into consideration what is a natural factor in such cases, namely, that everybody wishes to escape taxation if they can, and it may be that the Hindu family will say 'rather than pay this super-tax we will divide.' Just the same thing *may* be done by a firm. But is the ordinary business firm wiser than the Hindu family? Do you think that the firm will divide the whole of their profits merely in order to escape paying super-tax on the residue? I doubt if they will. They are very much wiser people than that. They will say that if they divide and spend they will go on making the smaller income—that follows from the smaller capital—whereas if they put aside a sum every year, they will have a larger capital, they will make a larger income, and they will have a larger amount to spend in future years and a larger amount again to put to reserve. Exactly the same line of argument applies to the company.

"Therefore, I doubt if the Hindu family will be as unwise as my Hon'ble friends seemed to think, or, if owing to its natural desire to escape taxation, it will divide the whole of its income....."

**The Hon'ble Pandit Madan Mohan Malaviya** :—"It would be a reasonable desire in the circumstances, honest and just."

**The Hon'ble Mr. G. R. Lowndes** ;—"I leave it to my Hon'ble friend to decide whether it is reasonable to desire to avoid taxation....."

**The Hon'ble Pandit Madan Mohan Malaviya** :—"Not that, but to pay only one's proper share, what is just and honest."

**The Hon'ble Mr. G. R. Lowndes** :—"To pay what the law says you have got to pay. It seems to me that what both my Hon'ble friends want, in dealing with the Hindu joint-family, is to keep the family undivided, but to give it all the advantages of being partitioned. It is the same with the firm who would say, 'we want you to treat us as if we did divide the whole of our profits; it is true we do not—we keep a common purse. Why? Because for our own purposes it is desirable to do so.' It is the same with a company—'Why tax us? Treat us as if we had divided the whole.' That is an argument you can apply to all of them; but you cannot apply it only to one of them. You cannot apply it to the Hindu joint-family and say it does not apply equally to the firm. As I have said, it seems to me that you must keep the three practically on the same footing

"But it is said that we do not do this in the case of the joint Hindu family, inasmuch as we are driving them to divide. As I have already said I doubt if they will divide, but in this I bow to the greater experience of my Hon'ble friends who have supported this amendment. They *may* in fact divide, but I again take the liberty to doubt whether we shall have driven them to do so, or, even are holding out an inducement to them to do so, and if we are, whether that is necessarily a wrong policy. My Hon'ble friends do not seem to follow the ideas of the ancients in this matter at all. The idea of the ancients was that there was merit in division. I do not want to bore the Council, but I should like to read a few words showing how this was regarded in the old days. I will read a short passage from Maine's 'Hindu Law'....."

**The Hon'ble Pandit Madan Mohan Malaviya** :—"May I interrupt my Hon'ble friend for a moment? My whole point is, whether the Government should, by means of this Act, constrain the Hindu joint-family to divide. I do not want to discuss the ethic of a divided or undivided family. I submit it is not right for the Government, when it does not want to tax a joint Hindu family more than companies or firms, that it should by the

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enactment proposed compel them either to divide or to lose the benefit of the exemption to which they are as much entitled as members of a firm or a company."

**The Hon'ble Mr. G. R. Lowndes:**—"My Lord, the argument that has been used is this, that if you tax a Hindu family in this way you, will be putting before them an inducement for division. My sole argument at this moment is that, if this is true, I am not at all sure that it is a valid objection. I have already said that I doubt if it will produce this result. But suppose my Hon'ble friends are right, having a greater experience in that respect to which I bow; supposing that is the result, I say, I doubt whether it is an argument in favour of omitting the Hindu family from the provisions of the Bill. And I am only pointing my argument, as I am fairly entitled to do, by showing what the sages have said on this point. I do not propose to trouble the Council with a long extract, but I think this may be of some interest:—

'The family feeling against partition is so strong, since what one gains all the others lose, that it is probable the usage would have had a painful struggle for existence, if it had not been supported by the strongest external influence, namely, that of the Brahmans. This support it certainly had. As long as a family remained joint, all its religious ceremonies were performed by the head. But as soon as it broke up, a multiplication of ceremonies took place, in exact ratio to the number of fractions into which it was resolved. Hence a proportionate increase of employment and emolument for the Brahmans. The Sanskrit writers are perfectly frank in advocating partition on this very ground. Manu says: 'Either let them live together, or if they desire religious rites, let them live apart, since religious duties are multiplied in separate houses, their separation is therefore legal,'—to which Kulluka (one of the ancient and important writers) adds, in a gloss, 'and even laudable.' And so Gautama (one of the sages going back to the very earliest days) says:—'If a division take place, more spiritual merit is acquired.'

"Well, I will use that as an answer to the argument, for what it is worth that supposing this gives an inducement to divide, it is a thing Government ought not to countenance.

"Let me add another point. I doubt if it will cause such an inducement, because I think the Hindu joint-family is much more practical than my Hon'ble friends seem to think. I have discussed this aspect of the case at some length with my Hon'ble friend, Pandit Malaviya. He and I had an extremely interesting discussion the other day in which I hope I was not unsympathetic even from his point of view. But after he left me I went into the figures, and I think it may interest the Council to hear the result—I will not give details but merely a *resume*, the argument being that there will be no inducement to divide. I do not say there will be none on the figures of any case, because you cannot work out things of this sort for the infinite number of combinations you may have, as the family may consist of an infinite number of members, and may be a family which spends much or little of its income. But I have taken what appears to me, and what I think appeared to the Hon'ble Pandit when we were discussing the subject, a fair average test case of a Hindu family. That is, I take a family of five, which, I think, is fairly representative, and I take a family which saves roughly one-third of its income. I will give my Hon'ble friend the benefit of the proportions taking the larger sum in all cases to the joint purse as the richer families may not spend as much as that. I think it will interest the Council to hear how it works out, merely remembering that the point I am dealing with is the argument that, if we tax them as this Bill provides, it will induce them to divide, that is, to break up the old system of the Hindu family. I start with the example which the Hon'ble Mr. Sarma took, namely, a family with an income of two lakhs, but taking a family of five and one which saves one-third of its income. If they do not divide they get Rs. 50,000 free *plus* 10 per cent. of two lakhs, *i. e.*, Rs. 70,000, and that as near as we can get, is the one-third of their income which they do not spend. Therefore, we may neglect the two-lakh family. It will neither pay if it divides, nor will it pay if it remains joint. Now take a three-lakh family with five members. The five members, if they divide, will pay Rs. 3,125. If they do not divide, they will pay

