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LEGISLATIVE ASSEMBLY.

Thursday, 10th November, 1938.

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

MEMBERS SWORN

Mr Bernard Richard Townsend Greer, M L A (Bombay: European);

Mr Ranendra Nath Basu, M L A (Cities of the United Provinces: Non-Muhammadan Urban),

Mr George Hemming Spence, C S I, C I E, M L A (Secretary, Legislative Department),

Mr Kodikal Sanjiva Row, C I E, M L A (Government of India: Nominated Official),

Mr Jatindra Nath Talukdar, M L A (Government of India Nominated Official),

Mr Astad Dinshaw Gorwala, M L A (Government of India Nominated Official),

Mr Subimal Dutt, M L A (Government of India Nominated Official),

Mr. Parakat Madhava Menon, M L A (Government of India Nominated Official),

Mr Parakat Achutha Menon, M L A (Government of India Nominated Official), and

Khan Bahadur Sharkh Nur Muhammad, M L A (Punjab Nominated Official)

STARRED QUESTIONS AND ANSWERS

(a) Oral Answers.

Political Situation in Waziristan

1180. *Mr. Abdul Qaiyum: Will the Foreign Secretary please state

(a) the latest political situation in Waziristan,

(b) whether normal conditions have been restored there yet, the reasons therefor,

(c) whether military operations are still in progress in that region; if so, how long they are likely to last; and

(d) whether Government have fixed any peace terms for the tribes; if so, the nature of such terms?

Sir Aubrey Metcalfe: (a) The Faqir of Ipi and other hostile leaders still decline to make peace There are a few small gangs moving about Waziristan making sporadic attacks on Government forces and property and raiding into the adjoining British districts.

(b) No, the hostility of the Faqir of Ipi and his followers is the main obstacle to the restoration of normal conditions.

(c) There are no actual operations in progress at the moment, but it is still necessary to maintain military forces additional to normal garrisons in Waziristan and these will be maintained until normal conditions are restored

(d) The tribes as a whole are not at war with Government Responsibility for the continuation of hostilities lies solely with the Faqir of Ipi and his followers who represent small disaffected elements in some of the tribes It has been made known to the tribes that no further punishment will be exacted from the Faqir and his followers provided they cease their activities and settle down peacefully and surrender all persons kidnapped without payment of ransom

Mr. Abdul Qaiyum: May I know what it is that the Faqir of Ipi wants? I want to know the point at issue between the Faqir of Ipi and the Government of India?

Sir Aubrey Metcalfe: I should be very glad to know that myself

Mr. Abdul Qaiyum: May I know if the Government forces are fighting the Faqir of Ipi without knowing what the difference is that exists between the two?

Sir Aubrey Metcalfe: The Faqir of Ipi, as I have already explained, is attacking the Government forces or is instigating attacks upon them Government are taking no aggressive action whatever

Mr. Abdul Qaiyum: May I know why he is attacking the Government forces?

Sir Aubrey Metcalfe: That is a thing which I should very much like to know Perhaps the Honourable Member can find out

Mr. Abdul Qaiyum: May I know if it is due to the fact that the Government forces are encroaching upon the territory which the Wazirs claim as their own and, therefore, the Faqir of Ipi is resisting it, it is a defensive war on his part

Sir Aubrey Metcalfe: That is an insinuation, and not a question

Mr. Abdul Qaiyum: May I know from the Honourable Member whether the Faqir of Ipi's war is a defensive war, and that his only difference with the Government of India is that he wants the Government of India to take their hands off Waziristan, and that will bring peace to Waziristan?

Sir Aubrey Metcalfe: I have already stated that the Government of India are doing no aggression whatsoever The aggression comes entirely from the Faqir of Ipi and his followers

Sardar Sant Singh: May I know if there is any truth in the rumour that the Faqir of Ipi is being supported by some foreign powers?

Sir Aubrey Metcalfe: I have not heard the rumour, and there is no foundation for it so far as I am aware.

Mr. Lalchand Navalrai: May I know from the Honourable Member if in the British operations there bombs are still being used, and, if not, may I know when they were last used?

Sir Aubrey Metcalfe: I have just said that no operations are in progress at the moment.

Mr. Abdul Qaiyum: Is it not a fact that bombing is being regularly resorted to in these operations against the tribes?

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member has said that there are no operations now

Mr. Abdul Qaiyum: Whatever punitive measures are being adopted by the Government of India skirmishes if operations does not suit them

Sir Aubrey Metcalfe: I submit that that does not arise out of this question I have explained what the position is, and that was all that I was asked to do.

Maulana Zafar Ali Khan: Are Government aware that the impression is abroad that the defence policy of the Government of India is making the question of defence a very complicated one, and are Government prepared to reconsider their defence policy?

Sir Aubrey Metcalfe: That does not arise out of this question

Mr. M. Asaf Ali: The External Affairs Secretary said that Government were not committing any act of aggression in Waziristan Is it not a fact that the agencies in Wana and Tochi and garrisons in Razmak and various other places are all in independent territory Who is committing aggression —the Government or the Faqir of Ipi?

Mr. President (The Honourable Sir Abdur Rahim) That is a matter of argument

Sir Aubrey Metcalfe: I would like to correct a mistake, namely that the territory mentioned is independent It is not independent It is a part of India.

Mr. M. Asaf Ali: May I know when exactly it became part of India, whether tribes in independent territory were consulted and when exactly it was declared that this was not independent territory, but really part of Indian territory?

Sir Aubrey Metcalfe: If the Honourable Member would take the trouble to read published documents on the subject, he would find that we have agreements with all these tribes

Mr. M. Asaf Ali: I have studied every published document that is available, and I have always found this particular territory described as independent territory.

OUTLAWS FROM BRITISH INDIA TAKING REFUGE IN TRIBAL TERRITORY.

1181. *Mr. Abdul Qaiyum: Will the Foreign Secretary please state:

(a) whether a large number of outlaws from British India have taken refuge in the tribal belt, if so, what is their total number;

(b) whether many such outlaws annually descend to the settled districts in the beginning of winter, if so, how many have so crept back this year,

(c) whether serious crimes are committed by such outlaws when they come down to the settled districts,

(d) what step or steps the authorities in charge of the tribal belt have taken to control these outlaws and to prevent their return to British India, and

(e) whether *mawajibs* are still being paid to persons who are harbouring such outlaws?

Sir Aubrey Metcalfe: (a) Yes, about 275

(b) Some of them probably return secretly to the settled districts at the beginning of winter, but it is impossible to quote any figures

(c) Such cases have occurred

(d) The steps taken depend usually on the nature of the agreements between the tribes concerned and the Government of India In some cases tribes are persuaded to send up outlaws for trial and in other cases to remove them further away from the settled districts Forcible pressure has occasionally been brought on the tribe concerned to compel compliance with our demands

(e) Allowances are as a rule withheld from any persons harbouring outlaws who give trouble in the settled districts

Mr. Abdul Qaiyum: May I know whether Government will consider the desirability of informing Political Officers that the coming back of outlaws would be considered as a mark against them in the matter of promotions?

Sir Aubrey Metcalfe: Political officers are perfectly well aware of their responsibilities in connection with outlaws, and they do their best to fulfil them

Mr. T. S. Avinashilingam Chettiar: In view of the fact that Government's policy in the tribal areas has not been successful, will they consider the advisability, in the interests of better management, of handing them over to the Provincial Government?

Sir Aubrey Metcalfe: That contains an insinuation of non-success which I am not prepared to admit

Mr. Abdul Qaiyum: Is the Honourable Member aware that the Premier of the North-West Frontier Province stated only two days ago that it is impossible to govern the province properly without control of the tribal areas? Does he or does he not agree with that statement?

Sir Aubrey Metcalfe: That question asks me for an expression of opinion which I am not prepared to give.

Mr. T. S. Avinashilingam Chettiar: May I know if Government have received any representation from the Premier of the North-West Frontier Province that he should have control of these tribal areas?

Sir Aubrey Metcalfe: I certainly have received no such representation

Mr. M. Asaf Ali: May I know if it is not a fact that all these tribal areas, which are not independent territory, are within the political control of the Deputy Commissioners? Where is the difficulty in making these Deputy Commissioners answerable to the Local Government and not to the Political Department?

Sir Aubrey Metcalfe: That is a large question of policy which I cannot be expected to answer in reply to a supplementary question

Mr. Abdul Qaiyum: May I know if the same Deputy Commissioner is responsible to the Provincial Government for the districts, and to the Central Government for the tribal areas which he administers, and that this has created a lot of trouble for the Provincial Government?

Sir Aubrey Metcalfe: The Honourable Member is again asking for an opinion of opinion which I have already said I am not prepared to give

An Honourable Member: May I know whether the policy enunciated by Mr Chamberlain cannot be successfully followed in Waziristan?

(No answer)

OPENING OF A FLAG STATION AT JASSOWAL, NORTH WESTERN RAILWAY.

1182. *Sardar Mangal Singh: Will the Honourable Member for Railways please state

(a) whether the proposal to open a new flag station at Jassowal on the Ludhiana-Dhuri-Jakhal-Hissar Line (North Western Railway) is still under consideration, and

(b) if so, when a decision is likely to be arrived at?

The Honourable Sir Thomas Stewart: (a) There is no proposal to open a flag station at Jassowal, but the question of providing an unmanned halt between Gill and Kila Raipur near Jassowal was examined in April, 1938, and found not to be commercially justifiable

(b) Does not arise.

Sardar Mangal Singh: Does the Honurable Member know that this station has already been opened on the 1st of November?

(No answer)

TRADE NEGOTIATIONS WITH THE UNITED STATES OF AMERICA

1183. *Sardar Mangal Singh: Will the Foreign Secretary please state·

(a) whether trade negotiations with the United States of America have been formally opened,

(b) if the answer to part (a) be in the affirmative, how far they have progressed,

(c) whether the Government of India are directly carrying on the negotiations, or through the United Kingdom Government; and

(d) in case, the negotiations have not yet started, when they are expected to be started?

Sir Aubrey Metcalfe: The Honourable Member's attention is invited to the replies given to question No 162 and supplementaries asked by Mr. T S Avinashilingam Chettiar on the 12th August, 1938 There have been no further developments since then, and the Government of India cannot say when formal negotiations will be started

Mr. Manu Subedar: Has the Honourable Member seen an intimation in the press to the effect that the negotiations between the United Kingdom and the United States will all be settled in a week's time?

Sir Aubrey Metcalfe: I submit that it is not a matter within my competence to answer

Mr. Manu Subedar: We were told in reply to the previous answer that correspondence is at present taking place between the Government of India and His Majesty's Government with a view to have a commercial treaty between India and the United States of America I should like to know whether independent negotiations with regard to India would take place?

Sir Aubrey Metcalfe: The Honourable Member has misunderstood my previous answer The question which he then asked was

"Will the Honourable Member assure this House that there should be no apprehension that Indian interests will be sacrificed in the negotiations which are at present going on between His Majesty's Government in England and the Government of the United States?"

To that, I replied

"So far as I know Indian interests are not involved in the negotiations"

Mr. T. S. Avinashilingam Chettiar: May I know the exact position in regard to the negotiations between the United States and this country?

Sir Aubrey Metcalfe: I have nothing to add to the answer which I gave before, because there have been no subsequent developments

WAZIRISTAN OPERATIONS

1184. *Sardar Mangal Singh: Will the Foreign Secretary please state·

(a) what extra expenditure has, so far, been incurred in connection with the Waziristan operations since 1st April, 1938;

(b) whether there is any possibility of a lasting settlement with the tribesmen, and

(c) whether any effort is being made in this direction?

Sir Aubrey Metcalfe: (a) The extra expenditure incurred between 1st April and 30th September, 1938, amounts to Rs 20 lakhs approximately

(b) and (c) The Honourable Member is referred to the reply given to part (d) of question No 1180 asked by Mr Abdul Qaiyum in the present Session

Prof. N. G. Ranga: Have the Government of India made any effort to ascertain for what particular purposes the Faqir of Ipi is carrying on this aggressive war as the Government themselves have put it, so that some settlement may be effected?

Mr. President (The Honourable Sir Abdur Rahim) That has already been answered

Prof. N. G. Ranga: This particular question has not been answered I want to know for what particular purpose he is making this aggression according to the Government?

Mr. President (The Honourable Sir Abdur Rahim) The substance of it has been answered

Prof. N. G. Ranga: I want to know whether Government have taken any particular steps to find out the reason for this aggression

Mr. President (The Honourable Sir Abdur Rahim) That has already been answered

Mr. Abdul Qaiyum: May I know if the principle of self-determination is being extended to Waziristan?

Sir Aubrey Metcalfe: That is a question of policy on which I am not prepared to enter into a discussion

Mr. Abdul Qaiyum: If the Faqir of Ipi is as strong as Hitler, will the principle be extended?

Mr. M. Asaf Ali: With reference to (b) and (c), may I know if the solution, which was tried in the case of Swat, cannot also be tried in the case of Waziristan? Swat used to be as troublesome as Waziristan is today You recognised the *Badshah* (as he calls himself) of Swat and now he is a friendly and good neighbour Can you not also recognise and consolidate the position of Ipi and secure him as a good and friendly neighbour?

Sir Aubrey Metcalfe: Sir, if you wish me to indulge in a debate on the question, I can very easily answer that question

Mr. President (The Honourable Sir Abdur Rahim) It is not necessary.

Sir Aubrey Metcalfe: but a supplementary question is not a suitable occasion for doing so

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

CONSULTATION OF THE GOVERNMENT OF INDIA DURING THE EUROPEAN CRISIS.

1185. *Sardar Mangal Singh: Will the Foreign Secretary please state

(a) whether the Government of India were consulted on any matter during the European crisis in the end of September, and

(b) what view Government expressed in the matter?

Sir Aubrey Metcalfe: (a) Yes

(b) The Honourable Member has not stated to what matter he refers and I am not therefore able to give him an answer

Mr. S. Satyamurti: May I know whether Government are not aware of the European crisis at the end of September, and whether Government say that they are ignorant of the fact of the crisis referred to concerning Czechoslovakia and the surrender of Czechoslovakia to Hitler by Chamberlain?

Sir Aubrey Metcalfe: Sir, if the Honourable Member will look at the form of the question, he will find that it merely says "during the European crisis" That lasted for about a month, and there were a great many matters on which the Government of India were consulted during that period

Mr. S. Satyamurti: Sir, the question is specifically asked whether Government were consulted during the Czechoslovakian crisis, and on the surrender of Czechoslovakia to Hitler and to Chamberlain, the Premier of a British "democratic" Government

Sir Aubrey Metcalfe: Sir, I submit for your consideration that that is a question which concerns the relations of His Majesty's Government and a foreign power, and, therefore, requires the consent of the Governor General which has not been obtained

Mr. S. Satyamurti: On that matter, Sir, I submit that the question is specifically asked, and it has been admitted, *viz* , whether the Government of India were consulted on any matters during the recent European crisis "Any matters". I submit, includes one of the matters which were most important during the European crisis, *viz* , the future of Czechoslovakia

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member's supplementary question is one which clearly affects the relations between the United Kingdom and a foreign power

Mr. S. Satyamurti: But, Sir, a question concerning a European crisis must involve such a question

Mr. President (The Honourable Sir Abdur Rahim) But it must be put in a manner which does not affect such relations.

Mr. S. Satyamurti: I am asking whether they were consulted on any matter during the European crisis at the end of September, and, if so, what the matter was?

Sir Aubrey Metcalfe: I would point out that the question is not relating to, or in connection with, that crisis it merely says "during"—which is a period of time

Mr. S. Satyamurti: I want to know whether at the end of September the Government of India were consulted on any European crisis

Sir Aubrey Metcalfe: That, Sir, is a question, which, as I have already explained, requires, in my opinion, the consent of the Governor General, which has not been obtained

Mr. S. Satyamurti: Sir, my friend says, 'there were many matters on which we were consulted"

Mr. President (The Honourable Sir Abdur Rahim) The difficulty is that the question as framed is "during the European crisis" it is not a question relating to the matter of the European crisis

Mr. S. Satyamurti: Sir, the question has to be judicially considered at the end of September, the only major question was the Czechoslovakian crisis

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member is ignoring the fact that the question was whether the Government of India were consulted on any matter during the European crisis—not in relation to any European crisis, or concerning the European crisis

Mr. Manu Subedar: May I inquire whether consultations like what took place between the Dominion Ministers and His Majesty's Government on the issue of peace or war and defence did take place between the Government of India and His Majesty's Government

Mr. President (The Honourable Sir Abdur Rahim) That, again, is not the question

Mr. K. Santhanam: May I know whether there were any consultations regarding "federation" during that period

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

INDIANS IN CZECHOSLOVAKIA

1186. ***Sardar Mangal Singh:** Will the Foreign Secretary please state

(a) whether there were any Indians in Czechoslovakia at the time of German occupation of Sudetan Land, and

(b) if so, how their interests have been affected by this change?

Sir Aubrey Metcalfe: (a) and (b) The Government of India have no information

Sardar Mangal Singh: Did the Government of India make any efforts to find out whether there were any Indians concerned?

Sir Aubrey Metcalfe: The occasion did not arise to do so, but no complaints had been received.

Mr. Lalchand Navalrai: Are the Government of India prepared to make inquiries in the interests of any Indians concerned so as to find out whether any help is needed by them?

(No answer)

INCOME AND EXPENDITURE, ETC., OF THE KALKA-SIMLA RAILWAY.

1187. *Mr. Badri Dutt Pande: Will the Honourable Member for Railways be pleased to state the following figures for the Simla-Kalka Railway.

(i) the total outlay on the line,

(ii) the total income for the last five years, and

(iii) the total expenditure during the last five years?

The Honourable Sir Thomas Stewart: (i) Rs 2,30,14,195 on 31st March, 1938

(ii) and (iii) I am placing on the table a statement giving the information required

Statement

Year	Gross earnings	Working expenses.
	Rs.	Rs.
1933-34	13,08,510	14,00,859
1934-35	14,82,856	12,65,060
1935-36	14,82,643	12,57,325
1936-37	15,58,043	12,54,643
1937-38	14,67,229	12,79,844

Mr. Badri Dutt Pande: May I know if the Kalka-Simla Railway is considered to be a productive one, a paying proposition, or otherwise?