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Rs. 1,250. A four-lakh family if they divide will pay Rs. 9,375 : if they do not divide, they will pay Rs. 4,062. A five-lakh family, if they divide, will pay Rs. 15,625 : if they do not divide, they will pay Rs. 7,812. Then a ten-lakh family—I jump now to larger figures, because I do not wish to weary the Council—if they divide, will pay roughly Rs. 70,000 : if they do not divide, Rs. 50,000. A fifteen-lakh family will pay  $1\frac{1}{4}$  lakhs if they divide, and Rs. 1,34,000 if they do not divide. A twenty-lakh family, if they divide, will pay Rs. 2,50,000, and if they do not divide Rs. 1,70,000. Of course I quite admit there will be variants both ways—variants more to the advantage of the joint-family, variants less to the advantage of the joint-family. But I have taken what I think are fair average cases, and I have given the Council a rough idea of what the figures will be, I do not think therefore that any argument can be based on the practical results, that if they are taxed in the way the Bill proposes, it will really be an inducement to joint-families to divide.

“There is only one other point to which I need refer, and that is this. At the present moment we are only dealing with the past year—we are dealing with the completed year 1916, and therefore, so far as this first year goes, there can be no question of driving a family to divide, because of course what they will be taxed upon will be the actuals of the past year. It will be families who have actually divided who will pay. Families who have not divided and have made a saving in the common purse will be taxed on the savings of last year, whatever they were. So far as we are considering the future, at the end of this year, we shall undoubtedly be in a very much better position to deal with this and a good many other questions under the Super-tax Act than we are now. We really do not know how many undivided Hindu families there are who will be taxable at all.

“Personally, I venture to think they will be very few under the system which has now been accepted. Every joint-family now will have the first fifty thousand free *plus* 10 per cent. of its total income. I doubt if, with these exemptions, there will be very many Hindu families which will be taxable at all. But at all events at the end of this year, we shall be in a much better position to deal with the question. We shall know how the matter stands, and whether, as a matter of fact, there is likely to be any hardship, and if there is, I am sure that the Hon'ble the Finance Member will be quite willing to reconsider the case before the Budget is brought in next year. For the moment, I quite admit that to a great extent this is a leap in the dark. We do not know how it is going to affect joint Hindu families ; we do not desire in the least to penalise them unfairly. But as far as we can see after really a great deal of thought and a great deal of discussion, both with my Hon'ble friends and among ourselves, we have come to the conclusion that the only fair and reasonable way of treating joint Hindu families at all events for the present is to treat them like firms, and to put them on the same sort of footing as firms. But if any Member of this Council can devise a really better and more practical method of dealing with them, we shall be very glad to consider it.

“With regard to the Hon'ble Mr. Sarma's amendment, I would say at once that it is utterly impracticable. In a very recent portion of this debate, we were considering whether it would be desirable for the unfortunate Collector, who, we were then told, was a very busy man, to put more work upon him, and ask him to decide whether a person had wilfully and without justification refused to send in a return, and now we are calmly asked to put upon him the task of dividing up a joint-family's income. My Hon'ble friend would say to him ‘ It does not matter how you divide it ; your decision will not bind the family in any way. But would you kindly decide exactly what portion of its income every member of this family would have got if they had divided ? ’ I can only say that if there is one doctrine which is abhorrent to the law—and in this I am quite sure that every legal Member of this Council will support me—it is that we never deal with hypothetical cases. We never try to ascertain what a person would get if there were going to be a partition. We say ‘ sufficient unto the day is the evil thereof ’. If you want a partition

[*Mr. G. R. Lowndes ; Mr. Bhupendra Nath Basu.*] [7TH MARCH, 1917.]

go before the Courts, but do not ask them to say what share you would get if you partitioned. If my friend's idea of these hypothetical partitions were carried out, one can imagine what a throng there will be at the Collector's door from the hoary old man with one foot in the grave down to the baby at its mother's breast, all asking the unfortunate Collector 'would you please tell us how much each of us would get if we were to divide?'"

**The Hon'ble Mr. Bhupendra Nath Basu** :—"My Lord, we have listened to a very interesting discourse from my Hon'ble and learned friend, the Law Member, on the ethics and constitution and position of a Hindu joint-family. For once he has cited our ancient law-givers as throwing light on his own way. My friend objects to the word 'once'. I have no doubt that he will find considerable light and considerable comfort in the ancient institutes of the Hindu people. It is no doubt a very difficult subject to deal with, and I frankly admit that. But my friend will also admit that English jurists in dealing with Hindu institutions have often-times fallen into great errors. Take, for instance, the question of the position of a Hindu widow. A considerable amount of injury and injustice has been done in treating her interest as the interest of a life-tenant under the English law. The Hindu widow, My Lord, no doubt enjoys the income of her husband's estate, if he has died childless, for her life; but for the time being she has all the rights of a full owner, and those rights are quite distinct from the rights of a life-tenant under the English law; but nevertheless naturally English jurists who were familiar with life-tenancies in their own country fell into the error that the Hindu widow was a life-tenant, and dealt with her rights and position on that basis. Similarly—I hope my Hon'ble friend will forgive me—he has confounded an English firm with the Hindu joint-family. They are apparently similar, but they have very many points on which they are at complete variance ... .."