The Honourable Sir Thomas Stewart: If the Honourable Member will look at the figures in the statement I have laid on the table, he can draw his own deductions

Mr. Badri Dutt Pande: May I know if any Government official travels on that line?

The Honourable Sir Thomas Stewart: Yes, Sir

RAMRAULI TRAIN DISASTER.

1188. *Mr. Badri Dutt Pande: (a) Will the Honourable Member for Railways be pleased to state if Government have received the report of the Senior Government Inspector of Railways on Ramrauli train disaster? If so, will a copy be available for the use of Honourable Members?

(b) Is it a fact that the accident was due to heavy fog and there being no fog signals?

(c) Whose mistake was it that there were no fog signals for being put on the line?

The Honourable Sir Thomas Stewart: (a) Yes The report has been published in the Railway Board's Accident Report No. 28, for the half year ending 31st March 1938, a copy of which is in the Library of the House

(b) I would refer the Honourable Member to paragraph 11 of the Report referred to above

(c) Fog signals were available Apparently they were not put down for this train under the circumstances explained in paragraphs 7, 8, 9 and 10 of the Senior Government Inspector's Report

Mr. Badri Dutt Pande: May I know what action Government have taken on this report?

The Honourable Sir Thomas Stewart: Government have not felt called upon to take any action on the report

Mr. Badri Dutt Pande: May I know if any compensation has been given to those who have been injured or who died?

The Honourable Sir Thomas Stewart: I would ask for notice

RETRENCHMENT ON RAILWAYS

1189. ***Mr. Manu Subedar:** (a) Will the Honourable Member for Communications please state whether his Department has received a circular from the Finance Department urging retrenchment and preventing the employment of any new person to any post which may fall vacant?

(b) Was any circular sent round by the Railway Board to the State Railways? If so, will a copy of this circular be made available to Members of this House?

(c) What are the results of the efforts made and what is the amount of saving on expenditure on each line effected as the result of these efforts?

The Honourable Sir Thomas Stewart: (a), (b) and (c) The Railway Department have seen the circular to which the Honourable Member refers. Government however consider that its terms cannot be made generally applicable to railway establishments without detriment to the revenue-earning capacity of railways and to their efficiency as a public utility service. They are examining the extent to which it can be applied to particular offices or posts on railways The latter part of (b) of the question and part (c) do not, therefore, arise

Mr. Lalchand Navalrai: May I know if the Railway Board has issued any orders in consequence of that circular, *viz*, that these officers and subordinates who are on leave should be called back and no new men should be appointed?

The Honourable Sir Thomas Stewart: No, Sir, no such order has issued.

Mr. Manu Subedar: But why, may I ask, have Government not placed a copy of this circular on the table of this House?

The Honourable Sir Thomas Stewart: The Honourable Member might ask my Honourable colleague, the Finance Member, who is more responsible in regard to that circular than I am.

Mr. Manu Subedar: May I enquire if State Railways are also doing the same thing as other Departments of Government are represented to be doing, *viz*, cutting down ruthlessly what is technically called "temporary staff" in spite of the fact that these men have in some cases done five, ten and fifteen years' service?

The Honourable Sir Thomas Stewart: No, Sir, I am not aware that any Railway Administration is engaged in any such ruthless process

Mr. Manu Subedar: May I inquire if length of service of a man will be taken into account and not merely what is technically called "temporary service" in which a man may happen to be?

The Honourable Sir Thomas Stewart: The Honourable Member, I think, is assuming that certain processes are taking place, for this there is no justification

Dr. Sir Ziauddin Ahmad: Has the Railway Board drawn the attention of the Agents to the fact that retrenchment should not be proceeded with to such an extent as to make the lives of the travelling public dangerous, because we find that a number of accidents have taken place on account of the retrenchment policy of the Government of India?

The Honourable Sir Thomas Stewart: I have already said in my answer that it is the view of the Government of India that this circular enjoining economy is not wholly applicable to the Railways, since undue economy may affect efficiency,—and in "efficiency" is included the factor of "safety" They do not consider that the process should be carried to the extent where the efficiency of the railway organizations will be affected.

Mr. Manu Subedar: May I know when the Honourable Member expects to supply the information desired in clause (c) of the question?

The Honourable Sir Thomas Stewart: I am afraid I could give no estimate of the time within which I may be able to supply this information

Prof. N. G. Ranga: With reference to this circular, do the Government of India expect to achieve any substantial economies by the end of the financial year?

The Honourable Sir Thomas Stewart: That, Sir, is a question I could not possibly answer

INDIANS IN CZECHOSLOVAKIA.

1190. *Mr. Manu Subedar: Will the Secretary for External Affairs state:

(a) whether any losses have been incurred by Indians dealing with Czechoslovakia, or living in, or travelling through the lands recently occupied, or in connection with the occupation of Austria by Germany,

(b) whether any complaints or representations have been received by Government,

(c) what is the machinery to safeguard the interests of Indian nationals, and

(d) whether there is any proposal to strengthen such machinery after the advent of Federation in India?

Sir Aubrey Metcalfe: (a) Government have no information

(b) No

(c) The interests of all British subjects, including British Indian nationals, are safeguarded in foreign countries by His Majesty's Diplomatic and Consular Representatives

(d) No

Mr. Lalchand Navalrai: My question with regard to the same subject was not fully answered May I ask what was done to protect the interests of Indians there? Will the Honourable Member make inquiries and give the information to the public?

Sir Aubrey Metcalfe: I have never observed any reluctance on the part of Indians to make complaints when they do suffer So, the assumption must be that when no complaints are received, no damage is done

Maulvi Abdur Rasheed Chaudhury: May I ask when they expect the advent of the Federation?

Sir Aubrey Metcalfe: That does not arise out of this question

Mr. Manu Subedar: May I ask whether there is a proposal to put Indian attachés to His Majesty's Diplomatic Representatives in important centres in order to safeguard the Indian interests?

Mr. President (The Honourable Sir Abdur Rahim): That is a larger question, and it does not arise

Mr. Manu Subedar: It does arise, Sir, in the sense that when there is the Federation, whether the same position of Indians will remain in the foreign countries or whether some new machinery will be set up to safeguard the Indian interests?

Mr. President (The Honourable Sir Abdur Rahim) That is a hypothetical question

DRIVERS ON THE BENGAL NAGPUR RAILWAY.

1191. *Mr. P. R. Damzen: Will the Honourable Member for Railways state

(a) whether the number of locomotive drivers employed on the Bengal Nagpur Railway is adequate to deal with the work,

(b) whether privilege leave is being refused to drivers on some sections on the plea that there is a shortage of drivers, and

(c) whether the question of increasing the number of drivers on all sections will receive the attention of the Railway Administration, so that sufficient staff is maintained to supply the demands of traffic and allow leave to be granted to those drivers who are entitled to leave, when applied for by them?

The Honourable Sir Thomas Stewart: With your permission, Sir, I propose to reply to starred questions Nos 1191, 1192 and 1193 together

These relate to matters of detailed administration on which Government have no information I may add for the information of the Honourable Member that the staff employed on this Railway are not Government servants but are the servants of the Bengal Nagpur Railway, which is Company-managed I am, however, sending copies of these questions to the Agent and General Manager for such action as he may consider necessary.

Mr. Mohan Lal Saksena: Is it not the duty of the Government to see that proper staff is provided by the Company-managed Railways to look to the safety of life of the travelling public?

The Honourable Sir Thomas Stewart: No, Sir, The Railway Administrations are autonomous

Mr. K. Santhanam: May I ask whether any hours of work have been prescribed for these drivers of locomotives?

The Honourable Sir Thomas Stewart: I ask for notice of that question

Mr. Mohan Lal Saksena: In this very question it is given that some of these drivers have to work 42 days as over-time Is that allowed under the Government rules?

The Honourable Sir Thomas Stewart: I must ask for notice of this question It is a question that is related to the one asked by the Honourable Member opposite

Prof. N. G. Ranga: Is not the safety of the travelling public one of the major concerns of the Government of India and of the Railway Board?

(No answer)

DRIVERS ON THE BENGAL NAGPUR RAILWAY

†1192. *Mr. P. R. Damzen: Will the Honourable Member for Railways state·

(a) whether it is a fact that the Chief Mechanical Engineer of the Bengal Nagpur Railway has issued a circular to the effect that employees who earn privilege leave cannot expect to be granted this leave, even if the necessary rules governing the period of application and other regulations are complied with by the applicants,

(b) whether he is aware that this circular has been necessitated by the insufficient number of drivers who are employed by the Bengal Nagpur Railway Administration, and

(c) whether the Honourable Member will give this matter his consideration and protect the employees from this injustice?

DRIVERS ON THE BENGAL NAGPUR RAILWAY

†1193. *Mr. P. R. Damzen: Will the Honourable Member for Railways state

(a) whether it is a fact that due to insufficiency of the number of drivers on the Bengal Nagpur Railway, those men who are doing the work are being compelled to work without their full allowance for rest and are therefore being paid under the caption of 'breach of rest',

(b) whether it is a fact that drivers employed on the Benga Nagpur Railway are earning as much as 42 to 45 days overtime in a thirty day month after putting in the full period of 208 hours of work during the month, and

(c) whether in the interests of safe working, the Honourable Member proposes to see that sufficient drivers are employed on all sections of the Bengal Nagpur Railway and that drivers are not compelled to work overtime constantly?

AMOUNT GRANTED TO ROAD FUND AND DEVELOPMENT OF ROADS IN BENGAL.

‡1194. *Maulvi Sikandar Ali Choudhury: (a) Will the Honourable the Communications Member be pleased to state the amount which was granted to Bengal Road Fund during the past two years?

(b) Are Government aware that the major portion of this amount was spent for some other purpose than the improvement of roads in Bengal?

(c) If so, do Government propose to take any steps in the matter and see that the money is spent for the right purpose, *i.e.*, road development? If not, why not?

(d) Are Government prepared to lay on the table of the House a statement of grant and expenses in this connection for the past two years?

The Honourable Sir Thomas Stewart: (a) and (d) In 1936-37 and 1937-38 the provincial allocation was Rs 15·70 and Rs 15 86 lakhs, and expenditure Rs. 10 98 and Rs 9·69 lakhs, respectively

(b) No

(c) Does not arise.

†For answer to this question, *see* answer to question No 1911

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

PROFIT OR LOSS ON THE WORKING OF THE KALKA-SIMLA RAILWAY.

1195. *Mr. K. Santhanam: Will the Honourable Member for Railways please state

(a) how many tickets of the various classes were issued at Simla station to Kalka and beyond between 1st September and 31st

(b) how many tickets of each class would have been issued if all Government servants going from Simla to Delhi at Government expense had to travel by railway;

(c) the net profit or loss on the working of the Simla-Kalka Railway during 1936-37 and 1937-38, and

(d) the probable effect on the revenues of this line if the entire annual exodus of the Government of India to Simla and back were conducted solely by railway transport?

The Honourable Sir Thomas Stewart: (a) First class 542; second class 1,716, intermediate class 935, third class 11,003

(b) and (d) The information is not available, and its compilation would involve more time and labour than is commensurate with any use to which the figures could be put

(c) Gross earnings exceeded working expenses by about three lakhs in 1936-37 and by about two lakhs in 1937-38

Mr. K. Santhanam: May I ask if there will be any substantial addition to the revenues of the Government if Government servants are granted passes instead of monetary compensation as travelling expenses?

The Honourable Sir Thomas Stewart: If the Honourable Member means to suggest that if more passengers travel, then the earnings would be higher, then I fully agree with him

Mr. K. Santhanam: My question is whether the Honourable Member is aware that owing to the present policy of the Government of India much revenue is being lost to this line because they give monetary travelling allowances instead of the railway passes during the annual exodus?

The Honourable Sir Thomas Stewart: Is it the Honourable Member's suggestion that it should be made compulsory on all Government servants to travel by rail?

Mr. K. Santhanam: I want to know if the Honourable Member has considered the desirability and impressed upon the Government of India that the grant of railway passes will increase the Government revenues of the particular line in question?

The Honourable Sir Thomas Stewart: It is inconceivable that one should impose such an ordinance on Government servants alone If the Honourable Member is prepared to consider the advisability of making the ordinance universal, then I will put it to the Government of India

Mr. K. Santhanam: My suggestion is that whenever the Government of India pays travelling expenses, it should give only railway passes. I do not see any difficulty or impracticability in that.

The Honourable Sir Thomas Stewart: That is not a question that should be addressed to the Member in charge of the Railways.

Mr. K. Santhanam: May I know if it is not a question of the railway finances?

The Honourable Sir Thomas Stewart: Only ultimately

Mr. Manu Subedar: May I ask what steps have been taken to meet the motor competition with regard to the Kalka-Simla Railway?

The Honourable Sir Thomas Stewart: That, I submit, does not arise from the original question

Mr. Manu Subedar: It arises from part (d) of the question—the probable effect on the revenues of this line, etc.

Mr. President (The Honourable Sir Abdur Rahim) That is too wide a question

Mr. Manu Subedar: It is only another aspect of the question which Mr Santhanam has asked.

Mr. President (The Honourable Sir Abdur Rahim) I do not find any allusion to the motor competition here

Mr. S. Satyamurti: Will the Honourable Member consider the desirability of accepting the suggestion contained in clause (d) of the question, namely, the entire annual exodus of the Government of India to Simla and back be conducted solely by railway transport, because it is in the interests of the finances of the Government of India?

The Honourable Sir James Grigg: Will you do it?

Mr. S. Satyamurti: I will co-operate willingly

The Honourable Sir Thomas Stewart: I am not prepared to press it.

TAKING OVER BY THE POSTAL DEPARTMENT OF TELEPHONE SYSTEMS IN MADRAS CITY AND OTHER PLACES.

1196. *Mr. K. Santhanam: Will the Honourable Member for Communications please state·

(a) whether it is a fact that the Madras Telephone Company has enquired whether on the expiry of the present contract, the telephone system of the city of Madras will be taken over by the Postal Department;

(b) whether any reply has been sent; and

(c) whether the Government of India have reached any decision that all the existing telephone systems under private ownership or control shall be taken over by the Postal Department and that no new licences to private companies shall be issued?

The Honourable Sir Thomas Stewart: (a) Yes

(b) and (c) No

Mr. K. Santhanam: May I ask if the matter is under the active consideration of the Government?

The Honourable Sir Thomas Stewart: It is

Mr. K. Santhanam: May I ask if they will be arriving at any conclusion in the near future?

The Honourable Sir Thomas Stewart: I trust they will arrive at a conclusion in the reasonably near future

INDIANS IN CZECHOSLOVAKIA.

1197. *Mr. K. Santhanam: Will the Foreign Secretary please state

(a) whether there are any Indians doing business in that part of Czechoslovakia which has now been occupied by Germany;

(b) whether their position or business has been affected, and if so, in what manner, by the recent political changes; and

(c) what steps, if any, have been taken by the Government of India to protect them?

Sir Aubrey Metcalfe: (a) and (b) The Government of India have no information

(c) Does not arise

Mr. K. Santhanam: May I ask if there is any machinery of the Government of India to keep in touch with the Indians doing business in other parts of the world?

Sir Aubrey Metcalfe: I do not exactly know what the Honourable Member means by mission There is certainly no Indian mission in Czechoslovakia

Mr. K. Santhanam: I did not say 'mission' I want to know whether there is any machinery of the Government of India to keep in touch with the business of the Indians in other parts of the world?

Sir Aubrey Metcalfe: Certainly there is I have already explained that the interests of Indians are being looked after by His Majesty's Diplomatic and Consular Representatives

Mr. K. Santhanam: May I ask if the Government of India get periodical reports from these persons who are entrusted with the duty of protecting the interests of Indians doing business in other parts of the world?

Sir Aubrey Metcalfe: If it becomes necessary, we do make inquiries, but there has been no hint at present that the Indians are suffering at all in Czechoslovakia and it hardly seems necessary to make inquiries simply to find out if they have any grievances

INDIANS IN PALESTINE.

1198. *Mr. K. Santhanam: Will the Foreign Secretary please state.

(a) how many Indians are there in Palestine engaged in business;

(b) whether any of them has been injured in the recent troubles; and

(c) whether any special restrictions on the issue of passports to Palestine are imposed on account of these troubles?

Sir Aubrey Metcalfe: (a) There are reported to be from 50 to 60 Indians living in Jerusalem It has not been possible to ascertain how many there are in the rest of Palestine.

(b) Two persons believed to be Indians have been killed and one slightly wounded

(c) So far as the Government of India are concerned, there are no special restrictions on the issue of passports to Palestine.

Mr. K. Santhanam: With reference to the answer to part (b) of the question, may I know whether any compensation has been obtained for the relatives of persons who were killed?

Sir Aubrey Metcalfe: Not so far as I know No compensation has been claimed I may add that one of the two persons was a British protected person holding a Tanganyika passport and the other was also a British protected person holding a Muscat passport, but they were actually recognised as British Indian subjects

Mr. Abdul Qaiyum: With reference to part (b), may I know who was responsible for killing these Indians—the Government forces or the Arabs or the Jews?

Mr. Aubrey Metcalfe: The only report that I have is that they were mortally wounded when travelling in a taxi which was fired at by persons unknown

Mr. T. S. Avinashilingam Chettiar: May I know whether in the matter of claiming compensation for loss of life or property in foreign land the Government wait till the claims are put in or whether Government take action of their own accord seeing that loss has been suffered?

Sir Aubrey Metcalfe: It is difficult for Government to claim compensation on behalf of people regarding whose heirs they have no information at all.

Mr. T. S. Avinashilingam Chettiar: May I know if there is any agency in Palestine to which the people who claim compensation could apply?

Sir Aubrey Metcalfe: There is the High Commissioner in Palestine to whom any one can apply for compensation.

ACCIDENT TO THE PUNJAB EXPRESS NEAR PATNA.

1199. *Mr. Abdul Qaiyum: Will the Honourable Member for Railways please state·

(a) the loss of life arising from the accident in which 18-Down Punjab Express was involved on the morning of the 16th October near Patna;

(b) what was the cause of the accident;

(c) whether other similar accidents have occurred near this locality recently;

(d) whether there has been any reduction in the number of staff who used to look after the line;

(e) whether compensation will be paid to those who suffered; and

(f) the steps taken or proposed to be taken to eliminate the possibility of such accidents?