**The Hon'ble Mr. G. R. Lowndes** :—"Would Your Lordship allow me to intervene? I was very careful to say that I treated them as analogous. I used the word analogous over and over again with reference to them."

**The Hon'ble Mr. Bhupendra Nath Basu** :—"I thank my Hon'ble friend, but analogy is often deceptive, for the essential difference is not seen. As my Hon'ble friend knows, argument by analogy is one of the many instruments or methods which lead us into pitfalls; and I am afraid my Hon'ble friend has not been saved even from the perception of analogy from an evident pitfall which, I hope, I shall be able to expose in this Council. The position is this, My Lord. In the case of a business-firm each man has got a definite and a separate interest in the firm, and at the end of the year when the accounts of the firm are adjusted, the position of each member as regards the profits is determined. Sometimes it happens in the case of business-firms that the profits which each individual member is likely to get are not finally allotted to him; for the purposes of the business, the profits are kept along and continued to the next year. But in the case of an unfortunate (or fortunate, whichever way you look at it) Hindu joint-family, we do not know, it is difficult to predicate of any individual member of that family as to what his share is. The whole family from the old man whose time has come to retire from the world down to the babe at the mother's breast are interested, and when one member dies it is not that his sons succeed, but the survivors succeed jointly. Not until the partition comes is each share distinctly separated and allocated to particular individuals. The father and the sons together have a right, and the sons have during the life-time of the father a right—an inchoate right—which they may enforce, of having the estate partitioned between themselves and their father. I am quite sure that these are questions which will not interest this Council and questions fitter for a Court of law or for a committee of jurists than for a Council composed as we are; not that I mean to attribute to my friends opposite any want of appreciation

[7TH MARCH, 1917.] [Mr. Bhupendra Nath Basu; Mr. G. R. Lowndes.]

of difficult points, but I think that they will not take it as an offence if I say that in these matters some previous knowledge is essential.

"Then coming to this point my friend says that we have treated the firms and joint families alike. I respectfully submit that the treatment under this Bill is not alike. For in the case of the joint-family you are taxing them at the source; the Hindu joint-family, as my friend knows, for various reasons cannot easily be split up. They have continued probably for centuries and for generations, and until some disruptive force comes in, it is not likely that the joint-family does break up, especially in business families. And, therefore, the position will be that they will not be able to divide the income finally as has been proposed by this Bill; and secondly, they will have even after keeping apart the 10 per cent. to be taxed upon their income as made, and as has been said that will be taxed at the source. And that is, I submit, a very great differentiation in treatment between a firm and a Hindu joint-family. My friend has said that, even this super-tax will not lead a family to divide. Probably he is right. I hope the tenacity of Hindu family life will continue in spite of adverse legislation, but is it fair to that family, My Lord, that they should be in this way penalised, persecuted because they choose to follow ancient custom, because they do not choose to see the great advantages, religious or otherwise, which my friend puts before the public as accruing from division...."

**The Hon'ble Mr. G. R. Lowndes:**—"May I be allowed to intervene again. What I put before this Council was the great *disadvantage* of division. I leave out of consideration the religious benefits, but in regard to the worldly conditions, I read out a whole series of figures to show that the advantage was on the side of remaining joint...."

**The Hon'ble Mr. Bhupendra Nath Basu:**—"I am coming to that point; I am dealing now with the question of principle. As regards the religious merit if worship is performed in more homes than one, certainly the community would benefit. Whether the man comes in for anything concrete or not is a matter outside consideration; it is the spiritual benefit we are concerned with, and the more worship which goes on in the land by people the greater the benefit. But apart from that, and I speak with some knowledge of the institutions of my country, the feeling against partition is very great, and therefore they will continue to be penalised unless, as my Hon'ble friend says, by partitioning they will not suffer, or will, as he says now, gain an advantage. Well, My Lord, how are they to gain an advantage. In the first place, we will assume that 10 per cent. is to be set apart. But in the next place, if the total income is to be assessed, certainly they will have to pay at a higher rate. I will not go into the figures which my friend gave, but take it as an abstract proposition. You have got an income of a lakh of rupees after deducting everything which you can assess to super-tax if it is at the source. If it is distributed, say amongst five members, the super-tax goes, only income-tax remains, and therefore taking it as a simple and concrete proposition, it is evident that the people whose income will be taxed at the source will suffer more. If that was not the case, why not do the same unto others as you would be done by? Why not take the firms on the same footing? Why not tax them also at the source and see what a hue and cry there will be throughout the country? Here you have in one day or two days launched legislation on the country over which thousands of joint-families are scattered, and my friend says that he has given the matter his best consideration, and that he asks us to accept that as sufficient. Well, with all respect to my Hon'ble and learned friend, I may say it is a question which vitally affects the Hindu people all over the country. They must have some time to realise what the effects of such legislation may be upon their position, either as members of a Hindu family or in regard to their incomes, and it is not possible, having regard to the urgency of the measure, that such time should be given to them for consideration and the expression of their views. Therefore, it is all the more

[*Mr. Bhupendra Nath Basu ; Mr. J. B. Brunyate.*] [7TH MARCH, 1917.]

necessary that great caution should be exercised in this legislation, and therefore, if we take the method that has been suggested, namely, to tax them as if the families were divided, then the hardship would disappear for the time being if, as my friend says, they will be rather in an advantageous position if the proposal as now put forward were carried. I have no doubt that in the course of the ensuing year they will come forward and submit memorials to Your Excellency to have them brought on the same footing as the firms. My friend says, why not let us wait and see how this legislation affects the Hindu families, and if in the course of next year we find it has affected them seriously, we shall consider the position? I for one am very grateful to my friend for that expression of opinion. But Your Lordship knows how, once a piece of legislation is placed on the Statute-book, it is difficult to have it rectified or modified, and therefore I would go the other way. Why not treat them as you are treating firms, and if you find that there is great difficulty, or that there is a general desire for Hindu joint-families to come in and have the benefits that are secured under this Bill to firms, then you can easily legislate to bring them in?