The Honourable Sir Thomas Stewart: (a) Three

(b) The malicious removal of a rail

(c) No

(d) There has been no reduction within the last six years

(e) No.

(f) Prosecution of those against whom there is evidence of complicity in such cases is the only practicable action which can be, and is, taken in each case as it arises

Mr. Abdul Qaiyum: Has anybody been prosecuted or convicted in connection with this malicious removal of rails?

The Honourable Sir Thomas Stewart: Not so far as I am aware.

Mr. Abdul Qaiyum: May I know why Government will not award compensation to the heirs of those who have been killed especially when the rails were removed maliciously?

The Honourable Sir Thomas Stewart: They were not removed by Government.

Mr. Abdul Qaiyum: Probably the malicious removal of the rails was due to the negligence of those who were deputed to look after them. I think it is due to the negligence of the Government that this malicious removal took place.

The Honourable Sir Thomas Stewart: The Honourable Member is entitled to his own opinion.

Prof. N. G. Ranga: What steps do Government propose to take to prevent this kind of removal of rails?

The Honourable Sir Thomas Stewart: It is not the duty of the Government of India to preserve law and order in the Provinces

Mr. Abdul Qaiyum: Is it or is it not a fact that the removal of the rails could not be detected because of the inadequacy of the staff?

The Honourable Sir Thomas Stewart: No, Sir.

Prof. N. G. Ranga: Are Government aware that if this view of the Honourable Member goes abroad, people will be afraid to enter into trains because the rails may be removed anywhere and compensation may not be paid at all by the Government for those who suffer in the railway accident?

The Honourable Sir Thomas Stewart: It is not my belief that people enter trains with a view to get compensation after accidents

Prof. N. G. Ranga: How is it that the Government of India become so irresponsible . . . .

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member is making a speech Next question

RENTS PAID BY INDIAN AND EUROPEAN REFRESHMENT ROOMS ON RAILWAYS.

1200. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Railway Member state

(a) whether Government have finished consideration of the matter whether the Indian and European refreshment rooms are paying nominal or economic rent;

(b) how many of them were paying nominal rent in the last financial year; and

(c) what was the probable loss to the railways by charging them nominal rents instead of economic rents?

The Honourable Sir Thomas Stewart: (a) No

(b) I would refer the Honourable Member to the reply given to parts (a) to (c) of Mr Satyamurti's starred question No. 1088 on the 16th September, 1938. The information which it was then said would be called for has not yet been received

(c) Does not arise

Mr. S. Satyamurti: Why is there such inordinate delay on the part of the Government in getting information from railways? Why should months elapse, if not years, before getting the information? Why should they not have some other and more expeditious method of getting the information?

The Honourable Sir Thomas Stewart: The date on which the reply was given to the Honourable Member was 16th September. I should be reluctant to admit that the delay has been inordinate.

Mr. T. S. Avinashilingam Chettiar: Is it a fact that the European refreshment rooms are being charged nominal rents?

The Honourable Sir Thomas Stewart: If the Honourable Member will refer to the answer given to the question put by Mr Satyamurti, he will get all the information available

Mr. T. S. Avinashilingam Chettiar: One of the answers then given was that the European refreshment rooms were charged nominal rent In view of this may I know whether the Government will expedite this matter and see that a just arrangement is come to very soon

The Honourable Sir Thomas Stewart: I undertake to see that there is no inordinate delay.

Mr. Abdul Qaiyum: Apart from any question of expenditure what is there to prevent Government from charging economic rents?

The Honourable Sir Thomas Stewart: If the Honourable Member will refer to the answer which was given to Mr Satyamurti's question on 16th September, he will get the information he wants

RESERVATION FOR EUROPEANS FOR POSTS ON INDIAN RAILWAYS

1201. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member for Communications state:

(a) when the statutory reservation of 25 per cent for Europeans for posts in Indian Railways was fixed (reference to starred question No. 862 of the 8th September, 1938);

(b) whether Government have considered the advisability of reconsidering this matter, in view of qualified Indians being available for those posts; and

(c) which are the posts to which this reservation applies?

The Honourable Sir Thomas Stewart: (a) As the outcome of the Lee Commission's Report, Government decided in 1925 that the recruitment to Superior Railway Services should be made on the basis of 75 per cent. Indians and 25 per cent. Europeans. This proportion is not statutory

(b) The matter has been considered by Government on more than one occasion The last occasion was in 1937 when it was decided that this proportion should be continued for the present. I would also refer the Honourable Member to my speech of 24th February, 1938, appearing at pages 1118-19 of the Legislative Assembly Debates of that date

(c) The proportion referred to in part (a) applies to all Superior Railway Services

Mr. T. S. Avinashilingam Chettiar: What were the reasons which made them come to that conclusion in 1937?

The Honourable Sir Thomas Stewart: If the Honourable Member will refer to the speech I cited, he will get the views of the Government of India on this subject

Mr. S. Satyamurti: May I know whether Government came to that conclusion, in view of qualified Indians not being available for these posts, or in view of their touching faith in race?

The Honourable Sir Thomas Stewart: Neither suggestion of the Honourable Member is correct

Mr. S. Satyamurti: May I know whether the Government have come to the conclusion that, in spite of qualified Indians being available for these posts, 25 per cent Europeans ought to continue?

The Honourable Sir Thomas Stewart: Government have decided to continue the proportion of 75 per cent and 25 per cent. on the ground that it is in the interest of efficiency of railways

Mr. S. Satyamurti: Have Government come to the conclusion that Indians, if they are more than 75 per cent in the superior services, will introduce inefficiency and 25 per cent Europeans will be necessary for efficiency? If so, for what reasons?

The Honourable Sir Thomas Stewart: I do not know that the Government of India are wedded to a strict 75 per cent and 25 per cent basis But it is the figure to which they work and they are of opinion that such distribution makes for the efficiency of railways

Mr. Muhammad Azhar Ali: Is this 25 per cent equal to the recruitment of Muslims in the Government service?

The Honourable Sir Thomas Stewart: The recruitment of Muslims is governed by the Home Department Resolution of 1934

Mr. T. S. Avinashilingam Chettiar: For how many years have they fixed this proportion?

The Honourable Sir Thomas Stewart. The proportion was fixed in 1925

Mr. M. S. Aney: When do the Government of India expect to end this 25 per cent of Europeans?

The Honourable Sir Thomas Stewart: To that question I can give no reply

Dr. Sir Ziauddin Ahmad: In how many years do Government think that the proportion of 25 per cent Muslims will be achieved in railways? Will it be achieved in a century?

The Honourable Sir Thomas Stewart: To that question also I can give no reply

Mr. Manu Subedar: Is it a fact that in certain sections, particularly in connection with workshops and certain technical posts, a disproportionately large number of Europeans, much larger than 25 per cent., is in fact being recruited?

The Honourable Sir Thomas Stewart: This 25 per cent. refers entirely to the superior railway services and not to railway workshops

Mr. Manu Subedar: Is it not a fact that, on this plea that this 25 per cent. restriction on European recruitment is only for the superior services, cent. per cent of certain classes of railway workshop employees is being brought out from England? That is the point

The Honourable Sir Thomas Stewart: If the Honourable Member wishes to have information regarding any other category of employees, I should be glad if he will put down a question on the notice paper

Mr. Lalchand Navalrai: When considering this question in 1937, were any reasons given for fixing this ratio and, if so, is there any statement or book in which those reasons are set out?

The Honourable Sir Thomas Stewart: I am afraid I am unaware of any document of the sort to which the Honourable Member refers

PURCHASE OF STORES BY PORT TRUSTS

†**1202. *Mr. Sami Vencatachelam Chetty:** (a) Will the Honourable Member for Communications please state if it is a fact that the Port Trust Boards, or, at any rate, the Madras Port Trust Board, have a purchasing agent in England for the purchase of stores?

(b) If so, what are the charges borne on his account for the last five years, and what are his functions?

(c) What are the total values of purchases during the last five years of all the major ports in India and outside India?

(d) Why have not the major ports been asked to make their purchases through the Indian Stores Department?

(e) Have the major ports adopted the latest rules of the Government of India in regard to indigenous and foreign manufactures?

The Honourable Sir Thomas Stewart: (a) to (c) and (e) Information is being collected and will be laid on the table in due course

(d) The Rules for the Supply of Articles required to be purchased for the Public Service have already been brought to the notice of the various major port authorities in India

INCONVENIENCES AT SILCHAR STATION ON THE ASSAM BENGAL RAILWAY.

1203. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state

(a) whether the complaints appearing in the *Anandabazar Patrika* of the 20th October, 1938, regarding Silchar station, Assam Bengal Railway, (i) absence of platform on the second line, (ii) insufficient lighting inside the station and at the entrance to the station near the taxi-stand, are substantially correct, if so, what steps are contemplated for removal of the complaints;

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

(b) whether Silchar is a district town and terminus of the Badarpur-Silchar Branch,

(c) whether there is more traffic on Badarpur-Silchar Branch line than on the main line from Badarpur towards Lumding,

(d) whether there is any classification of stations on the Assam Bengal Railway, if so, to which class is Silchar assigned; and what are the general requirements for boarding-train facilities and for lighting in that class, and

(e) whether Silchar possesses those requirements?

The Honourable Sir Thomas Stewart: Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course

ACCIDENTS IN SYLHET AND CACHAR ON THE ASSAM BENGAL RAILWAY

1204. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state

(a) whether the railway accidents described in the Government publication "India in 1934-35" include those killed or injured by running trains,

(b) whether any person has been killed or seriously injured on the railway in the Sylhet and Cachar districts since the reply was given in this House to starred question No 511 on the 26th August, 1938,

(c) the total number of railway casualties in Sylhet and Cachar since the beginning of the railway year, as against similar total for the whole of Indian Railways, and also as against the total for unfenced railways,

(d) whether the railways in Sylhet and Cachar are generally unfenced, except some of the station premises, the lengths unfenced in Sylhet and Cachar and in India,

(e) whether the running over accidents in Sylhet and Cachar above referred to mostly happened by trains other than mail or express trains,

(f) whether on the Assam Bengal Railway the more competent and responsible drivers are sorted out for the mail trains,

(g) the highest and lowest and average salary of drivers on the Assam Bengal Railway, and the corresponding figures for the Eastern Bengal Railway, and

(h) the salaries of the drivers of trains, which caused the accidents referred to in starred question No 511 of the 26th August, 1938, and the years of experience of each?

The Honourable Sir Thomas Stewart: (a) No. Detailed figures appear in the Railway Board's Annual Report on Indian Railways for 1934-35, Volume II, pages 237-269, a copy of which is in the Library of the House.

(b) to (h) I am calling for such particulars relating to the Assam Bengal Railway as are readily available or can be compiled without undue labour and will place a further reply on the table of the House when

these have been received Comparative figures relating to the whole of the Indian Railways, as asked for in parts (c) and (d), are not available and their compilation would involve more time and labour than are commensurate with any use to which these figures could be put

INCLUSION OF WOMEN IN RAILWAY ADVISORY BOARDS

1205. *Shrimati K. Radha Bai Subbarayan: Will the Honourable Member for Railways be pleased to state

(a) the number of Railway Advisory Boards in British India,

(b) how many, if any, of them have women serving on them, and

(c) whether Government are prepared to take immediate steps to include women on all such Boards?

The Honourable Sir Thomas Stewart: (a) Twenty-one, excluding the Central Advisory Council for Railways

(b) None

(c) I would refer the Honourable Member to the Railway Board's Memorandum No 446-T /II, following page 53 of the "Summary of the Proceedings of the Meetings of the Central Advisory Council for Railways" held at Simla on the 3rd and 8th October, 1936 It will be seen therefrom that there is nothing to preclude either the election or nomination of women to seats on these Committees

DISLOCATION OF RAILWAY AND POSTAL TRAFFIC BETWEEN BONGAIGAON AND BIJNI

1206. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state

(a) whether the complaints by Mr P K. Gupta in the *Hindusthan Standard* of the 17th September, 1938, regarding dislocation of railway and postal traffic for three months up to the date of complaint after the breach between Bongaigaon and Bijni, are true,

(b) whether normal conditions have since been restored, if so, from which date,

(c) the reasons why the traffic during dislocation was not diverted by steamer *via* Dhubri, *i e*, the old route;

(d) whether the old route was not speedier and surer service, and

(e) whether he is aware that this railway is the outlet of Assam valley to the outside world?

The Honourable Sir Thomas Stewart: (a) I have not yet been able to get a copy of the newspaper referred to.

(b) Yes from the 29th October, 1938

(c) and (d). I have called for information and will lay a further reply on the table of the House when it is received

(e) I am prepared to accept this from the Honourable Member

Sardar Sant Singh: Do I understand that the Government Publicity Department do not get this paper?

The Honourable Sir Thomas Stewart: I must assume so, since we have been unable to get a copy of it.

Mr. Muhammad Azhar Ali: Do Government mean that they are not at all aware of this accident between Bongaigaon and Bijni, apart from the paper referred to?

The Honourable Sir Thomas Stewart: Certainly they are that is inherent in my reply I have said that the normal working has been resumed from a certain date

Mr. Brojendra Narayan Chaudhury: Did not the Honourable Member receive the newspaper cutting which I sent along with the notice of the question?

The Honourable Sir Thomas Stewart: No. I did not get a copy of the cutting

Mr. Brojendra Narayan Chaudhury: I remember to have supplied a copy of the cutting along with the question

OVERCHARGE ON RETURN TICKETS BETWEEN CALCUTTA AND MYMENSINGH

1297. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state

(a) whether the attention of the Eastern Bengal Railway authorities has been drawn to the complaint by Mr N K Roy in the *Anandabazar Patrika* of the 4th *Kartik* last, that in violation of the terms of the *Puja* concession, return tickets between Calcutta and Mymensingh have been overcharged,

(b) whether it is intended to refund the overcharge to the passengers, if so, how it is to be done, and

(c) whether steps are being taken to fix responsibility for the mistake and to ensure completely that such mistakes do not happen in future?

The Honourable Sir Thomas Stewart: (a) I have not seen the complaints referred to, but the General Manager, Eastern Bengal Railway, states that his attention has been drawn to it

(b) and (c) The question of whether there has been any overcharge is being investigated by the Administration If there has been an overcharge, refunds will be arranged in the usual manner on claims that are established

Mr. Brojendra Narayan Chaudhury: Is the Honourable Member aware that the Traffic Manager has written to the complainant, Mr Roy, admitting that he has been overcharged?

The Honourable Sir Thomas Stewart: I was not so aware, but I am very happy to have had brought to my notice this instance of courtesy on the part of the Manager

Mr. Brojendra Narayan Chaudhury: I have not got a reply to my question, part (d), as to how the payment is to be made?

The Honourable Sir Thomas Stewart: Presumably those entitled to refund will make an application to the railways concerned

Mr. Brojendra Narayan Chaudhury: How will the railway administration examine whether the claims for refund are correct or not?

The Honourable Sir Thomas Stewart: I cannot be expected to expound the details of getting a refund from a railway company

OPENING OF THE BROADCASTING STATION AT TRICHINOPOLY.

1208. ***Mr. S. Satyamurti:** Will the Honourable Member for Communications be pleased to state·

(a) whether any decision has been reached with regard to the Broadcasting Station at Trichinopoly,

(b) whether it is proposed to postpone the opening of the station; if so, why,

(c) whether all or part of the machinery has been ordered, and whether some appointments also have been made already, and

(d) whether Government are prepared to consider the advisability of opening the station as early as possible in view of the rise in the number of private licences, after the opening of the Madras station?

The Honourable Sir Thomas Stewart: (a), (b) and (d) The question whether, in view of the need for economy, the opening of the Trichinopoly Station should be postponed is under the consideration of Government. The aspect of the question to which the Honourable Member has referred in part (d) of the question will receive due consideration.

(c) All the machinery has been ordered and received Selection has been made for some of the posts for the Station

Mr. S. Satyamurti: In considering and deciding this question, may I know whether the Government will consider that postponing the opening of this station after the machinery has been ordered and received will involve depreciation of the machinery?

The Honourable Sir Thomas Stewart: Yes that is certainly one consideration that must be taken into account

Mr. S. Satyamurti: May I know whether Government will also bear in mind that after the opening of the station in Madras, the number of private licences has gone up, and that the opening of the Trichinopoly station will accelerate the process and bring increased revenue to the Department?

The Honourable Sir Thomas Stewart: That is a very relevant consideration

AYYALUR TRAIN DISASTER ON THE SOUTH INDIAN RAILWAY.

1209. *Mr. S. Satyamurti: Will the Honourable Member for Railways be pleased to state·

(a) whether he has received the reports of the enquiry into the Ayyalur train disaster of the South Indian Railway,

(b) whether Government have come to any conclusions with regard to any judicial enquiry as in the case of the Bihta disaster, and

(c) whether compensation has been paid to the victims of the disaster, that is, to all those injured and to the survivors of those who died; if so, how much, if not, why not?

The Honourable Sir Thomas Stewart: A report from the Senior Government Inspector has been received

(b) A judicial enquiry of the nature suggested does not appear to be called for A magisterial enquiry has been held

(c) The question of the payment of compensation can only arise when a decision is reached in regard to the responsibility for the accident

Mr. S. Satyamurti: With reference to the answers to clauses (b) and (c) of the question, may I know whether the Government are satisfied that a mere magisterial inquiry will finally decide, especially for the purpose of paying compensation, the question of liability for the accident?

The Honourable Sir Thomas Stewart: I am unable to answer that question until I have seen the report of the magisterial inquiry

Mr. S. Satyamurti: May I know whether Government have found in the report that they have already received that the accident was partly due to the absence of a watchman at the gate near where the accident occurred?

The Honourable Sir Thomas Stewart: I should be reluctant to answer that question without refreshing my memory by reading the report

Mr. S. Satyamurti: May I take it, therefore, that Government have not finally made up their mind that a mere magisterial inquiry is enough and that a judicial inquiry is not necessary?

The Honourable Sir Thomas Stewart: No final decision has been taken

Mr. K. Santhanam: May I know whether the report of the Government Inspector will be laid on the table of the House?