"Then, My Lord, there is another question. My friend has said that he has used our own argument against ourselves, namely, as regards the overburdened Collector. I have some experience of these Collectors, and I know that they are very much overburdened with the work they have got to do. But what they have got to do under this amendment, if carried, is very little. The books of the firm must show, the books are generally evidence as to who are the members amongst whom the division will be made. So that my friend admits difficulty, and it is a very great difficulty affecting all Hindu families. Your Lordship can easily realise the gravity, the importance and the magnitude of a question like this, and in the course of legislation affecting only finance, we are doing what may very seriously affect Hindu life and the constitution of Hindu families. Therefore, in such a serious matter like this, I would urge on Your Excellency's Government to pause and accept for the time being the suggestions of those who may be entitled to speak either from their experience or their association on behalf of Hindu joint-families in this Council. I say the suggestions may be accepted. I do not say accept them for good, but accept them tentatively, and if you accept them tentatively, I do not suppose any great harm will be done. In the meantime Your Lordship's Government will know by next year how that legislation affects a very large class of Your Lordship's subjects, and be able to deal with the matter in the course of the next Legislative Session."

1-10 P.M.

**The Hon'ble Mr. J. B. Brunyate:**—"I am not sure, My Lord, that an important point in this matter has been fully appreciated. It underlies the figures which the Hon'ble Mr. Lowndes gave the Council a few moments ago. The general idea of the amendment is that, as an individual is exempted in respect of 50,000 rupees of his income, so if a number of individuals are compelled to be dealt with together as a joint-family, it would be right to exempt as many times 50,000 rupees as there are members of the family. I think approximately that is the idea underlying the amendment. And the argument in favour of it is that either the family must remain undivided, in which case there is a disadvantage in not getting the individual exemptions of 50,000 rupees for each person, or the tax will force them into division, in which case you are indirectly affecting a social and religious practice. The point I wish to bring out is that, though that may on one side operate as a disadvantage to the Hindu family, a Hindu family has, on the other hand, a very special advantage. The advantage is that when you tax a Hindu family as a whole, you have to treat its expenses, its domestic and purely private expenses, its houses, its motor-cars, its food and everything else, even its marriage ceremonies, as if they were business expenses. So that I say the Hindu family is in this extremely advantageous position that, if it spends its whole income from year to year as many individuals do, it will not be liable to a super-tax at all under this Bill. The Hon'ble Mr. Lowndes' figures showing liability



[7TH MARCH, 1917.] [Mr. J. B. Brunyate; Sir William Meyer; Rao Bahadur B. N. Sarma.]

to super-tax in the case of a joint-family were only arrived at by the assumption that there was a substantial saving of income every year. The particular assumption made I should think Hon'ble Members who are acquainted with the practice of Hindu joint-families would surely regard as a very fair one. The result of such assumptions is, that there would be some cases in which a family might gain by division; but, theoretically, there would be many cases, perhaps more cases, in which a family might gain by remaining joint. The whole matter becomes perhaps a little speculative, but the starting point of it all is that, whereas in all other taxation under this Bill, whether of a company, a firm, or an individual, private expenses are never allowed to be treated as expenses of business; in the case of a Hindu joint-family, its whole private expenses are treated as a deduction from the income which is taxable and, therefore, so far as it spends its income, it will pay no super-tax at all. I think that has a vital bearing on the whole matter we are now discussing."

**The Hon'ble Sir William Meyer:**—"The case has been so admirably put by the Hon'ble Mr. Lowndes and supplemented by my friend, the Hon'ble Mr. Brunyate, that I have only one thing more to say. The Hon'ble Mr. Basu talked pathetically of the way we were going thoughtlessly to upset the whole fabric of thousands and tens of thousands of Hindu families. Let me remind him once more that the agricultural families—and they are the great majority of the joint-families—are not affected at all. This Bill does not in any way tax agricultural profits. The families who are affected are the joint-families engaged in commerce, and they approximate much more closely than the ordinary families to the status of firms. We recognise that and are trying to treat them, as far as possible, in the same way as firms. In fact, as has been brought out just now by the Hon'ble Mr. Brunyate, we are treating them better, because we are allowing them to treat as deductible expenses everything that they spend. I must remind the Hon'ble Mr. Basu that, whereas the existing Act treated them simply as persons and would not give them any concession—a joint-family would get no more concession than the Hon'ble Mr. Basu himself as a single individual or any other single individual in the country would get—we, so far from imposing any new hardship, have done our best to alleviate hardships. I cannot go beyond what, after very full consideration, we have embodied in the Bill. I must, therefore, oppose the amendment." 1-23 P.M.

**The Hon'ble Rao Bahadur B. N. Sarma:**—"My Lord, the true answer to my amendment was that suggested by the Hon'ble Mr. Lowndes towards the closing part of his speech, namely, that it was felt extremely difficult during the short time at the disposal of the Government to deal with this thorny question satisfactorily, and I was grateful for the promise that was given that the matter would receive his very sympathetic attention, and that the grievances, if any, would be redressed at the earliest possible date. After that statement, I should have felt that it would be unnecessary to go into the various arguments that were advanced by him and the other Members on behalf of the Government in support of the position they took up on this Bill if they had not attempted to justify an indefensible position. I regret that it seems to have been considered the duty of the Government that they should support by weak arguments a bad case. They practically stated 'This is all that we can do this time. There is no use of taking up time; we have not got the time to give to it'. I must congratulate the Hon'ble official Members upon making the worse reason appear the better by their ability and forensic skill. But I cannot help thinking, after listening carefully to the arguments that were advanced, that our position has not been in the slightest degree assailed. I am glad that the Hon'ble Mr. Lowndes has been able to appreciate the position of the ancient Brahmin law-givers in considering it to be economically wise—at any rate economically wise for them—to divide up Hindu families; but whether it be so or not, the question is, whether these 1-25 P.M.

[ *Rao Bahadur B. N. Sarma; The President* ] [ 7TH MARCH, 1917. ]

Hindu families have been treated on the same footing as a firm or as an undivided Muhammadan family. There are two classes of cases the *Mitakshara* and the *Dayabhaga*. I likened the latter case to the case of a Muhammadan family as also to the case of a firm. Suppose a firm has four members and the profits are two lakhs of rupees. Each has Rs. 50,000. They utilise Rs. 10,000 and put the rest back as capital. If it is once converted into capital, you cannot tax it. It is not taxed at the source or at the tail. Well, I ask that the Hindu members of a family should also be treated on exactly the same footing. I say that in the case of an undivided family the position is exactly analogous to that of a Muhammadan family or a firm under those conditions, and, therefore, they should be put on the same footing as a firm in respect of income. It has been suggested that the Collector would find it difficult to ascertain what the share should be. With due respect, My Lord, I think the Collectors will be faced with another difficulty. Under the existing Hindu law, it has recently been decided by the Privy Council that the moment a member of a family says—not in writing necessarily—that he desires division it is divided, the status becomes a divided status, and you have only to come to the Collector and say 'we have divided'. The Collector must go into the evidence and ascertain when they became divided and so on. Therefore, an inquiry in the present state of the Hindu law would expose him to greater inconvenience and loss of time than if the Hindu family were treated on exactly the same footing as a Muhammadan family.

"Then it was thought that a considerable advantage would really be the result of the special treatment that has been accorded to the Hindu family. We ask, My Lord, for no favour; we ask for no discrimination in our favour. At the same time, we ask that there should be no discrimination against us. If the figures in a vast majority of cases are as suggested by the Hon'ble Mr. Lowndes, I for one would, on behalf of the general public, certainly protest against the Hon'ble the Finance Member treating Hindu families so leniently as to allow them to escape any of the just taxes to which they ought to be liable.

"Our position is that whatever it may be, whether advantageous or disadvantageous, they should be put on exactly the same footing as others. It would be useless to go into details now; we may argue the thing for hours; but we believe and can show that the Hindu joint-family will be placed in a position of considerable disadvantage by reason of this system.

"Then it was said that the expenses would be deducted in the case of a Hindu family, and that is one of the advantages which the system will confer upon the Hindu family. It will all depend on what the expenses of the family are. In the case of large incomes, it is notorious that the expenses bear no large proportion to the actual income of the family. In the case of small incomes they will bear a large proportion.

"I submit, therefore, that the earliest opportunity should be taken to revise this measure. I do not see why my amendment, as it stands at present, is unworkable in practice: all that it says is treat them as divided members. There is no difficulty about that. Then it is a question of proportion, pure and simple, to find out what each member will get, and how much of it is taxable."

**His Excellency the President:**—"I understand that the Hon'ble Member has spoken to both his amendments?"

**The Hon'ble Rao Bahadur B. N. Sarma:**—"Yes, My Lord."

**His Excellency the President:**—"Now I put them successively."

The two amendments were put and lost.

[7TH MARCH, 1917.] [Mr. K. V. Rangaswamy Ayyangar.]

**The Hon'ble Mr. K. V. Rangaswamy Ayyangar** :—“ My Lord, I am very thankful to the Hon'ble the Finance Member for allowing a concession of 10 per cent. on the taxable income when the Bill for which I have given notice of amendments was under the Select Committee. I may say it is more to oppose the principle of fixing one rate for one, and another rate for the other that I have to insist on this amendment. 1-35 P.M.

That the words 'of one anna in the rupee' be substituted for the words 'specified in the Schedule' in clause 3.

My amendment aims at fixing uniform or proportional rates for all incomes.

“ I would be failing in my duty as representing the richer classes of my Presidency were I to keep quiet from raising my voice of protest against the principles of progressive or graduated taxation, which are embodied in the present Bill. Till last year the difference in the rates of tax on smaller and larger incomes was so slight that no protest against this graduation was made. But it was only last year that any noticeable distinctions were made, and most of my constituency have come to realise the burden of the disproportionate and large variations in the rates. I cannot even myself see any equity in fixing these different rates, unless it be that Government is only adopting the famous dictum of the Marquis of Salisbury, that 'the lancet should be directed to the parts where the blood is congested'. There is a natural obligation on citizens of all conditions to contribute in proportion to their revenue or their industry, and every privilege that tends to exemption from that contribution is, perhaps, unjust and abusive. The trend of opinion among the upper classes in India has justly been against the idea of progression. I may not be quite in agreement in this matter with the democratic section of my countrymen who are the voice of the land. And apparently it was also the very reason why the Finance Minister chose this tax, as he did not want to encounter opposition on this portion of his Budget. Such of them as are not affected by the higher rates may favour a policy of progression. Socialistic ideas may also favour what seems to be the mode of relieving the poorer classes from the oppression of excessive taxation. Some may also opine that this tax may affect only the commercial classes or the richer men, but it is to be noted that due regard should be shown to the equity and justice of others' interests. Now it may be a question of progressive super-tax, but to-morrow it will be a matter of graduated land tax. The richer classes have been already insulted as middlemen and things of that kind, out of apparent sympathy for the labourers, and now by the imposition of this graduated taxation, injury is also added.