The Honourable Sir Thomas Stewart: The report of the Senior Government Inspector will be published in due course in the half yearly volume giving the history of accidents that have occurred on railways

Sardar Sant Singh: May I know if the Railway Board has consulted any law officers of the Government of India when they lay down this astounding proposition of law that the sufferers are not to be compensated if the rails had been removed maliciously?

The Honourable Sir Thomas Stewart: That arises out of a question which was dealt with some half an hour ago

Mr. Sri Prakasa: With reference to part (c) of the question, may I know if the Government or the railway company have no general responsibility for the safety of the passengers that they carry?

The Honourable Sir Thomas Stewart: I have only the Honourable Member's word for it that this arises out of part (b) of the question

Mr. Sri Prakasa: I said part (c) The Honourable Member said that the question of compensation can only arise when certain inquiries have been made and certain conclusions arrived at I want to know whether the Government have no general responsibility for the safety of the passengers and whether they are not liable for compensation for loss of life and property when they themselves have taken these passengers for payment on their railways?

The Honourable Sir Thomas Stewart: If the Honourable Member is putting to me a legal question, I must ask him to give me notice so that I may refer it to the law officers of Government

12 Noon.

FEELING OF INDIANS IN RESPECT OF THE HAPPENINGS AND EVENTS IN PALESTINE

1210. *Mr. S. Satyamurti: Will the Secretary for External Affairs be pleased to state·

(a) whether Government have recently communicated to His Majesty's Government the feeling of Indians in respect of the happenings and events in Palestine, if so, on which date they last so communicated and what they communicated; and

(b) whether the Government of India will inform His Majesty's Government of the strong feeling in India that Palestine should not be coerced into accepting any decisions against the will of her people and that Palestine should be made, as early as possible, into a free and independent Arab State?

Sir Aubrey Metcalfe: This is a question which should have been addressed to the Honourable the Home Member

VISIT OF THE SECRETARY OF THE EXTERNAL AFFAIRS DEPARTMENT TO KABUL.

1210 A. *Mr. S. Satyamurti: Will the Secretary for External Affairs please state

(a) what the purpose or purposes of his recent visit to Kabul were;

(b) what were the questions discussed between the Government of Afghanistan and himself;

(c) whether any settlement has been reached as regards Indo-Afghan trade; if so, what that settlement is; and

(d) whether the attention of Government has been drawn to the *communique* of the Government of Afghanistan regarding this matter?

Sir Aubrey Metcalfe: (a) The visit was made in acceptance of an invitation from the Afghan Government

(b) to (d) An informal discussion took place with Members of the Afghan Government regarding certain political and economic questions of common interest to both Governments It would not be in the public interest to publish any details regarding these informal conversations beyond what has already been published by the Afghan Government in their communique on the subject to which the Honourable Member refers in part (d) of his question

Mr. S. Satyamurti: With reference to the Afghan Government's communique to which reference has been made in part (d) of the question, may I know whether on the question of the transfer of the tribal territories on this side of Afghanistan to the N-W F P Government, the Frontier Province Government was also consulted, or the subject was only a matter of discussion between my friend and the Government of His Majesty the King of Afghanistan?

Sir Aubrey Metcalfe: What my Honourable friend means by transfer I do not know

Mr. S. Satyamurti: What I mean is that there should be no dual control in all these tribal territories and all of them should be administered by one Government May I know if that matter was a matter of discussion between my friend and the Government of His Majesty the King of Afghanistan in Kabul?

Sir Aubrey Metcalfe: No The question would have nothing to do with the Afghan Government in any case

Mr. S. Satyamurti: May I know with regard to trade between Afghanistan and India whether any tentative settlement has been arrived at between the Government of Afghanistan and the Government of India?

Sir Aubrey Metcalfe: No, Sir, no decision has been taken at present As the Honourable Member is aware from the Afghan Government's communique, the Afghan Commerce Minister, it is hoped, will visit India later, when further discussions will take place

Mr. S Satyamurti: And may I know whether the Honourable the Commerce Member will be called to participate in the discussion?

Sir Aubrey Metcalfe: Of course, the Commerce Department is vitally interested in the question, and the Honourable the Commerce Member will naturally take a large part in the discussion

Maulana Zafar Ali Khan: May I know, Sir, whether in the discussions that took place between the representatives of the Afghan Government and the Government of India, the question of Shami Pir formed the topic of discussion or not?

Sir Aubrey Metcalfe: I have already said that I am not in a position to give any further information than has already been given in my reply and in the Afghan Government's communique

Mr. Abdul Qaiyum: May I know, Sir, why the Trade Agent is under the Foreign Secretary and not under the Commerce Department?

Sir Aubrey Metcalfe: He is actually under the Commerce Department

Mr. S. Satyamurti: May I know, Sir, when these talks are expected to take place with regard to the trade agreement between the two countries?

Sir Aubrey Metcalfe: It depends on when the Commerce Minister of the Afghanistan Government is able to come here I hope that he will be able to come here within the next few weeks.

UNSTARRED QUESTIONS AND ANSWERS

SUPERANNUATION OF STAFF IN THE POSTS AND TELEGRAPHS AND RAILWAY DEPARTMENTS

64. Mr. P. R. Damzen: (a) Will the Honourable Member for Communications please state if Government propose to superannuate Government servants in·

(i) the Posts and Telegraphs Department, and

(ii) the Railway Department?

(b) If so, will this superannuation be based on the principle of thirty years' service or fifty years of age, whichever case is applicable to employees in these two Departments?

(c) Is this superannuation due to a desire to make economies in the Departments concerned?

The Honourable Sir Thomas Stewart: (a) No such proposal is under consideration at present.

(b) and (c) Do not arise.

PROCEDURE ADOPTED FOR INFLICTING PUNISHMENT UNDER THE INDIAN RAILWAYS ACT

65. Mr. B. B. Varma: Will the Honourable Member for Railways please refer to the reply to unstarred question No 184, asked in this House on the 21st September, 1937, and state

(a) the procedure of departmental action by the railway administration for punishment by forfeiture of a sum deductible from pay, and the rules thereof;

(b) whether punishment by forfeiture of a sum deductible from pay includes or excludes·

(i) withdrawal or forfeiture of privileges, *e.g.*, free passes, leave without pay, etc.;

(ii) fines, including forfeiture or reduction of running allowances in the case of tram and running staff,

(iii) withholding of increments or promotion, including stoppage at an efficiency bar;

(iv) reduction to a lower post or time-scale, or to a lower stage in a time-scale, or transfer from higher post to a lower post,

(v) recovery from pay or after termination of service, from Provident Fund Contribution or from gratuity, of the whole, or part of any pecuniary loss caused to Government by negligence of *breach of orders*,

(vi) censure,

(vii) suspension;

(viii) removal from the service,

(ix) dismissal from service;

(x) termination of service as per terms of agreement, and

(xi) withholding of the whole or part of Provident Fund contribution or gratuity in accordance with the provisions of the State Railway Provident Fund and Gratuity Rules, and

(c) whether *"railway administration"* includes or excludes the officials of the railway from General Manager to non-gazetted railway servants both in superior and in inferior service, or only means "General Manager" as defined in section 3(6) of the Indian Railways Act, 1890?

The Honourable Sir Thomas Stewart: (a) and (b) The Honourable Member's question is not understood The rules referred to in item (ii) of the reply to unstarred question No 134 referred to rules framed under the enabling provisions of the Indian Railways Act, 1890 The penalties detailed by the Honourable Member in part (b) of his question are inflicted under rules which do not derive their authority from this Act

(c) The expression "railway administration" used in the reply to unstarred question No 134 includes the General Manager of a railway administration and all other officials to whom the General Manager has delegated powers under the rules in force

HOURS OF EMPLOYMENT OF RAILWAY SERVANTS ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

66. Mr. B. B. Varma: Will the Honourable Member for Railways please refer to Chapter VI-A of the Indian Railways Act, 1890, and state the hours of employment of railway servants on the Shahdara-Saharanpur Light Railway?

The Honourable Sir Thomas Stewart: Government have no information. The Hours of Employment Regulations which provide for the regulation of hours of work under the Washington Convention have not so far been extended to the Shahdara-Saharanpur Light Railway These Regulations have been given statutory effect on the North Western, East Indian, Eastern Bengal, Great Indian Peninsula, Bombay, Baroda and Central

India, Madras and Southern Mahratta and Bengal and North Western Railways only The question of extending these Regulations to other principal Railways is at present under consideration

APPLICATIONS SUBMITTED FOR OBTAINING THE CONSENT OF THE GOVERNOR GENERAL UNDER SECTION 270 OF THE GOVERNMENT OF INDIA ACT, 1935, BY THE NON-GAZETTED RAILWAY STAFF

67. Mr. B. B. Varma: Will the Honourable Member for Railways please state the rule or procedure for obtaining the consent of the Governor General under section 270 of the Government of India Act, 1935, laid down for observance by the non-gazetted railway staff and whether the railway administration is empowered to withhold applications submitted through them for obtaining the said consent? If so, under which section of the said Act

The Honourable Sir Thomas Stewart: No rule or procedure has been laid down It is open to any person desiring to institute proceedings, to the institution of which the consent of the Governor General in his discretion is required, to address an application for the necessary consent to the Secretary to the Governor General (Public)

CLASSIFICATION OF CLEANERS ON RAILWAYS

68. Mr. B. B Varma: Will the Honourable Member for Railways please refer to Rules 35 and 36 for the recruitment and training of non-gazetted staff on State-managed Railways and state whether the cleaners are in inferior service?

The Honourable Sir Thomas Stewart: The reply is in the affirmative

ARRANGEMENT FOR COMMUNICATIONS BETWEEN TELEGRAPHIC AND NON-TELEGRAPHIC STATIONS ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

69. Mr. B. B. Varma: Will the Honourable Member for Railways please refer to the reply given to unstarred question No 52(c) asked in this House on the 13th September, 1938, and state

(a) the minimum and maximum distance of stations connected by telegraph,

(b) the minimum and maximum distance of stations not connected by telegraph;

(c) the minimum and maximum distance of stations referred to in parts (a) and (b), and

(d) what arrangement of communications exist between telegraphic and non-telegraphic stations with minimum and maximum distances of the Shahdara-Saharanpur Light Railway?

The Honourable Sir Thomas Stewart: (a) Minimum 3¼ miles. maximum 14¼ miles.

(b) 5¼ miles in each case.

(c) Minimum 1¼ miles: maximum 5¼ miles

(d) Communications are by letters sent by trains.

LOCOMOTIVES ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

70. Mr. B. B. Varma: Will the Honourable Member for Railways please refer to page 270 of the report by the Railway Board on Indian Railways for 1936-37, Volume II, in respect of Shahdara-Saharanpur Light Railway, and state:

(a) the total cost of ten locomotives;

(b) the actual number of locomotives utilised per day in summer and winter, respectively, and

(c) whether more than 50 per cent are stored over and above the actual requirements? If so, the necessity therefor?

The Honourable Sir Thomas Stewart: The information is being collected and will be laid on the table of the House in due course

SPEED EXEMPTION GIVEN TO THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

71. Mr. B. B. Varma: Will the Honourable Member for Railways please refer to the reply given to unstarred question No 52(a), asked in this House on the 13th September, 1938, and state

(a) whether the exemption given to the Shahdara-Saharanpur Light Railway was on the consideration that it was a third class railway;

(b) since when it is classified as second class railway, and

(c) the names of other second class railways whom exemption from section 62 of the Indian Railways Act, 1890, is given?

The Honourable Sir Thomas Stewart: (a) No

(b) 1925-26

(c) The information is being compiled and a further reply will be laid on the table of the House when it is ready

THIRD CLASS VEHICLES WITH LATRINES ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

†**72. Mr. B. B. Varma:** Will the Honourable Member for Railways please state

(a) the percentage of third class coaching vehicles provided with latrine accommodation on Shahdara-Saharanpur Light Railway during 1937-38, and

(b) the reasons for the low percentage on second class railways?

CONTRIBUTION TOWARDS CRIME AND ORDER BY THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

73. Mr. B. B. Varma: Will the Honourable Member for Railways please state

(a) the amount of the contribution towards crime and order to Local Government by the Shahdara-Saharanpur Light Railway;

†For answer to this question, *see* answer to question No 70

(b) the arrangements made by the Shahdara-Saharanpur Light Railway for the safety of travelling public during the long stoppage of night trains (3 up and 4 down) in winter season at Baraut and Shamli stations,

(c) whether it is a fact that during those long stoppage at those stations the guards and the engine staff are relieved and utilized to work the "Bacha-Gilbert Goods vehicles" between non-telegraphic stations,

(d) whether it is a fact that the Travelling Ticket Examiners of those trains and the station staff at those stations are permitted to retire during those long hours of stoppage and exempted from Hours of Employment Regulations; and

(e) if the replies to parts (c) and (d) be in the affirmative, what action has been taken against the violation of Rules 95 and 140 issued under Railway Department Notification No. 1078-T., dated the 9th March, 1929, if no action has been taken, why not?

The Honourable Sir Thomas Stewart: (a) No contribution is paid

(b) to (e) I have called for the information required and will lay a further reply on the table of the House when it is received

FENCING AND LEVEL-CROSSINGS ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

74. Mr. B. B. Varma: Will the Honourable Member for Railways please state

(a) the number of level-crossings on Shahdara-Saharanpur Light Railway,

(b) the number of level-crossings on that Railway provided with gates,

(c) the number of animals involved in accidents on that Railway during 1937-38,

(d) the minimum and maximum length of fencing on that Railway;

(e) the kind of fencing on that railway, and

(f) the number of gatemen employed on that Railway?

The Honourable Sir Thomas Stewart: (a) One hundred and twenty-nine.

(b) Six.

(c) Two

(d) Station yards only are fenced

(e) Wire fencing.

(f) Six.

THIRD CLASS FARES ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

75. Mr. B. B. Varma: Will the Honourable Member for Railways please state

(a) the consideration for fixing the fares of third class tickets on the Shahdara-Saharanpur Light Railway,

(b) whether it is a fact that the distance from Shahdara to Thana Bhawan is more than to Thana Bhawan town,

(c) whether the fare of a third class ticket from Shahdara to Thana Bhawan town and Thana Bhawan is Rs 1-6-0, and

(d) whether it is a fact that a passenger holding a third class ticket on payment of Rs 1-6-0 from Shahdara to Thana Bhawan town and continuing his journey to Thana Bhawan is charged an extra fare of anna one with penalty, if so, why when there is no difference in fare from Shahdara?

The Honourable Sir Thomas Stewart: (a) Considerations similar to those influencing the fixation of fares on other Railways, *viz* , the reasonableness of the charge to be made having regard to all factors affecting the movement of traffic and the necessity for obtaining an adequate return on the capital outlay

(b) Yes, by 1½ mile

(c) Yes

(d) The reply to the first part is in the negative, and the second part does not, therefore, arise

EXPENDITURE ON STRUCTURAL WORK, ETC , ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

76. Mr. B. B. Varma: Will the Honourable Member for Railways please refer to pages 56 and 57 of the Report by the Railway Board on Indian Railways, Volume II, for 1936-37, in respect of Shahdara-Saharanpur Light Railway and state

(a) the nature of structural work on which the amount over and above of 1935-36 was expended, with the amount on each structural work,

(b) whether tenders for those works were called, if so, what were the minimum and maximum rates quoted and accepted, and

(c) the reasons and circumstances for the increase in expenditure on maintenance and supply of locomotive power during 1936-37 against 1935-36?

The Honourable Sir Thomas Stewart: (a) The difference in the apparent expenditure is accounted for by the credit to 1935-36 accounts for the sale of old materials, no additional structural works being carried out

(b) Does not arise.

(c) Increased shunting mileage, acceleration of speed of mixed trains, and increased loads of goods trains

DIVIDEND AND PAY OF CERTAIN OFFICERS ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

77. Mr. B. B. Varma: Will the Honourable Member for Railways please state

(a) the dividend received by the Government from the Shahdara-Saharanpur Light Railway during the preceding three years,

(b) the rate of pay of the Manager, the Assistant Loco-Superintendent and the Permanent Way Inspector on that Railway, with their technical qualifications,

(c) the rate of pay of the Manager, the Assistant Loco-Superintendent and the Permanent Way Inspector on second class railways, with their technical qualifications, and

(d) whether he is aware that the amount of dividend can be increased by reducing the pay of the Manager, the Loco-Superintendent and the Permanent Way Inspector of that Railway in equality to other second class railways?

The Honourable Sir Thomas Stewart: (a) Government have no shares in the Shahdara-Saharanpur Light Railway Company Presumably the Honourable Member is referring to the surplus profits received by the Government of the United Provinces If so, the figures are

1935-36	Rs. 1,30,358
1936-37	Rs 1,12,232
1937-38	Rs 1,70,105

(b), (c) and (d) Government have no information as the railways referred to are either Company or Indian State owned and managed

OVERCROWDING ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

78. Mr. B. B. Varma: Will the Honourable Member for Railways please refer to pages 213, 216 and 217 of the Report by the Railway Board on Indian Railways, Volume II, for 1936-37 in respect of Shahdara-Saharanpur Light Railway and state

(a) the daily average number of seats in third class passenger carriages provided in each train,

(b) the daily average number of third class passenger carried in each train,

(c) the percentage of overcrowding in third class passenger carriages,

(d) the daily average of overcrowding in trains, and

(e) the reasons for not taking action under sections 93 and 102 of the Indian Railways Act, 1890?

The Honourable Sir Thomas Stewart: (a) 350 in each day train providing 32,200 seat-miles, and 234 in each night train providing 21,528 seat-miles

(b) 850 per day train occupying 18,700 seat-miles, and 475 per night train occupying 10,450 seat-miles

(c) and (d) There is no overcrowding

(e) Does not arise

INCREASE IN THE CONSUMPTION OF COAL ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

†79. **Mr. B. B. Varma:** Will the Honourable Member for Railways please refer to pages 222 and 223 of the Report by the Railway Board on Indian Railways for 1936-37, Volume II, and state

(a) the reasons for the increase of coal consumed in locomotives by 132 tons during 1936-37 over and above 1935-36 figures on the Shahdara-Saharanpur Light Railway,

(b) the quantity and the rate of coal supplied to the motor works at Saharanpur during 1936-37, and

(c) whether the Assistant Loco-Superintendent of that Railway has any proprietory rights in that motor works?

THEFTS AND ROBBERIES COMMITTED ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

80. **Mr. B. B. Varma:** Will the Honourable Member for Railways please state the number of thefts and robberies committed in the running trains (3 Up and 4 Down) of the Shahdara-Saharanpur Light Railway during the preceding three years?

The Honourable Sir Thomas Stewart:

1935-36	2
1936-37	2
1937-38	3

LATRINES IN THIRD CLASS COMPARTMENTS ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

81. **Mr. B. B. Varma:** Will the Honourable Member for Railways please state

(a) whether he is aware that it is not feasible for a passenger travelling in a third class carriage not fitted with latrine on the Shahdara-Saharanpur Light Railway to attend the call of nature at stations where stoppage of the train is only three minutes,

(b) if so, what amount of period and the mileage a passenger has to travel in that carriage holding a ticket from Shahdara to Saharanpur to ease himself;

(c) the convenience achieved and economy affected by the administration for stopping the 3 Up at Shamli from 0-40 to 5-0 hours and 4 Down at Baraut from 3-41 to 6-15 hours;

(d) whether such long stoppages at night hours are not against the safety and inconvenience of travelling public, and

†For answer to this question, *see* answer to question No 70

(e) whether the Administration has any objection, financial or otherwise to starting and terminating those trains from 20-30 to 6-0 hours on both ways?

The Honourable Sir Thomas Stewart: (a) I am prepared to accept this from the Honourable Member

(b) The appended statement shows the distances from Shahdara to each station up to Saharanpur, the distances between intermediate stations and the time of arrival and departure at each station

(c) and (e) The timings of the trains referred to have not been based on any consideration of convenience to the Administration or by reasons of economy, but have been influenced by the requirements of the people residing in the area traversed

(d) I have no reason to believe that this is the case.

Statement

Distance from Delhi Shahdara	Intermediate Distance.	Stations	1 Up Mixed		3 Up Mixed		
Miles	Miles						
0		Delhi Shahdara, W C	Dep. 10	20	19	20	
5½	5½	Noh	Arr 10	44	19	44	
			Dep 10	47	19	47	
10½	5½	Gotra	Arr 11	07	20	07	
			Dep 11	10	20	10	
14½	3½	Khekra P T	Arr 11	26	20	26	
			Dep 11	29	20	30	
20	5½	Baghpat Road W P T	Arr 11	51	20	52	
			Dep 11	57	21	04	
24½	4½	Sujra	Arr 12	14	21	21	
			Dep. 12	16	21	24	
30½	5½	Barauti	Arr. 12	37	21	46	
			Dep 12	43	22	11	
33	2½	Baoli	Arr 12	56	22	25	
			Dep 12	59	22	29	
36½	3½	Kasimpur Kheri W	Arr. 13	12	22	44	
			Dep 13	18	22	56	
42½	6½	Ailum .	Arr 13	40	X 2 23	22	
			Dep 13	47	Dn. 23	28	
45½	3½	Kandhla	Arr 14	01	23	43	
			Dep. 14	05	23	59	
49½	4½	Khandraoli	Arr 14	22	00	17	
			Dep 14	25	00	20	
54½	4½	Shamli W. . . .	Arr 14	43	00	40	X
			Dep. 14	51	5	00	Dn.
61	6½	Hind	Arr 15	13	5	27	
			Dep. 15	16	5	32	
66½	5½	Thana Bhawan Town . .	Arr 15	35	5	54	
			Dep 15	38	5	57	
67½	1½	Thana Bhawan P. T	Arr. 15	46	6	06	
			Dep 15	49	6	13	
74	6½	Nanauta W P. T.	Arr 16	11	6	37	
			Dep 16	17	6	47	
77½	3½	Sona-Arjunpur	Arr. 16	32	7	02	
			Dep 16	34	7	05	
81	3½	Rampur Manhyaran P T.	Arr 16	49	7	20	
			Dep 16	52	7	23	
87½	6	Manani . .	Arr 17	14	7	46	
			Dep. 17	17	7	49	
92½	5½	Saharanpur W C . .	Arr 17	40	8	10	

PROCEDURE FOR DEPARTMENTAL ENQUIRIES ON STATE RAILWAYS.

82. Mr. B. B. Varma: Will the Honourable Member for Railways please lay on the table the rules of procedure of departmental inquiries into the offences (the maximum penalty for which is neither dismissal nor removal from service), committed by non-gazetted railway servants on Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railways?

The Honourable Sir Thomas Stewart: I would invite the attention of the Honourable Member to rule 12 of the "Rules regulating discipline and rights of appeal of non-gazetted Railway Servants", copy of which is in the Library of the House

NON-GRANT OF HOLIDAYS TO STATION AND RUNNING STAFF ON RAILWAYS.

83. Mr. B. B. Varma: Will the Honourable Member for Railways please refer to the reply given to starred question No 137 asked in this House on 16th February, 1934 and state·

(a) whether it is a fact that station and running staff are neither granted nor credited the holidays enjoyed by the staff in offices under the Negotiable Instruments Act;

(b) whether it is a fact that there is a differential treatment between the two sets of staff, and when it will disappear, and

(c) what compensation is paid to station and running staff for holidays under the Negotiable Instruments Act, if none, why not?

The Honourable Sir Thomas Stewart: I am obtaining information which I will lay on the table of the House in due course

PASSES ISSUED TO THE STAFF OF THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

84. Mr. B. B. Varma: Will the Honourable Member for Railways please state·

(a) the number, class and purpose of passes issued to the staff of Shahdara-Saharanpur Light Railway to travel between Delhi-Shahdara and Delhi during 1925—1933,

(b) the name of the Railway Administration who issued those passes, and

(c) the authority of the pass rules under which those passes are permitted?

The Honourable Sir Thomas Stewart: (a) A first class card pass for the Manager and a third class card pass for a dak peon are issued annually to travel to and from their Headquarters Office which is in Delhi

(b) The East Indian Railway.

(c) The information required has been called for and a further reply will be laid on the table of the House when it is received.

STONE-BALLAST CONSUMED BY THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

85. Mr. B B. Varma: Will the Honourable Member for Railways please state

(a) the quantity of stone-ballast consumed each year since it became a class II Railway, by the Shahdara-Saharanpur Light Railway,

(b) the rates at which the stone-ballast was purchased during that period, for quarry and for site, respectively, and

(c) whether tenders were called for the supply during that period, if so, with what result, and if not, why not?

The Honourable Sir Thomas Stewart: (a) and (b) I lay on the table a statement showing the quantity of stone-ballast consumed each year and the rates at which it was purchased by the Shahdara-Saharanpur Light Railway since it became a class II Railway

(c) From 1925—1930, tenders were invited owing to the unsatisfactory results obtained, subsequently periodical quotations only were invited in order to check market rates

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Statement showing stone-ballast consumed each year on the S S Light Railway

Year	Quantity of Ballast	Rate of Quarry per 100 c ft	Add freight and Trans-shipment charges	Rate at site
1925	92,988	10 0 0	2—4	12 4 0
1925	75,602	11 4 0	2—4	13 8 0
1926	75,906	11 12 0	2—4	14 0 0
1926	35,318	11 8 0	1—12	13 4 0
1927	318,464	10 4 0	1—12	12 0 0
1928	96,854	10 4 0	1—12	12 0 0
1929	16,810	9 4 0	1—12	11 0 0
1929	52,366	7 12 0	2—4	10 0 0
1929	26,038	7 12 0	2—4	10 0 0
1930	53,265	9 12 0	1—12	11 8 0
1931	*Nil*			
1932	79,033	9 0 0	1—12	10 12 0
1933	98,557	8 12 0	1—12	10 8 0
1934	54,053	8 8 0	1—12	10 4 0
1935	125,742	8 8 0	1—12	10 4 0
1936	87,490	8 8 0	1—12	10 4 0
1937	152,807	8 8 0	1—12	10 4 0
1938	89,000	7 14 0	1—12	9 10 0

STONE-BALLAST REQUIRED FOR CERTAIN RAILWAYS

86. Mr. B. K. Varma: Will the Honourable Member for Railways please state

(a) the quantity of stone-ballast required each year for 103·01 miles of a railway line of 2' 6" gauge, initial and renewal, respectively;

(b) the rate of stone-ballast purchased for State Railway for quarry, and

(c) whether tenders are invited by class II Railways for stone-ballast?

The Honourable Sir Thomas Stewart: (a) This entirely depends on local conditions

(b) This varies in different places In the Delhi Division, North Western Railway, it is at present about Rs 5 per hundred cubic feet

(c) Government have no information

ACQUIREMENT BY GOVERNMENT OF THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

87. Mr. B. B. Varma: Will the Honourable Member for Railways please refer to the Agreement between the Government and the Shahdara-Saharanpur Light Railway and state the date on which Government considered the question of acquiring the railway on the expiry of the periods referred to in the Agreement?

The Honourable Sir Thomas Stewart: April 1927 and 1934

RAGGING OF PASSENGER CARRIAGES ON CURVES OF THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

88. Mr. B. B. Varma: Will the Honourable Member for Railways please state

(a) the circumstances of ragging of passenger carriages on curves of the Shahdara-Saharanpur Light Railway while in motion,

(b) whether this is due to maintenance of the track or the defective rolling stock, and

(c) whether travelling on that railway under these circumstances is safe?

The Honourable Sir Thomas Stewart: (a) I do not know what the Honourable Member means by the word "ragging" I understand there is no undue motion when carriages take curves

(b) and (c) Do not arise

EXTENSION OF THE HOURS OF EMPLOYMENT REGULATIONS TO THE RUNNING STAFF AND THE COMPANY RAILWAYS

89. Mr. B. B. Varma: Will the Honourable Member for Railways please refer to starred question No 145, asked on the 16th February, 1934, and state the date by which a revision of the rules will take effect to admit the running staff under the Hours of Employment Regulations and its extension over Company Railways?

The Honourable Sir Thomas Stewart: No date has been fixed for the revision of the Railway Servants Hours of Employment Rules so as to bring the running staff within their scope As regards the question of the extension of these Rules to other principal railways I would refer the Honourable Member to the reply given to starred question No. 272, asked by Mr N M Joshi in this House on the 17th August, 1933.

STATEMENTS LAID ON THE TABLE

Information promised in reply to parts (a), (b) and (d) of starred question No. 1168 asked by Mr. Manu Subedar on the 6th April, 1938.

PURCHASES MADE BY RAILWAYS

Statement showing the value of stores imported direct, imported stores purchased in India and indigenous stores purchased by the State managed and Company-managed Railways during the year 1937-38, together with the value of stores purchased by those railways through the Indian Stores Department and also the value of stores purchases controlled by the Railway Board during that year

Figures in thousands of rupees

Railways	Total value of stores purchased.										
	Stores imported direct	Imported stores purchased in India	Stores of Indian manufacture or of indigenous origin	Total	Percentage of Col 4 to Col 5	Value of stores purchased through I S Dept	Percentage of Col 7 to Col 5	Value of stores purchases controlled by the Ry Board.	Percentage of Col 9 to Col 5	Value of stores purchased by of Rlys. direct (Col 5, Cols 7 and 9)	Percentage Col 5.
1	2	3	4	5	6	7	8	9	10	11	12
State	37	3,22,00	5,46,75	8,69,12	62·91	*3,83,53	44 13	3,06,99	35 32	1,78,60	20 55
Company	1,24,71	1,45,30	3,61,52	6,31,53	57 24	7,71	1 22	1,34,37	21 27	4,89,45	77·51
Total	1,25,08	4,67,30	9,08,27	15,00,65	60·52	3,91,24	26 07	4,41,36	29 41	6,68,05	44·52

*Purchases to the value of Rs. 5,51,611 for Chief Mining Engineer, Railway Board, Rs 9,001 for the Central Publicity Bureau (Indian State Railways) and Rs. 413 for the Railway Clearing Accounts Office made through the Indian Stores Department during 1937-38 have been omitted from this figure

Information promised in reply to starred questions Nos. 30 and 31 asked by Mr Manu Subedar on the 8th August, 1938

PRODUCTION AND PURCHASE OF COAL BY RAILWAYS.

Starred question No 30.—(a) Total output of steam coal and average cost per ton

Year.	Total quantity of coal raised from railway collieries	Average cost per ton
	Tons.	Rs. as. p.
1935-36	21,47,233	3 1 4
1936-37	22,94,705	2 15 9
1937-38	29,71,552	3 3 0

(b) Total purchased of steam coal from the market

Year	Total quantity of coal purchased from the market	Average price per ton
	Tons	Rs as. p.
1935-36	41,36,146	3 6 11
1936-37	41,20,577	3 3 0
1937-38	43,77,473	3 1 2

(c) The Honourable Member is referred to the answer given to part (a), first of (b) and part (c) of starred question No 1172 asked by Dr P N Banerjea in the Legislative Assembly on 12th March, 1936

APPOINTMENT OF INDIANS AS AGENTS AND DEPUTY AGENTS ON STATE RAILWAYS

Starred question No 31—(a) and (b) I lay a statement on the table

(c) to (f) I would refer the Honourable Member to my speech of 24th February, 1938, appearing on pages 1118 and 1119 of the Legislative Assembly Debates for that day

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Statement showing the Indian Deputy Agents and Agents appointed on State Railways since 1916

Railway.	Name.	Designation	Period of appointment	Whether permanent or temporary	Remarks
E B	Dewan Bahadur Mathra Das.	Dy Agent	24-9-1931. to 27-1-1933	Temporary	The post of Dy Agent was then temporary.
„	Dewan Bahadur B. R Singh	Agent	17-3-1932 to 16-7-1932	Officiating	
„	Ditto	Do.	28-3-1933 to 19-6-1934.	Do.	
„	Ditto	Do.	20-6-1934 to 18-3-1935	Permanent.	
E. I.	Mr. L. P. Misra	Dy. Agent	1-6-1932 to 12-11-1932	Officiating	
„	Ditto	Do.	13-11-1932 to 30-5-1935.	Permanent (provisional).	

Railway	Name	Designation	Period of appointment	Whether permanent or temporary,	Remarks.
E. I.	Mr C F Gilbert	Dy Agent	26-3-1935 to 20-1-1936	Officiating.	
,,	Ditto	Do	21-1-1936 to 9-10-1937	Permanent (provisional)	
,,	Mr G W. Scriven	Do	1 5 1936 to 14-6-1936	Officiating	
G. I P	Mr S M Basrur	Do	Is officiating as Dy Agent from 14th September 1937		
N W.	Rai Bahadur D Dutt	Do	13-5-1935 to 20-10-1935	Do	
,,	Khan Bahadur M D Sheikh	Do	28-4-1937 to 7-10-1938	Do	
,,	Mr F C Pavry	Agent	13-7-1930 to 7 9 1930	Do	

Information promised in reply to parts (a) *and* (b) *of starred question No 392 asked by Mr Lalchand Navalrai on the 23rd August, 1938*

PROMOTION OF GUARDS ON THE NORTH WESTERN RAILWAY

(a) The number of grade I posts of guards (i e , 2nd guards) on 1st March, 1938, was 61, and that of guards grades II and III on 1st April, 1938, was 833 and 219, respectively Grade IV of guards has been abolished There are still, however, 65 guards in this grade who are counted against the posts in grade III and are holding grade IV as personal to themselves

(b) Eleven grade II guards were promoted to grade III in June 1928 Since that date there has been a surplus to actual requirements in this grade and therefore no promotions have been made

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Information promised in reply to part (c) *of starred question No 419 asked by Khan Bahadur Shaikh Fazal-i-Haq Piracha on the 23rd August, 1938*

REFUSAL TO GRANT A PASSPORT TO MAULVI ISMAIL GHAZNAVI OF AMRITSAR

(c) Yes

Information promised in reply to starred question No 484 asked by Mr Brojendra Narayan Chaudhury on the 25th August 1938

MARRIAGES OF CONVICTS IN THE ANDAMANS

(b), (c) and (d) The statements made in the article are entirely false The transportation of female convicts from India was stopped in 1922, but for some time such as volunteered to go there were allowed to do so Between 1922-23 and 1932-33 only 125 female convicts were admitted, but even this arrangement has been discontinued since 1933 There have not been any marriages between male and female convicts in recent years The average convict population during the past five years was 6,023 males and 52 females

(e) Yes

(f) None

(g) and (h) Do not arise

Information promised in reply to parts (c) and (d) of starred question No. 506 asked by Mr. Abdul Qayum on the 25th August, 1938

PASSPORT FOR ONE MR PRABODH CHANDRA

(c) Mr Prabodh Chandra applied to the Deputy Commissioner, Lahore, for the grant of a passport on the 28th April, 1938 On the same day, however, before the application could be forwarded to the Provincial Government, the magistrate who had certified the applicant to be a fit and proper person to receive a passport withdrew his certificate, and the applicant did not produce another completed application until the 21st June 1938

(d) The applicant was informed that a passport application ordinarily takes two or three weeks to be decided, but he was not instructed to come and enquire again after that interval

Information promised in reply to part (a) of starred question No 579B asked by Mr Sri Prakasa on the 29th August, 1938

CONFERMENT OF TITLES AND HONOURS

List of honours and titles, both English and Indian which are awarded to Indian Nationals

1 Victoria Cross
2 Order of the Bath
3 Order of the Star of India
4 Order of the Indian Empire
5 Order of the Crown of India
6 Royal Victorian Order
7 Order of the British Empire
8 Order of the Companions of Honour
9 Knighthood
10 Distinguished Service Order
11 Imperial Service Order
12 Royal Red Cross
13 Distinguished Service Cross
14 Military Cross
15 Order of British India
16 Indian Order of Merit
17 Kaisar-i-Hind Medal
18 Maharajadhiraja
19 Maharaja Bahadur
20 Maharaja
21 Maharani
22 Nawab Bahadur
23 Raja Bahadur
24. Nawab.
25. Raja.