“ It may be argued that it is a question of 'least sacrifice' instead of 'equal sacrifice.' Even as regards equality of sacrifice, one eminent Economist refutes the theory, and says that the rich man's system of life on its material side is differently constituted from the poor man and that any comparison of the kind is absurd. His standard of necessities are greater in geometrical proportion. £10 of a labourer's income may mean the loss of a certain amount of alcoholic drink, the richer man by having to give up £10,000 may lose the chance of purchasing an estate, or may have to abandon some social scheme that he could otherwise have carried out. Apart from these, taxation should be in return for the peace and security one enjoys, and also proportionate to the political privileges of each section. Under our benign British rule no one enjoys better privileges than another. We see Western politicians and reformers condemning some of the Malabar laws which fix capital punishment for one class, and exempt another favoured class from that punishment for one and the same crime. Now, one cannot understand why they do not extend their imagination a little further and condemn this differential method of taxation. This certainly trifles with the assurance of equal privileges to every individual and is akin to the confiscations of the primitive days whenever one man was presumed to have fattened himself very much. Progressive taxation is already being realised in different ways, as by levy of customs duties on luxuries consumed by the rich, for example, on petrol, telegraphs, railways, as well as duties on the transfer of property and commercial transactions. Further, as observed by a high authority 'besides

[*Mr. K. V. Rangaswamy Ayyangar; Mr. M. B. Dadabhoy; Sir William Meyer.*] [7TH MARCH, 1917.]

the unproductiveness of the progressive taxes or incomes it is entirely arbitrary.'

"As has been pointed out in the Select Committee report I am afraid this principle of graduated taxation will also be a check on industrial enterprise. It will cut at the root of saving and discourage it materially. One of the greatest drawbacks under which an Indian business-man has to work is the great, sometimes insuperable, difficulty of getting large capital, and to this is mainly due the absence of industries carried on on any large scale. While it should be the duty of Government to do all they could to increase the supply of available capital, we see them working on a principle which, however well it may sound in an academic discussion, is fraught with utmost mischief, when applied to a country like India which, so far as its industrial organisation is concerned, has hardly yet emerged out of its shell. England had this tax only as late as 1910. She embarked on her progressive career long, long ago. We have to wait and see the recommendations of the Industrial Commission on this point. There is really not much of rejoicing over the preferential tariff imposed on cotton piece-goods, as many hold the opinion that this super-tax will partly neutralise those benefits.

"If it is held on account of emergent State necessities and on account of the proposal to contribute that breathless sum, as the 'Madras Times' says, of 15,000 lakhs to the mother country, these taxes have to be imposed; it is suggested, considering the extreme poverty of the land, that that gift should be reduced to a bearable sum. Though it may look graceless to stand in the way of this patriotic measure, yet the enervating thought of the economic position of our land and the check it would have on every progressive movement, makes me bold to protest against this contribution..."

**The Hon'ble Mr. M. B. Dadabhoy:**—"My Lord, I rise to a point of order. The Hon'ble Member is not confining himself to the amendment before the Council."

**His Excellency the President:**—"Yes; I trust the Hon'ble Member will not dwell at too great length on that point, but will confine himself to his own amendment."

**The Hon'ble Mr. K. V. Rangaswamy Ayyangar:**—"Even then, our Finance Member will not be at his wit's end to devise some new ways of taxation which may be equitable and proportionate. I have to put in a word of caution against introducing all these socialistic principles in a conservative country like India, and the Government may have to reproach themselves for giving room for suspicion among the wealthy and influential classes that they are being accorded an unjust and prejudicial treatment. With these remarks, I beg to move the amendment standing against my name. I think I am not aiming at too much."

1-44 P.M.

**The Hon'ble Sir William Meyer:**—"My Lord, I do not propose to detain the Council long. The Hon'ble Member wants practically to confine our super-tax to one anna in the rupee. Well, as I told the Council when I introduced the Financial Statement, our estimates of yield are necessarily rather uncertain at present, but of course we have gone on the best material we had, and we thought of other things besides the existing scale. I calculate, roughly speaking, that by making the taxation stop at one anna in the rupee, we should throw away at least a half of the revenue of £1½ million that we expect from this tax. Well, even with this revenue we only have a surplus of £180,000 at the end of the year. The money, that is, is fully allocated for the purposes explained in the Budget. Therefore, if this amendment were carried, it would mean that that money would have to be found in other ways. I explained in introducing the Financial Statement why we have drawn the extra revenue we required largely from super-tax, because we think that the rich are the persons best able to bear taxation. The Hon'ble Member has made a very refreshing oration in these democratic days:

[7TH MARCH, 1917.] [Sir William Meyer; Mr. K. V. Rangaswamy  
Ayyangar; Rai Sita Nath Ray Bahadur;  
Pandit Madan Mohan Malaviya.]

He says, 'Pity the unfortunate rich, and for Heaven's sake, if you tax any one, tax the poor.' That is the gist of the Hon'ble Member's speech. Although as I say I welcome it as an original contribution to the debate, I cannot in the least sympathise with it, and so long as I am here as Finance Member—I think I may well say so long as Your Excellency is here as Viceroy—we are going on the principle of taxing the people who are best able to bear taxation. I cannot accept the amendment before the Council."

The amendment was put lost.

**The Hon'ble Mr. K. V. Rangaswamy Ayyangar:**—"My Lord, I beg leave to withdraw the amendment standing in my name, namely, 'that the Schedule to the Bill be deleted.'"

The amendment was, by permission, withdrawn.

**The Hon'ble Rai Sita Nath Ray Bahadur:**—"My Lord, I beg leave to withdraw the amendment standing in my name, namely,—

That the following Schedule be substituted for the existing Schedule :—

In respect :—

- (1) of the first fifty thousand rupees of taxable income—nine pies in the rupee;
- (2) of the next fifty thousand rupees of taxable income—one anna in the rupee;
- (3) of the next fifty thousand rupees of taxable income—one and one-fourth annas in the rupee;
- (4) of the next fifty thousand rupees of taxable income—one and a half annas in the rupee;
- (5) of all taxable income over two lakhs of rupees—one and three-fourth annas in the rupee."

The amendment was, by permission, withdrawn.

**The Hon'ble Sir William Meyer:**—"My Lord, I move that the Bill, as amended by the Select Committee, be passed."

The motion was put and agreed to.