CONFERMENT OF TITLES AND HONOURS—*contd.*

List of honours and titles, both English and Indian, which are awarded to Indian Nationals.—contd

27 Rai
28 Shams-ul-Ulama
29 Mahamahopadhyaya
30 Hazik-ul-Mulk
31 Diwan Bahadur
32 Sardar Bahadur
33 Khan Bahadur
34 Rai Bahadur
35 Rao Bahadur
36 Shifa-ul-Mulk
37 Vaidyaratna
38 *Chikitsakratna*
39 Sardar Sahib
40 Khan Sahib
41 Rai Sahib
42 Rao Sahib
43 Albert Medal
44 Indian Distinguished Service Medal
45 Edward Medal
46 King's Police Medal
47 Medal of the Order of the British Empire
48 Indian Police Medal
49 Long Service and Good Conduct Medal
50 Meritorious Service Medal
51 Efficiency Decoration
52 Efficiency Medal
53 The King's Medal (for Champion Shots in the Military Forces)
54 Royal Victorian Medal
55 Imperial Service Medal
56 Viceroy's Medal

Information promised in reply to unstarred question No. 20 asked by Mr Muhammad Azhar Ali on the 31st August, 1938.

DUTIES AND POWERS OF DIVISIONAL SUPERINTENDENTS AND THEIR ASSISTANTS

(a) to (c) The Agent, North Western Railway's Circular No 1 of 1927, part 'A' referred to in the opening part of the question was revised in 1937 and sub-paragraph 17(d) thereof was replaced by paragraph 29 of the revised Circular A copy of the revised Circular has been placed in the Library of the House I would also refer the Honourable Member to Appendix 'G' of the Agent's Circular No 1 of 1936, which shows the authorities empowered to impose the penalty of reduction in pay and other punishments enumerated in rule 2 of the Rules regulating discipline and rights of appeal of non-gazetted Railway Servants A copy of the Agent's Circular No. 1 of 1936 has also been placed in the Library of the House.

Information promised in reply to starred questions Nos 799 and 800 asked by Dr P. N Banerjea on the 6th September, 1938.

COAL SEAMS IN ASSAM.

Starred question No 799—(i) Yes

(ii) No, because the content of sulphur in Assam coal is too high for it to be a first class coal

COAL SEAMS IN ASSAM

Starred question No 800—(i) to (iii) The following statement gives the particulars required —

Name or situation of seam	Thickness (Approximate)	Gradient (Approximate)	Depth from surface
1 Unnamed seam worked at Cherapunji mine	2 to 4 feet	Almost flat and slightly undulating	The seam occurs in two hills about 300 feet high at a point about 50 feet below the top of the hills
2 Unnamed seam prospected at Koilajan mine (now closed)	20 feet	North 45° East at 1 in 6	Prospected along the outcrop by adits driven from "Koilajan Nalla"
3. Kongon Top (Strata 106 feet).	5½ feet	N. E at 1 in 1 7	The seams outcrop in the sides of hills
Kongon Main	Coal 4 feet Fireclay 10 feet Coal 7½ feet		
4 20 feet seam (Strata 107 feet)	15 to 20 feet	South at 1 in 6	The seams outcrop in the sides of hill which rise 1,300 feet above the plains and also in valleys.
5 feet seam (Strata 54 feet)	5 feet . .		
8 feet seam	8 feet		
Thick seam	Top coal 21 feet Fireclay 10 feet Middle coal 15 feet Fireclay 5 feet. Bottom coal 28 feet.	S E at 30 to 45°	

(iv) Roughly 1,500 million tons

Information promised in reply to starred questions Nos 964 and 965 asked by Mr Brojendra Narayan Chaudhury on the 13th September, 1938

PRIMITIVE TRIBES OF ASSAM

Starred question No 964—(a) Yes

(b) Mr Mills was stationed in the Naga Hills District both as Sub Divisional Officer of the Mokokchung Sub-division and as Deputy Commissioner of the District during 1917-1924, 1926-27, 1930-32 and 1935-1937 His services were placed at the disposal of the Government of Bengal for the purpose of examining conditions in the Chittagong Hill Tracts during the cold weather of 1926 27 and he was in charge of the Cachar District (including the North Cachar Hills Sub-division inhabited by hill tribes) in 1928 and 1929

(c) Mr Mills is Honorary Provincial Director of Ethnography in Assam, a Fellow of the Royal Anthropological Institute, a Fellow (Anthropological) of the Royal Asiatic Society of Bengal and the author of three standard monographs on Naga tribes published by the Government of Assam. He was invited to represent India at the International Anthropological Congress held at Copenhagen last month.

(d) Government have not opposed Mr Mills' views and, subject to ordinary supervision, he was left a free hand to carry out his policy

(e) Yes

(f) The consumption of foreign liquor is almost entirely confined to foreigners Nagas themselves have been brought to realise its detrimental effects and have co-operated in preventing the spread of the habit

(g) No enquiry was made by the Government of India but the missionaries themselves, as soon as they realised that opium was being consumed as a substitute for fermented liquor, firmly suppressed the habit among their converts

(h) A strict system of passes has been introduced by executive order, prohibiting the ingress of women from the villages into Kohima bazaar, where the spread of prostitution attracted the attention of Mr Mills

(i) Education in the villages and based on village life is encouraged The teaching is in Naga dialects, and Naga songs, dances, games and handicrafts are fostered Means are continually being sought of making the educated tribesman more fitted, rather than less fitted, for village life

(j) The whole of the large staff of interpreters, who might be called the Corps d' elite of the Naga Hills, wears national dress It is also encouraged among teachers and pupils in Government schools

(k) No This would be a retrograde step after many years of sound and effective administration

Lushai Hill Tribes in Assam

Starred question No 965—(a) Yes

(b) No Government is satisfied that the missionaries have employed only the usual and accepted methods of preaching and teaching

(c) The whole education position in the Lushai Hills is now under review by the Government of Assam

(d) On Mr Small's recommendation it is proposed to withdraw grants for primary education only from the Mission Schools in the Khasi and Jaintia Hills from the 1st March 1939 and to spend an equal amount on Government Primary Schools in the same areas It is also proposed to complete the policy initiated in 1924 of substituting Government for Mission Schools in the Garo Hills by withdrawing the grants for the remaining 13 Mission Primary Schools from 1st March, 1939 No other grants are to be withdrawn from the Mission Schools in the non-excluded Hills

(e) No such decision has been taken

(f) No

Information promised in reply to starred question No 977 asked by Dr P N Banerjea on the 13th September, 1938

Output from the Kurharbaree and Serampore Collieries

(a) Yes

(b) The method

(c) Over 90 per

Information promised in reply to starred question No 994 asked by Mr Lalchand Navalrai on the 13th September, 1938

Selection Boards for selecting Candidates for Railway Appointments

(a) On the Eastern Bengal Railway, the system of selection of candidates by District Selection Committees was introduced in 1929 in the Traffic Department For other Departments, Head Office Selection Committees were introduced in 1931—

On the North Western, East Indian, and Great Indian Peninsula Railways, Selection Boards started functioning from 1928 1932 and 1934, respectively

(b) Normally senior officers sit on the Selection Boards On the Eastern Bengal Railway however, junior officers sit on District Selection Committees on account of the limited number of senior officers available in Districts As regards the latter part, Government are aware of certain questions asked in the Legislative

Assembly in connection with Selection Boards and of the Honourable Member's opinion expressed during the Central Advisory Council meeting held on the 10th August, 1934, regarding such Boards

(c) The reply to both parts is in the affirmative

(d) No Government see no reason to change the present system of selection

Information promised in reply to parts (b), (e) and (f) of unstarred question No 52 asked by Sardar Mangal Singh on the 13th September, 1938

SPEED OF TRAINS AND PROFITS, ETC , OF THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

(b) The booked speed varied from 18 to 20 m p h for day trains, and 15 to 18 m p h for night trains

The time taken for the journey between Delhi-Shahdara and Saharanpur was approximately

for day trains, from 7 to 7½ hours,

for night trains, from 8 to 9½ hours The time given in the latter case is exclusive of a halt of one hour in summer and six hours in winter provided at Baraut or Shamli

(e) and (f) There is no truth in the suggestion A woman was found travelling by the train referred to without a ticket, and as she was unable to pay the charges due at Delhi-Shahdara, she was allowed to leave after giving her name and address Two hours afterwards, she was brought by a party before the station master with an allegation that the Travelling Ticket Examiner of the train had assaulted her The station master referred them to the police, but it is understood that no complaint was lodged at the police station.

MOTIONS FOR ADJOURNMENT

CONSTITUTION OF THE CHATFIELD COMMITTEE ON INDIAN DEFENCE.

Mr. President (The Honourable Sir Abdur Rahim) I have received a notice from Mr Avinashilingam Chettiar that he intends to move a motion for the adjournment of the House to discuss a definite matter of urgent public importance, namely, the personnel of the Chatfield Committee on Indian Defence and the non-inclusion of an Indian in it I am informed that it has been disallowed by the Governor General

Mr. S. Satyamurti (Madras City Non-Muhammadan Urban) Why disallowed, Sir?

Mr. President (The Honourable Sir Abdur Rahim) On the ground of public interest

There is another motion to the same effect, and that has also been disallowed

LATE RUNNING OF THE EAST INDIAN RAILWAY TRAINS AND INCREASE IN THE NUMBER OF ACCIDENTS.

Mr. President (The Honourable Sir Abdur Rahim) Then, Mr B D Pande has given notice of a motion for adjourning the business of the House in order to discuss a matter of urgent public importance, namely, the late running of the E I. R. trains and the increase in the number of accidents causing consternation in the minds of the public. That does not seem to me a definite matter of urgent public importance, and I rule it out of order.

MESSAGES FROM THE COUNCIL OF STATE

Secretary of the Assembly: Sir, three Messages have been received from the Council of State The first Message runs as follows:

"Sir, I am directed to inform you that the Council of State, at its meeting held on the 22nd September, 1938, agreed without any amendment to the following Bills which were passed by the Legislative Assembly at its meeting held on the 20th September, 1938

1 A Bill to declare that certain defences shall not be raised in suits for damages in British India in respect of injuries sustained by workmen;

2 A Bill further to amend the Indian Aircraft Act, 1934, and

3 A Bill further to amend the Indian Tea Cess Act, 1903, for a certain purpose"

The second Message runs as follows

"Sir, I am directed to inform you that the Bill to regulate the admission of children to certain industrial employments, which was passed by the Legislative Assembly at its meeting held on the 20th September, 1938, was passed by the Council of State, held on the 22nd September 1938, with the amendment shown in the enclosed statement

The Council of State requests the concurrence of the Legislative Assembly in the amendment

(Statement showing the amendment made in the Bill to regulate the admission of children to certain industrial employments, by the Council of State at its meeting held on the 22nd September, 1938)

In clause 5, in sub-clause (2), the words 'or fourteenth' and the words 'as the case may be' were omitted"

Sir, I lay on the table the Bill as amended by the Council of State

The third Message runs as follows

"Sir, I am directed to inform you that the Bill to amend the law relating to the prevention of cruelty to animals which was passed by the Legislative Assembly at its meeting held on the 20th September, 1938, was passed by the Council of State at its meeting held on the 22nd September, 1938, with the amendment shown in the enclosed statement

The Council of State requests the concurrence of the Legislative Assembly in the amendment"

Sir, I lay on the table the Bill as amended by the Council of State

(Statement showing the amendment made in the Bill to amend the law relating to the prevention of cruelty to animals by the Council of State at its meeting held on the 22nd September, 1938)

"In clause 13, for item (*h*) of sub section (2) of the proposed section 15, the following item was substituted, namely

'(*h*) prescribing the manner in which cattle may be impounded in any place appointed for the purpose, so as to secure the provision of adequate space, food and water'"

THE INDIAN INCOME-TAX (AMENDMENT) BILL

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE

The Honourable Sir James Grigg (Finance Member): Sir, I lay on the table the Report of the Select Committee on the Bill further to amend the Indian Income-tax Act, 1922

THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour) Sir, I beg to move for leave to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923

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

"That leave be granted to introduce the Bill further to amend the Indian Merchant Shipping Act, 1923"

The motion was adopted

The Honourable Sir Muhammad Zafrullah Khan: Sir, I introduce the Bill

REPORTS OF THE PUBLIC ACCOUNTS COMMITTEE

The Honourable Sir James Grigg (Finance Member) Sir, I move

"That the Reports of the Public Accounts Committee on the accounts of 1934-35, 1935-36 and 1936-37 be taken into consideration"

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

"That the Reports of the Public Accounts Committee on the accounts of 1934-35, 1935-36 and 1936-37 be taken into consideration"

Mr. S. Satyamurti (Madras City Non-Muhammadan Urban) May I make a submission, Sir? So far as I know, and I believe I am right,—the volumes of evidence of the Public Accounts Committee for 1936-37 have not yet been made available to the Members of this House It seems to me, Sir, that that privilege was gained after a little fight in this House Last year, the Honourable the Finance Member or the Acting Finance Member, Sir John Nixon, claimed that these evidence volumes need not be supplied Then the House took possession of the matter and unanimously resolved that these volumes ought to be published I am glad to say that the Honourable the Finance Member has accepted the obligation to publish these evidence volumes, but so far as I can see, they have not been made available to us I am not blaming Government altogether, because they have been handicapped by the unfortunate illness of one of the most important witnesses, Mr Wilson, but the point is this that the volume of evidence for the last year has not yet been published The evidence cannot be referred to in detail in this House, but before Honourable Members can appreciate the points in the Report and follow the discussion, I submit,—and I think the Honourable the Members of the House will agree with me,—that they must have an opportunity of perusing the evidence volumes so far as the latest year is concerned There are important matters on which I feel I cannot throw useful light, and the House cannot follow with that attention which this House always does such matters unless they have in their possession the evidence volumes for the last year, also. I, therefore, submit to you and to the Honourable House that we shall be consulting the convenience of all sections of the House, if we wait for the publication and supply to all Honourable Members of the

[Mr S Satyamurti]

volumes of evidence of last year's Public Accounts Committee I believe I have heard—I think the Honourable the Finance Member will corroborate me—that the volumes of evidence are already in the press, they are expected, I think, very shortly I, therefore, have a suggestion to make to this Honourable House and to the Honourable the Finance Member, that the discussion of these three years' Reports may stand over to a date after the disposal of the Income-tax Bill I may prove too optimistic, but I feel somehow that, by the 4th or 5th December at the latest, the Income-tax Bill will be disposed of by this House I am usually a pessimist in such matters, so when I say that, I think the House may take it that it will be done But even supposing that we sit till the 9th December, there is one day, Saturday the 10th, on which we can sit, and if we have no question time, the discussion of these three years' Reports will be over in one day, because if we get a whole morning and a whole evening we can discuss all these Reports I, therefore, feel that in the interests of all concerned, and especially in view of the absence of the evidence volumes which are important to give this House the real background behind these Reports—I ought to suggest to the House that it may be so good as to agree to my suggestion that this discussion may stand over till the next day after the conclusion of the discussion of the Income-tax Bill

The Honourable Sir James Grigg: I am sorry that the House is not in possession of the evidence volumes The Honourable Member has rightly referred to the main cause of the delay in their being circulated I fully understand how desirable it is that the evidence should be available so that we can all make speeches consistent with our evidence and our remarks in the Committee As far as I am concerned, I am quite agreeable to the postponement of the discussion of the Report if that is the wish of the House But I suggest that the House should proceed to dispose of the excess grants, in any case, because we do not want any evidence volume for that purpose.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions Muhammadan Rural) We had been demanding for the last two years

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member need not make a speech If he does not agree, he may say so

Dr. Sir Ziauddin Ahmad: I do not agree

Mr. President (The Honourable Sir Abdur Rahim) Is it the general desire of the House that this motion should stand over?

Honourable Members: Yes

Mr. President (The Honourable Sir Abdur Rahim) Then I allow this motion to stand over

DEMANDS FOR EXCESS GRANTS FOR 1936-37.

SALT.

The Honourable Sir James Grigg (Finance Member) Sir, I move

"That an excess grant of Rs 9,127 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Salt' "

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

"That an excess grant of Rs 9,127 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Salt' "

There is a cut motion to this demand for excess grant by Mr Abdul Qaiyum But the Honourable Member cannot have any discussion of grievances on a motion like this

Mr. Abdul Qaiyum (North-West Frontier Province General) The procedure is exactly the same as it is for ordinary demands for grants

Mr. President (The Honourable Sir Abdur Rahim) No You cannot have a discussion of all sorts of grievances It has already been settled time after time No principles or policy can be discussed

Mr. Abdul Qaiyum: In that case I oppose the whole demand for excess grant Sir, I wanted to move a token cut, but now that you have ruled that that token cut cannot be moved at this stage, I have no other option but to oppose this demand for excess grant. Before the civil disobedience movement of 1930, the right-holders in the salt mines in Teri Tehsil, Kohat District, North-West Frontier Province, used to enjoy certain privileges and those privileges were taken away from them because those people participated in the movement for freedom

The Honourable Sir James Grigg: Sir, is it in order to raise a question of policy on a demand for excess grant?

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member (Mr Abdul Qaiyum) is discussing what he has stated in his amendment which has been ruled out of order He cannot do that

Mr. Abdul Qaiyum: In opposing I have to say something to give reasons

Mr. President (The Honourable Sir Abdur Rahim) You cannot discuss any question of policy You know it.

Mr. Abdul Qaiyum: In that case I will merely oppose it

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

"That an excess grant of Rs 9,127 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Salt' "

The motion was adopted

IRRIGATION, ETC., CHARGED TO REVENUE.

The Honourable Sir James Grigg: I move

"That an excess grant of Rs 7,96,486 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Irrigation, etc, charged to revenue'."

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

"That an excess grant of Rs 7,96,486 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Irrigation, etc, charged to revenue'"

Mr B D Pande has given notice of an amendment to this I suppose he wishes to discuss some question of policy

Mr. Badri Dutt Pande (Rohilkund and Kumaon Divisions Non-Muhammadan Rural) Not policy, but information,—some more explanation

Mr. President (The Honourable Sir Abdur Rahim) You cannot move an amendment unless it be an economy cut

Mr. Badri Dutt Pande: I oppose this grant I am not moving that amendment I only oppose and seek for some further explanation The explanation of item (2) here is this

"The excess was mainly due to arrears of working expenses of the Nasirabad Section of the Lloyd Barrage Project and interest thereon payable to the Sind Government being adjusted in the 1936-37 accounts instead of in those of 1937-38 as originally contemplated"

Why was it contemplated to be paid in 1937-38 and why was it paid a year earlier? There is no explanation of that—whether it was due to the pressure of the Sind Government that it was paid a year earlier, or it was due to the charity of the Government of India or the Finance Member that this sum was paid earlier to the Sind Government

The Honourable Sir James Grigg: I will read a little note I have got here on the subject for the Honourable Member's information

"The Lloyd Barrage and Canals Construction Scheme (Khirtar Branch) irrigates Central Government lands in the Nasirabad Tehsil of the Baluchistan territory According to the provisions contained in para 4 (*a*) of the Second Schedule to the Government of India (Constatution of Sind) Order, 1936, the Provinces of Bombay and Sind are not responsible for the amount outstanding on account of the Nasirabad Section The Government of India had to take over the outstanding debt relating to this section As the orders of the Secretary of State in respect of this liability had not been received by the time the budget estimates for 1936-37 were prepared no provision could be made on this account in the Central Budget for that year The Government of Sind, however, had budgeted for this receipt, and as the delay in payment would have increased the amount of interest due on the arrears of maintenance, the Finance Department decided, after the close of the year 1936-37, to make the inevitable payment forthwith The amount chargeable to the Central Government is worked out on a percentage basis agreed upon between the Sind Government and the Government of India"

I hope that makes everything clear to the Honourable Member

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

"That an excess grant of Rs 7,96,486 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Irrigation, etc, charged to revenue'"

The motion was adopted

HOME DEPARTMENT.

The Honourable Sir James Grigg: Sir, I beg to move

"That an excess grant of Rs 5,468 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Home Department' "

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

"That an excess grant of Rs 5,468 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Home Department' "

The motion was adopted

CENTRAL BOARD OF REVENUE

The Honourable Sir James Grigg: Sir, I beg to move

"That an excess grant of Rs 3,145 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Central Board of Revenue' "

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

"That an excess grant of Rs 3,145 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Central Board of Revenue' "

The motion was adopted

PAYMENTS TO PROVINCIAL GOVERNMENTS, ETC

The Honourable Sir James Grigg: Sir, I beg to move

"That an excess grant of Rs 2,755 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Payments to Provincial Governments, etc' "

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

"That an excess grant of Rs 2,755 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Payments to Provincial Governments, etc' "

The motion was adopted

POLICE

The Honourable Sir James Grigg: Sir, I beg to move

"That an excess grant of Rs 2,737 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Police' "

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

"That an excess grant of Rs 2,737 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Police' "

The motion was adopted.

PORTS AND PILOTAGE

The Honourable Sir James Grigg: Sir, I beg to move

"That an excess grant of Rs 4,229 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Ports and Pilotage' "

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

"That an excess grant of Rs 4,229 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Ports and Pilotage' "

Mr. K. Santhanam (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) Sir, I want to draw the attention of the House to the fact that no sort of explanation has been supplied to us in the List of Grants It is only fair that when Government bring forward such excess grants, they should give an explanation for each item I have tried to look into this, and I find that no explanation has been offered, and I suggest that we should not be asked to pass these things without any explanation being offered

The Honourable Sir James Grigg: If the Honourable Member will look at the List of Grants, he will be able to find the explanation This is a casual excess of Rs 4,000 odd on a total grant of about 15 lakhs. This is a very minute variation I have not worked out the exact percentage, but it is certainly a very minute variation If that is not sufficient explanation, I can give him no other

Mr. K. Santhanam: The amount involved may be small in this case, but there are lakhs and lakhs in other grants

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member cannot make a second speech The question is

"That an excess grant of Rs 4,229 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of "Ports and Pilotage' "

The motion was adopted

BOTANICAL SURVEY

The Honourable Sir James Grigg: Sir, I beg to move

"That an excess grant of Rs 3,665 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Botanical Survey' "

This is a small, casual and unforeseen variation

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

"That an excess grant of Rs 3,665 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Botanical Survey' "

The motion was adopted

ZOOLOGICAL SURVEY

The Honourable Sir James Grigg: Sir, I beg to move

"That an excess grant of Rs 135 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Zoological Survey' "

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

"That an excess grant of Rs 135 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Zoological Survey' "

The motion was adopted

MINES

The Honourable Sir James Grigg: Sir, I beg to move

"That an excess grant of Rs 6,762 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Mines' "

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

"That an excess grant of Rs 6,762 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Mines' "

The motion was adopted

CENSUS

The Honourable Sir James Grigg: Sir, I move

"That an excess grant of Rs 886 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Census' "

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

"That an excess grant of Rs 886 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Census' "

Mr. S. Satyamurti (Madras City Non-Muhammadan Urban): Sir, there is only one point I wish to raise It is ridiculous carrying on a census grant of a few hundred rupees for the ten years between one census and another We can provide for such a grant one or two years before the next census and one or two years later, but this sort of thing has gone on for several years. I mention this point publicly so that this demand may not appear year after year, as this has no meaning at all

The Honourable Sir James Grigg: Sir, I have a good deal of sympathy for the Honourable Member's animadversions on the multiplication of grants and I propose to leave behind for my successor an adjuration to consider the question

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

"That an excess grant of Rs 886 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Census' "

The motion was adopted

STATIONERY AND PRINTING.

The Honourable Sir James Grigg: Sir, I move.

"That an excess grant of Rs 42,311 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Stationery and Printing'"

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

"That an excess grant of Rs 42,311 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Stationery and Printing'"

The motion was adopted

MISCELLANEOUS ADJUSTMENTS BETWEEN THE CENTRAL AND PROVINCIAL GOVERNMENTS

The Honourable Sir James Grigg: Sir, I move

"That an excess grant of Rs 24,17,399 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Miscellaneous adjustments between the Central and Provincial Governments'"

Honourable Members will see from the report of the Public Accounts Committee that this is because of an unforeseen expansion in the jute revenue accruing towards the end of the year which has necessitated larger payments to the provinces that benefit from the jute duty In future years the grants to the jute Provinces will be taken in reduction of revenue and not as expenditure so that this business of a very large excess grant due to defective estimating will never happen again

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

"That an excess grant of Rs 24,17,399 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Miscellaneous adjustments between the Central and Provincial Governments'"

Mr. Badri Dutt Pande: Sir, I want to oppose this grant, which amounts to Rs 24 lakhs, and I do not want this to be passed silently I want to know whether this amount has been given to the Bengal Government only or to which other Provincial Governments this is to be granted I want to know whether my Province has got any share or not.

The Honourable Sir James Grigg: Sir, the United Provinces grows no jute, as I believe, and so it gets no share of the grant

Mr. Badri Dutt Pande: Which are the Governments then?

The Honourable Sir James Grigg: Bengal, Assam, Bihar, and I think possibly Orissa

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

"That an excess grant of Rs 24,17,399 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Miscellaneous adjustments between the Central and Provincial Governments'"

The motion was adopted

REFUNDS.

The Honourable Sir James Grigg: Sir, I move

"That an excess grant of Rs 99,660 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Refunds' "

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

"That an excess grant of Rs 99,660 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Refunds' "

The motion was adopted

AJMER-MERWARA.

The Honourable Sir James Grigg: Sir, I move

"That an excess grant of Rs 27 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Ajmer-Merwara' "

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

"That an excess grant of Rs. 27 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Ajmer-Merwara' "

Mr. Abdul Qaiyum: Sir, I beg to oppose this demand for an excess grant, because it would not be appropriate on the part of the Honourable House to grant the Government even one pie for regularising an administration which is out-of-date and absolutely irresponsible

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member is raising a question of policy

Mr. Abdul Qaiyum: Sir, I may be allowed to quote Rule 49 of the Indian Legislative Rules That Rule says

"When money has been spent on any service for which the vote of the Assembly is necessary during any financial year in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Assembly by the Finance Member, and shall be dealt with in the same way by the Assembly as if it were a demand for a grant "

Mr. President (The Honourable Sir Abdur Rahim) It has already been settled beyond any doubt that you cannot again raise a question of policy

Mr. Abdul Qaiyum: I oppose this grant, Sir, because there is a demand by the people of Ajmer-Merwara for autonomous Government and the reply of the Government is that they have consulted the Chief Commissioner, who thinks that there is no such demand The Government is absolutely out of touch with the opinion of the people They merely satisfy themselves by writing a letter to the Chief Commissioner, who absolutely does not represent the wishes of those people .

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member cannot discuss that.

Mr. Abdul Qaiyum: Then we will not give a single pie to this Government

Mr. President (The Honourable Sir Abdul Rahim) The Honourable Member may vote against it The question is

"That an excess grant of Rs 27 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Ajmer-Merwara' "

The Assembly divided

AYES—40

Abdul Hamid, Khan Bahadur Sir
Ahmad Nawaz Khan, Major Nawab Sir
Aikman, Mr A
Ayyar, Mr N M
Bajpai, Sir Girja Shankar
Bewoor, Mr G V
Boyle, Mr J D
Chambers, Mr S P
Chanda, Mr A K
Dalal, Dr R D
Dalpat Singh, Sardar Bahadur Captain
Dutt, Mr S
Gorwala, Mr A D
Green, Mr B R T
Griffiths, Mr P J
Grigg, The Honourable Sir James
Highet, Mr J C
Jawahar Singh, Sardar Bahadur Sardar Sir
Kamaluddin Ahmed, Shams-ul Ulema
Kushalpal Singh, Raja Bahadur
Mackeown, Mr J A
Maxwell, the Honourable Mr R M
Menon, Mr P A
Menon, Mr P M
Metcalfe, Sir Aubrey
Miller, Mr C
Mukherji, Mr Basanta Kumar
Nur Muhammad, Khan Bahadur Shaikh
Row, Mr K Sanjiva
Scott, Mr J Ramsay
Sheehy, Mr J F
Sher Muhammad Khan, Captain Sardar Sir
Sivaraj, Rao Sahib N
Spence, Mr G H
Stewart, The Honourable Sir Thomas
Sukthankar, Mr Y N
Sundaram, Mr V S
Talukdar, Mr J N
Town, Mr H S
Zafrullah Khan The Honourable Sir Muhammad

NOES—45

Abdul Qaiyum, Mr
Abdur Rasheed Chaudhury, Maulvi
Aney, Mr M S
Asaf Ali, Mr M
Banerjea, Dr P N
Basu, Mr R N
Chaliha, Mr Kuladhar
Chaudhury, Mr Brojendra Narayan
Chettiar, Mr T S Avinashilingam
Das, Pandit Nilakantha
Datta, Mr Akhil Chandra
Desai, Mr Bhulabhai J
Deshmukh, Dr G V
Deshmukh, Mr Govind V
Gadgil, Mr N V
Gupta, Mr K S
Hegde, Sri K B Jnaraja
Jedhe Mr K M
Jogendra Singh, Sirdar
Kailash Behari Lal, Babu
Lalchand Navalrai, Mr
Mairal, Pandit Lakshmi Kanta
Mangal Singh, Sardar
Misra, Pandit Shambhu Dayal
Mudaliar, Mr C N Muthuranga
Muhammad Ahmad Kazmi, Qazi
Pulwal, Pandit Sri Krishna Dutta
Pande, Mr Badri Dutt
Parma Nand, Bhai
Raghubir Narayan Singh, Choudhri
Ramayan Prasad, Mr
Ranga, Prof N G
Rao, Mr M Thirumala
Saksena, Mr Mohan Lal
Sant Singh, Sardar
Santhanam, Mr K
Satyamurti, Mr S
Sham Lal, Mr
Singh, Mr Ram Narayan
Sinha, Mr Satya Narayan
Som, Mr Suryya Kumar
Sri Prakasa, Mr
Subbarayan Shrimati K Radha Bai
Subedar, Mr Manu
Varma, Mr B B

The motion was negatived

ANDAMANS AND NICOBAR ISLANDS.

The Honourable Sir James Grigg: Sir, I move

"That an excess grant of Rs 28,966 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Andamans and Nicobar Islands' "

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

"That an excess grant of Rs 28,966 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936 37 in respect of 'Andamans and Nicobar Islands' "

The motion was adopted

RAILWAY BOARD.

The Honourable Sir James Grigg: Sir, I move

"That an excess grant of Rs 15,213 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1936 37 in respect of 'Railway Board' "

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

"That an excess grant of Rs 15,213 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1936 37 in respect of 'Railway Board' "

The motion was adopted

Mr. Lalchand Navalrai (Sind Non-Muhammadan Rural) Sir, I wish to say something on this excess grant

Mr. President (The Honourable Sir Abdur Rahim) I did pause after having put the motion to the House The Honourable Member did not get up then

REFUNDS.

The Honourable Sir James Grigg: Sir, I move

"That an excess grant of Rs 3,25,032 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Refunds' "

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

"That an excess grant of Rs 3,25,032 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1936 37 in respect of Refunds' "

Mr. Lalchand Navalrai: Sir, I should like to have some information on this grant. Before I do so, I have to state that I fully agree with my Honourable friend, Mr Santhanam, that we should be given some information even though in a summary manner with regard to these excess grants With regard to the last item, 'Railway Board'

Mr. President (The Honourable Sir Abdur Rahim) That has been disposed of. The Honourable Member must now confine himself to 'Refunds'.

The Honourable Sir James Grigg: The Honourable Member is wrong in saying that there is no explanation There is an explanation given.

Mr. Lalchand Navalrai: But I object to explanation not being given even in a general manner with regard to all the items that are there. My Honourable friend went so far as to say that he would leave some legacy to his successor in future to do these things

The Honourable Sir James Grigg: But an explanation is given

Mr. Lalchand Navalrai: I do see the explanation I have read that But it is not sufficient There ought to be some details given to us as to so much of refunds being given, and so on In future, I submit that it should be made incumbent upon the Honourable Member to give some explanation in some manner which could be understood with regard to the reasons for the demands Sir, I oppose the motion

Mr. S. Satyamurti: I want to raise a small accounts point One of the explanations is that it is also partly due to the sum having been wrongly classified in the budget as reduction of earnings I take it that this mistake has been or will be rectified in future

The Honourable Sir James Grigg: I think the Honourable Member can be assured that it is rectified and I can also assure the Honourable Member from Sind that the Public Accounts Committee went into all these excess grants very carefully before they decided to recommend them to this House

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

"That an excess grant of Rs 3,25,032 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Refunds' "

The motion was adopted

PAYMENTS TO INDIAN STATES AND COMPANIES

The Honourable Sir James Grigg: Sir, I move

"That an excess grant of Rs 4,08,927 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Payments to Indian States and Companies' "

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

"That an excess grant of Rs 4,08,927 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Payments to Indian States and Companies' "

The motion was adopted

WORKING EXPENSES—MAINTENANCE OF FERRY STEAMERS AND HARBOURS.

The Honourable Sir James Grigg: Sir, I move

"That an excess grant of Rs 5,164 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Working expenses—Maintenance of Ferry Steamers and Harbours' "

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

"That an excess grant of Rs. 5,164 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Working expenses—Maintenance of Ferry Steamers and Harbours'."

The motion was adopted.

PAYMENTS TO RAILWAY DEPRECIATION RESERVE FUND

The Honourable Sir James Grigg: Sir, I move

"That an excess grant of Rs 1,20,58,909 be voted by the Assembly to regularise the appropriation actually made in 1936-37 of the Railway surplus for the year 1936-37 towards repayments of the temporary loans taken from the railway depreciation reserve fund."

As this excess grant is neither small nor casual, I might mention to the House that this is due to the fact that railway receipts were very much better towards the end of that year than had been expected and a considerable surplus emerged which under the agreement for the division of revenues fell to be paid to the depreciation fund

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

"That an excess grant of Rs 1,20,58,909 be voted by the Assembly to regularise the appropriation actually made in 1936-37 of the Railway surplus for the year 1936-37 towards repayments of the temporary loans taken from the railway depreciation reserve fund."

Mr. S. Satyamurti: Sir, I rise to a point of order I plead guilty to the charge that as a member of the Public Accounts Committee I approved of the excess grant being asked for in this House But, Sir, this point did not strike me then, and it strikes me now

Rule 49 of the Indian Legislative Rules says

"When money has been spent on any service for which the vote of the Assembly is necessary during any financial year in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Assembly by the Finance Member, and shall be dealt with in the same way by the Assembly as if it were a demand for a grant"

Now, Sir, if you look at the printed papers giving a list of demands for Excess Grants, you will find under Grant 9-A "Repayments to Depreciation Reserve fund" that there was no amount granted by the Assembly at all That is explained in the paragraph referred to under Grant 9-A in the Report of the Public Accounts Committee on the Accounts of 1936-37, Vol I-Part II, page 2:

"The excess was the result of improvement in earnings which converted the original estimated deficit of Rs 3,44 lakhs into a surplus of Rs 1,21 lakhs A vote of the Legislature for the transfer of this surplus to the Depreciation Reserve fund was not obtained in the belief that it was not constatutionally necessary"

That being so, the fact is admitted as is also shown by the vacant column in the Entry "Amount granted by the Assembly".

1 P.M. Rule 49 is absolutely clear You cannot have an excess grant except to a grant already voted by the Assembly. It is common sense too You cannot have an excess grant to a grant which was neither placed before the House nor granted by the House. *Ex hypothesi* there was no original

[Mr S Satyamurti]

grant at all, and, therefore, there can be no excess grant But, for the consolation of my friend, I may say he is not without a remedy A supplementary demand, subject to your ruling when it comes, can always be moved for a new service in the course of the year, and, therefore, if my Honourable friend can persuade his legal advisers and then persuade you that it is a new service for which he wants a supplementary grant, he may then approach the House and get its verdict But my narrow and simple point . . .

Mr. President (The Honourable Sir Abdur Rahim) Depreciation Fund is not a new service?

Mr. S. Satyamurti: No, but it is a fund .

Mr. President (The Honourable Sir Abdur Rahim) This is paid to the depreciation fund?