The Council adjourned for lunch.

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AFTER LUNCH THE HON'BLE THE VICE-PRESIDENT TOOK THE CHAIR.

## THE FINANCIAL STATEMENT, 1917-18.

### FIRST STAGE.

**The Hon'ble Sir William Meyer:**—"Sir, I beg to open the first stage of the discussion on the Financial Statement for 1917-18.

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## RESOLUTION *RE* INDIA'S CONTRIBUTION TO THE WAR.

**The Hon'ble Pandit Madan Mohan Malaviya** to move the following Resolution :—

'This Council recommends to the Governor General in Council that, in modification of the arrangement announced by the Hon'ble the Finance Member in paragraph 49 of his speech introducing the Financial Statement, the Government of India do offer to His Majesty's Government the entire amount of the Indian War Loan and 6 millions a year for the period of the war out of the proceeds of the additional taxation imposed this year and last year.'

"Sir, in rising to move the resolution of which I have given notice, I desire at the outset to make it perfectly clear not only on my behalf, but also of a con.

[ *Pandit Madan Mohan Malaviya.* ] [ 7TH MARCH, 1917. ]

siderable body of my non-official colleagues, that we are ready to bear every sacrifice which we may, in reason, be called upon to make to help England to triumph in the mighty struggle in which she has been engaged in defence of the cause of liberty and righteousness, to the extent which our limited resources and a just appreciation of the circumstances of our people render practicable. It is with no small pride and satisfaction that we have recalled the help which this country has already rendered to England in the hour of her trial. They have been well recounted by the Hon'ble the Finance Member to whom India is deeply indebted for the sagacity and courage with which he, in the face of such unreasoning criticism, has safeguarded her honour and interest during the last three years. It should hardly be necessary for me to refer to them again. But men's memories are short, and there has been a persistent and regrettable attempt on the part of some people and papers, both here and in England, to belittle the support which India has rendered to the cause of the Empire and of the Allies in this unprecedented war. While we feel grateful that our trade and security have been materially assisted by the command of the sea established by His Majesty's Navy, it seems to be forgotten in some quarters that the timely help of the troops and officers, whom India had trained and maintained for years and at enormous expense, was of inestimable value in saving the cause of the Allies from irreparable injury in the early days of the war, and that but for that help the prestige of the Empire might have been in serious jeopardy in the East. Though the actual numbers have not been published, I believe I am not wrong in saying that, since the war began, India has placed over 250,000 trained soldiers in the service of His Majesty's Government. She has rendered invaluable aid by furnishing supplies of all sorts—food-stuffs, clothing, ordnance, equipment and munitions; by training and despatching horses; by lending to the Admiralty a great part of her Royal Indian Marine fleet; and by fitting out transports. Apart from the large private subscriptions towards the several Relief and War funds. As the Hon'ble the Finance Member said in his statement the other day, our total net contribution towards the cost of the war in respect of the Expeditionary Forces is about £11½ million up to the end of the current year, and £4 million more will be added to it by the end of the next financial year. Besides this, owing to the war, our military expenditure has risen from £20½ million in 1914-15 to £25·4 million, and will amount to close on £26 million in 1917-18. We have also had to incur expenditure to the extent of £1,200,000 in Persia owing to the political situation set up there by the war. In addition to all this, we have since the beginning of the war put £46½ million into British war securities, of which, £35 million represents wholly new investment. When our unkindly critics seek to belittle our contributions to the war by comparing them with those of the self-governing Dominions, they seem to forget that unlike the Dominions, we have throughout our connection with the Empire, borne our own share of the military burdens. All this has been done not only by maintaining a high level of taxation, but by raising it higher and higher. And is it too much to ask that those who desire that India should make a further direct contribution to the war, might, in fairness to her, say so without belittling what she has already done?

"Sir, we all know that the question of such direct contribution by means of a special war loan, had been pressed upon the Government of India during the last two years, and that last year they set their face resolutely against it. And if I may say so, they had the best of reasons for doing so.

"In my humble judgment the most substantial of those reasons have neither disappeared, nor have they lost their force. The only change that has taken place is that £11½ million of our debt has been paid. But the Secretary of State and the Government of India have now come to the conclusion that it is expedient to float such a loan. That decision must now be carried out. In view of the special circumstances of the case, I support the proposal that we should make a further direct contribution to the war. I am, at one with the Government

[7TH MARCH, 1917.] [ *Pandit Madan Mohan Malaviya* ]

here. But, in the first place, I feel Sir, that I am bound in duty to enter a respectful protest against the action of the Government in arriving at such a momentous decision without giving this Council an opportunity of expressing an opinion upon its proposal. The Government have in doing so relied upon two Resolutions passed by this Council. I submit that with those resolutions before them, the Government had no reason to apprehend that the Council would not deal fairly with a proposal to render further direct aid to England in the war. Under the constitution which governs us all legislation for additional taxation must be passed by this Council. And though the Council has not the right to vote on the Budget, we have the right to move Resolutions recommending changes in the Budget. I much regret to have to say it, but in taking upon themselves to commit the country, without consulting this Council, to the burden of £100 million, the Government of India have acted in a manner which is repugnant to the spirit, if not to the letter also, of the constitution.

"In the second place, Sir, it cannot be denied that the burden is a stupendous one. It will require special high taxation to the tune of £6 million a year to be maintained for the long period of over 30 years, to discharge it. Not to talk of the United Kingdom, if we were half so rich and prosperous as the self-governing Dominions, we would have gladly undertaken such a burden. But unfortunately India is very poor. Her resources are limited. Her vital domestic needs are great and pressing. The vast mass of her population suffers from want of education. Her agriculture and industries badly need to be developed. Her extreme poverty, which is the normal condition of the vast majority of the people, and which keeps them on a low grade of vitality and thus exposes them to disease and suffering, requires to be ameliorated. For many years we have been pressing these problems of internal improvement on the Government of India, and urging them to frame large schemes, commensurate with the requirements of the situation, to carry out the necessary measures of improvement, and we have always been met by the reply that funds are not available for the purpose. We have also to remember, as the Hon'ble the Finance Member told us last year, that 'the termination of this war, when it comes, will leave us with heavy financial demands on us,' and 'that the experiences and lessons of the war must also add in some directions to our permanent military charges.' He was good enough also to remember that it was desirable that 'we should be in a position, when peace returns, or as soon after as may be, to provide further funds for such beneficent purposes as the improvement of education and sanitation.' But the proposals of the Budget leave us face to face with a situation in which for the life-time of a generation internal improvement of even the most necessary kind will be considerably hampered. In view of all these considerations—and I am speaking on this point entirely for myself—as I have indicated in my Resolution, in my humble opinion the measure of our further direct contribution to the war should have been limited to the proceeds of the Special War Loan which we are raising, and which we should all do our utmost to promote, and to the amount of six millions a year raised by the taxes imposed this year and last year, to be paid till the end of the war year. We should thus render the utmost help that we can to England by offering her as much cash as we can. But happily England does not stand in need of the support of our credit, and in my opinion the question as to how far India 'should also undertake the service of a portion of the existing war debt,' should have been left over for consideration at the end of the war in a clearer atmosphere when we should be able to take a better perspective of our fresh responsibilities of the future. But I recognize, Sir, that it is no use urging these considerations now. The Government of India and the Secretary of State have, as I have said before, come to the conclusion that in the larger interests of the Empire, with which her own political and economic future is so closely bound up, India should make 'an ultimate total special contribution of £100 million to the war,' and having given the matter my most earnest consideration and discussed it with several of my colleagues, I have come to the conclusion that we should loyally accept this decision for the present, treating it as a war measure and remembering that England is fighting for the triumph of the

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RESOLUTION *RE* GRANT FOR A MEDICAL SCHOOL IN  
SURMA VALLEY.

[*Pandit Madan Mohan Malaviya; Sir William Meyer; The Vice-President; Mr. Kamini Kumar Chanda.*] [7TH MARCH, 1917.]

principles of righteousness, liberty and justice, upon which the future happiness of all nations will so largely depend.

"I have done, Sir. In conformity with what I have said, I do not press my Resolution."

**The Hon'ble Sir William Meyer** :—" I think it would have been more graceful on the part of my friend the Pandit if, intending as he did to withdraw his Resolution, he had withdrawn it without a speech. The effect is that he makes certain statements, which I in no way accept, and then withdraws. He reminds me of the famous old cartoon in *Punch* representing Lord John Russell as a boy who wrote 'No Popery' on the wall and then ran away. As the Hon'ble Pandit, however, has withdrawn, I shall not go into the merits of the case, for I think his action shows that he is himself convinced that his Resolution would have received very little support in this Council if it had been pressed to a division."

The Resolution was, by permission, withdrawn.

**The Hon'ble the Vice-President** :—"The next Resolution on the agenda paper is the Hon'ble Mr. Sarma's, namely :—

'This Council recommends to the Governor General in Council that the entire amount of the Indian War Loan and six millions a year for the period of the war out of the proceeds of the additional taxation imposed this year and last year be utilised, if sanctioned by Parliament, in helping the successful prosecution of the war.'

As it is practically in the same terms as the Resolution which the Hon'ble Pandit has withdrawn under rule 14, the question cannot be discussed again under rule 20. I will therefore call on the Hon'ble Mr. Chanda."

## RESOLUTION *RE* GRANT FOR A MEDICAL SCHOOL IN SURMA VALLEY.

**The Hon'ble Mr. Kamini Kumar Chanda** moved the following Resolution :—

'This Council recommends to the Governor General in Council that the grant to the Assam Government be enhanced by Rs. 1,00,000 (one lakh only) under the head of Medical expenditure for the establishment of a Medical School in the Surma Valley.'

"Sir, the position in this matter is this. There is a keen desire for a medical school in the Surma Valley in Assam. The want is very keenly felt by the particular circumstances of the Province. In the Surma Valley full one-half of the population of the old Province consists of Bengalis, and they have felt some difficulty in getting admittance in any existing medical institutions in Eastern Bengal or elsewhere. In Eastern Bengal, although they were Bengalis, they were told that they should go back to their own Province of Assam. In Assam, although they are in the Province of Assam, they are not Assamese, and therefore there are difficulties which exist in regard to Assamese boys as to a medical school, so the position of the people of Surma Valley is very unfortunate. In fact, it is described by the proverb about the washerman's dog :—

'Ná ghar ká ná ghát ká.'

"This was brought to the notice of the Local Administration during the Budget debate of 1913 when the Inspector-General of Civil Hospitals, the Hon'ble Colonel Campbell, at once supported the proposal, and ultimately the matter came up to the Government of India on the recommendation of the Local Administration. But unfortunately shortly after the war broke out and the matter could not be proceeded with. There it remained for some time, but in the meantime the position has become more acute. Private medical



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SURMA VALLEY.

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institutions in Bengal, which admit a number of boys from Surma Valley, have now been penalised by recent legislation, and therefore there is no room for them. I thought I could ask the indulgence of the Hon'ble the Finance Minister and this Council to give a little money to start a school in Sylhet, the cost being thrown on the Provincial revenues. But unfortunately, Sir, last evening I received a telegram from the Assam Administration saying that they are not prepared to bear the cost of the recurring expenditure involved. In this view, I do not think I ought to take up the time of the Council by pressing this Resolution, and I ask permission to withdraw it."

The Resolution was, by permission, withdrawn.

The Council adjourned to Saturday the 10th of March at 11 A.M.

A. P. MUDDIMAN,  
*Secretary to the Government of India,*  
*Legislative Department.*

DELHI :  
The 15th March, 1917. }