Mr. S. Satyamurti: Therefore, they may be on the horns of a dilemma but it is neither for you, Sir, nor for me to solve it

Mr. President (The Honourable Sir Abdur Rahim) It has to be solved by somebody, I suppose

Mr. S. Satyamurti: Not by the Chair The Chair is not governing the country The Chair is governing only this House

Mr. President (The Honourable Sir Abdur Rahim) That is a wholly uncalled for remark and not at all a proper remark to make

Mr. S. Satyamurti: I was only putting it in a humorous way and I did not intend anything else

Mr. President (The Honourable Sir Abdur Rahim) I think the Honourable Member in his remarks to the Chair had better leave aside humour

Mr. S. Satyamurti: All right, Sir I accept your verdict The point is this So far as this particular grant is concerned, there was no provision made in the original grant—there was no grant made at all; and, therefore, this cannot be called either in terms of common sense or in terms of rule No 49 an excess grant Whatever other remedy they may or may not have, I submit there is only one remedy I do not want to repeat it It is for their legal advisers But, as the rule stands and as the grant stands here, I submit that it is not an excess grant, and is, therefore, wholly inadmissible as an excess grant before this House

The Honourable Sir James Grigg: Sir, I had not expected the Honourable Member to raise this point and so I cannot put my hands at the moment on your ruling, but this is not a new question: it refers to a type of case in which surpluses, if they emerge, are definitely allocable but it is not certain whether they will emerge or not; and in circumstances of that sort you, Sir, gave a ruling—I think about two years ago—that an excess grant was the proper machinery even though the original grant may have been zero and I suggest . . . .

Mr. President (The Honourable Sir Abdur Rahim) Was there a ruling? I cannot recall it to my mind.

The Honourable Sir James Grigg: I cannot put my hand on it at the moment but I am clear in my recollection about it.

Mr. Bhulabhai J. Desai (Bombay Northern Division Non-Muhammadan Rural) I wish to say a word on this I do not know whether there was any such ruling or not—I can recollect none But the narrow point is this whether that will come under rule 50—supplementary or additional grants—is a matter for the legal advisers of the Government. The point really is this, that you cannot deal with it under rule 49, the last words are conclusive—"and shall be dealt with in the same way by the Assembly as if it were a demand for grant". In other words, without the hypothesis of there having been a demand for grant under that head, it is impossible to apply rule 49, apart from the question whether it can be called an excess over zero or not The real point is that it can only be dealt with under this rule on the assumption that there was an original demand for grant Therefore, there not having been any demand for grant under this head, there cannot be any demand for an excess grant under rule 49 Rule 50 says.

"An estimate shall be presented to the Assembly for a supplementary or additional grant when—

(i) the amount voted in the Budget of a grant is found to be insufficient for the purposes of the current year, or

(ii) a need arises during the current year for expenditure for which the vote of the Assembly is necessary upon some new service not contemplated in the Budget for that year "

If these words stood alone, I dare say they would naturally call any grant additional which was not contemplated during the course of the year I quite grant that except by straining language it would not be possible to call a windfall excess of this kind which is allocated for a purpose as being required for a new service But none the less this is limited by the proviso which runs

"Provided that when funds to meet proposed expenditure on a new service can be made available by re-appropriation a demand for the grant of a token sum may be submitted . "

Sub-rule (3) of rule 50 says

"Supplementary or additional estimates shall be dealt with in the same way by the Assembly as if they were demands for grants"

That appears to be equally conclusive on this point, that it deals with an excess as if it was a new grant, and so far as this sub-rule (3) is concerned, it is not qualified in the same way as sub-rule (1) By straining the language you may assist my Honourable friend if he made a demand under rule 50 (3), but it is certainly not possible to say that under rule 49

Mr. President (The Honourable Sir Abdur Rahim). Supposing it is a supplementary or additional grant, what will be the practical difference? After all it is a technical difficulty Cannot the House deal with it now?

Mr. Bhulabhai J. Desai: The only answer I can give is this Whether it is convenient to us or not, I submit it would not be the right way of construing the rule. I do not deny that if you do not read the qualification in rule 50 (1) and rule 50 (2), and merely read 50 (3), independently, you can allow this to be moved as an additional grant, not as a supplementary

Mr. President (The Honourable Sir Abdur Rahim). There is no dispute on its merits Would it not save time if this is moved as a supplementary or additional grant?

Mr. Bhulabhai J. Desai: On the merits I understand that if it can be moved as a supplementary or additional grant, it can only be moved at a later date and not now.

The Honourable Sir James Grigg: It cannot be moved as a supplementary grant in the proper meaning of the word at all for the simple reason that the year in which the expenditure occurred is past

Mr. Bhulabhai J. Desai: I quite agree that it cannot be a supplementary grant, because the term supplementary is used with reference to 50, subsection (1) clause 1, the amount voted in the Budget is found sufficient for the current year,—I quite agree,—and therefore it cannot be a supplementary grant, and it can only be an additional grant My submission, therefore, is that so far as the point of order that is raised is concerned, you would rule that it cannot be moved as an excess grant, and you may well consider whether under 50, sub-clause (3), you could allow my friend to move it as an additional grant.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural) Sir, I wish to say something on this Suppose a particular item is provided in the budget, say Demand No 18, and we vote in the original Budget say Rs 100 for that After that, we can give as an excess grant any sum we like The point raised was that that particular item ought to be in the Budget My contention is this, that if that demand does not occur in the Budget at all, the question would arise whether we can introduce this new item in the Budget and whether it would be valid If we had not voted for anything else, it means we had voted zero rupees, and I consider a zero is as good a number as 100 or any other number The demand was there, but the money we had voted under that demand was zero, and we now say it is not sufficient I contend it is an excess grant

Mr. President (The Honourable Sir Abdur Rahim) You said the demand was there in the original budget?

Dr. Sir Ziauddin Ahmad: Yes

Mr. M. S. Aney (Berar. Non-Muhammadan). Sir, my friend's mathematical argument comes to a zero, in my opinion All demands are numbered, and there is no zero No demand at all If there was a demand it must have had a number from 1 to some other figure. Had there been a zero demand, I could have assumed even a zero grant also Therefore, we must assume that this demand had not existed before and an amount is now asked for, and the only question is whether that would be a proper demand to be classed as an excess grant. The difficulties are there. I think the only solution is to anyhow bring it under the category of an additional grant, there is no other way, but the zero argument cannot hold good.

The Honourable Sir James Grigg: May I suggest that, as we are now very near the luncheon adjournment, and we have very little business left to do, it is no good asking Honourable Members to come back to resume this very interesting and slightly attenuated discussion without being able to quote your ruling, to which I have referred I suggest that we take up this business of excess grants on some other convenient day, and in the meantime we shall produce for your consideration the ruling which I have clearly in my recollection and which I hope also exists in fact

Mr. President (The Honourable Sir Abdur Rahim) What about the other two?

The Honourable Sir James Grigg: I am quite agreeable to take those two if you like

Mr. President (The Honourable Sir Abdur Rahim) I think you had better dispose of those two, and hold over this one

IRRIGATION WORKS—(NOT CHARGED TO REVENUE)

The Honourable Sir James Grigg: Sir, I move

"That an excess grant of Rs 1,14,801 be voted by the Assembly to regularise the expenditure chargeable to capital actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Irrigation Works—(Not charged to Revenue)' "

This is the counterpart on the Capital side of the grant, to which Mr Pande took exception just now, and the explanation is the same

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

"That an excess grant of Rs 1,14,801 be voted by the Assembly to regularise the expenditure chargeable to capital actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Irrigation Works—(Not charged to Revenue)' "

Mr. K. Santhanam: Sir, I want to take objection to the procedure which is being adopted The Government deliberately budgeted for this amount to be adjusted in 1937-38, and now they do it in 1936-37 without our sanction, and they want to take sanction from us after the event What was the difficulty in adjusting it in 1937-38? Why should they take the responsibility to adjust in 1936-37 without our sanction? This is one of the two items in which adjustment was made in this way. The first item was Demand No 22, and the excuse is, it was due to arrears of working expenses, but here it is only a share of the Central Government which in the normal course of things they should have paid in 1937-38. I want an explanation as to why they chose to adjust it in 1936-37. Was it because they were anxious to oblige the Sind Government?

The Honourable Sir James Grigg: Not at all There is no question of obliging the Sind Government in any ulterior or nefarious sense as the Honourable Member seems to suggest It was certainly due to a desire of both the Governments The Sind Government budgeted for the demand and wanted the money, and the Government of India wanted to make the payment in order to avoid any interest on it And the reason was solely in regard to the general financial settlement with the Sind

[Sir James Grigg.]

Government It is a thing which can only very rarely happen, and the Honourable Member is, I think, finding a mare's nest where no mare or nest exists.

Mr. S. Satyamurti: Sir, I do not like this argument of "mare's nest" constantly trotted out by my friend It was done, and I speak as a member of the Public Accounts Committee,—primarily to oblige the Sind Government I am not blaming the Government of India for doing it, but you will find the Public Accounts Committee Report stating that the Government of India did not want to let down the Sind Government

The Honourable Sir James Grigg: The Honourable Member is misinterpreting what I said I said it was not done to oblige in any nefarious sense

Mr. S. Satyamurti: It was not "nefarious", but it was not legitimate No Provincial Government has a right to include in its Budget a grant from the Government of India unless the grant had been sanctioned already and I do hope that the Honourable the Finance Member, although he is leaving us shortly, will not encourage Provincial Governments to put down in their budgets for the next year, sums which they expect to receive from the Government of India, but which they have not sanctioned Therefore, the Sind Government having put it down in their budget, the Government of India, in their new expansive mood towards Provincial Governments, decided that they should make this grant My friend was perfectly right in pointing that out, and we in the Public Accounts Committee expressed our agreement to this excess grant, because, and only because of that ground although we were told we would be saving some interest

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

"That an excess grant of Rs 1,14,801 be voted by the Assembly to regularise the expenditure chargeable to capital actually incurred in excess of the voted grant in the year 1936-37 in respect of 'Irrigation Works—(Not charged to Revenue)' "

The motion was adopted

INTEREST-FREE ADVANCES.

The Honourable Sir James Grigg: Sir, I move

"That an excess grant of Rs 1,81,656 be voted by the Assembly to regularise the disbursement actually made in excess of the voted grant in the year 1936-37 in respect of 'Interest-free Advances' "

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

"That an excess grant of Rs 1,81,656 be voted by the Assembly to regularise the disbursement actually made in excess of the voted grant in the year 1936-37 in respect of 'Interest-free Advances'."

The motion was adopted

The Assembly then adjourned till Eleven of the Clock on Monday, the 14th November, 1938.

LEGISLATIVE ASSEMBLY.

Monday, 14th November, 1938

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

MEMBER SWORN

The Honourable Sir Nripendra Sircar, K C S I. (Law Member).

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS.

STATEMENT OF SIR FEROZE KHAN NOON ABOUT INDIAN SUPPORT TO GREAT BRITAIN IN THE EVENT OF WAR.

1211. *Mr. Abdul Qaiyum Will the Honourable Member for Commerce please state.

(a) whether he has read the statement of Sir Feroze Khan Noon, High Commissioner for India, made at Quebec and published in the *Statesman*, dated the 21st September, 1938

(b) whether the remarks about Indian support of Britain in the event of a war expressed the personal views of Sir Feroze Khan Noon, or whether they expressed the views of the Government of India after due consultation,

(c) whether the said High Commissioner had any authority to speak for the people of India, and

(d) whether any steps had been taken to ascertain the views of accredited representative of India before such a statement was made?

The Honourable Sir Muhammad Zafrullah Khan: (a) Yes

(b) The remarks in question expressed the personal views of Sir Feroze Khan Noon

(c) and (d) Do not arise

Mr. Abdul Qaiyum: May I know if it is part of the High Commissioner's duty to indulge in this tendencious propaganda?

The Honourable Sir Muhammad Zafrullah Khan: I do not know that the propaganda was tendencious, but I am afraid I do not know the exact scope of his duties in this respect

Mr. Abdul Qaiyum: May I know whether any action has been taken or any correspondence has taken place with the High Commissioner as to why he made such a statement?

The Honourable Sir Muhammad Zafrullah Khan: No action is necessary

Mr. S. Satyamurti: Have Government made it clear to those to whom these remarks were addressed, that they represented only the personal views of Sir Firoze Khan Noon and did not represent the views of the Government of India or the people of India?

The Honourable Sir Muhammad Zafrullah Khan: I do not think that there is any scope for misunderstanding on that point

Mr. S. Satyamurti: May I know whether the Government of India have defined the duties of the High Commissioner, and in view of the fact that he is going on making these speeches, whether the Government will consider telling this gentleman to confine himself to his duties and not indulge in such politics?

The Honourable Sir Muhammad Zafrullah Khan: I am quite sure that the High Commissioner realises his duties in these matters I am equally sure that on certain occasions, when it is not likely to cause any misunderstanding, he is as free to express his personal views as anybody else

Mr. Abdul Qaiyum: May I know whether, in view of the fact that he has been making and has recently made similar statements in the same country, the Government of India will take steps to bring it home to him that he should tell his audience that these were his personal opinions and not the opinions of the Government of India or the Indian people?

The Honourable Sir Muhammad Zafrullah Khan: I have already answered that

Mr. Lalchand Navalrai: May I know from the Honourable Member if, when the High Commissioner makes any statement with regard to India, he consults the Government of India first?

The Honourable Sir Muhammad Zafrullah Khan: That does not arise

Mr. Lalchand Navalrai: My submission is that it does arise from this question In this case a statement has been made by the High Commissioner there which is being objected to, and it is our duty to ask here in this House whether he had any instructions, or he gets any instructions from here and makes these irresponsible statements or not

The Honourable Sir Muhammad Zafrullah Khan: So far as the first part of the Honourable Member's question is concerned, that is covered by part (c) of the question which I have already answered

Mr. S. Satyamurti: In view of the high office which the High Commissioner holds and the possibility of his views being understood or misunderstood as those of the Government or the people of India, may I ask my Honourable friend whether he will consider taking some steps to warn this gentleman that he must not express these views unless he adds at the same time that they are his own personal views?

The Honourable Sir Muhammad Zafrullah Khan: To begin with, I have already answered that question, in the next place, the reports of the proceedings of this House are available to the High Commissioner

Pandit Krishna Kant Malaviya: May I know from the Honourable Member if he would send copies of these questions and answers to the High Commissioner?

The Honourable Sir Muhammad Zafrullah Khan: The High Commissioner, as I have already said, always receives a copy of the reports of the proceedings of this House

Sardar Sant Singh: May I know if Government are willing to make a statement as to the general policy with regard to the high officials under the Government of India in these matters?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid I do not follow the question If the Honourable Member has in mind this particular matter on which the High Commissioner made observations, the Government view was expressed with regard to that on several occasions during the last Session

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

COLONISATION OF JEWS IN KENYA

1212. *Mr. Abdul Qaiyum Will the Secretary for Education, Health and Lands please state

(a) whether he has read Mr Pandye's statement in the *Hindustan Times*, dated the 21st September, 1938, under the caption "Foreign Jew preferred to Indians"

(b) whether German and Austrian Jews have lately entered Kenya in appreciable numbers, if so, what is their approximate total;

(c) whether the Kenya Legislative Council has recently passed a bill setting up a Board to maintain the present administrative practice of exclusively reserving the Highlands for Europeans,

(d) what action the Indian Government have taken, or propose to take, to counteract this measure; and

(e) whether alien Jews can buy lands in the Highlands from which Indians are excluded?

Sir Girja Shankar Bajpai: (a) Yes

(b) Government understand that a scheme for settling a limited number of Jews in the Kenya Highlands is under consideration. They are not aware that German and Austrian Jews are entering Kenya in appreciable numbers

(c) The Crown Lands (Amendment) Ordinance, 1938, does not establish any Board nor does it contain any reference to the present

administrative practice governing the transfer of land from Europeans to Indians. All that it does is to define the Highlands Board as the Board that may be established in accordance with any Order of His Majesty in Council No such order has been promulgated.

(d) As I have informed the House on previous occasions, the Government of India have repeatedly represented to His Majesty's Government that there should be no Order in Council

(e) The issue has assumed practical importance as a result of the plan referred to in part (b) of the answer and the Government of India have placed the Indian point of view before His Majesty's Government

Mr. Abdul Qaiyum: May I know if this settlement of Jews in Kenya is taking place under the auspices of the British Government?

Sir Girja Shankar Bajpai: As far as I know, there is a separate question down on the subject later on, but to my knowledge it is not taking place under the auspices of His Majesty's Government A private company is promoting the settlement of a limited number of Jews not exceeding 150 I think

Mr. M. S. Aney: May I ask the Honourable Member to repeat his answer to this part of the question, "If so, what is their approximate total"?

Sir Girja Shankar Bajpai: I have said 150 is the maximum number that is intended to be settled

Mr. Abdul Qaiyum: Is it a fact that the present position is that when Jews can buy land in Kenya while British Indians cannot?

Sir Girja Shankar Bajpai: The present position is that no transfer may take place from one person to another without the approval of the Governor As far as I know, in practice the Governor has given his consent to transfers of land from British to non-British subjects As I pointed out in reply to my answer to part (e) of the question, with regard to this question of German Jews the Government of India have represented to His Majesty's Government that this is not desirable

Mr. Abdul Qaiyum: But my question still remains Permission has been given to German Jews to buy land I want to know if in this particular area German Jews are allowed to buy lands and British Indians are not allowed to do so.

Sir Girja Shankar Bajpai: I have already explained on previous occasions that in the so-called agricultural highlands of Kenya no land may be transferred from one person to another without the approval of the Governor. In the past it has happened that to transfer from an European who is a British subject to an European who is not a British subject—such permission has been given, but what they are going to do with regard to this I cannot say

RATE WAR BETWEEN SHIPPING COMPANIES CARRYING HAJ PILGRIMS.

1213. *Mr. Abdul Qaiyum. Will the Honourable the Commerce Member please state

(a) whether after the break-down of the last conference on Haj rate war, Government have received representations from the Federation of Indian Chambers of Commerce and Industry,

(b) whether rate-cutting has again been threatened or resorted to by the Moghul Line;

(c) whether Government intend to convene a conference of the interests concerned at the earliest possible date, and

(d) whether Government have taken, or propose to take, any steps to save Indian shipping from this uneconomic competition?

The Honourable Sir Muhammad Zafrullah Khan: (a) Yes

(b), (c) and (d) Perhaps the Honourable Member has seen the Press Note of the 29th October issued by the Commerce Department to the effect that at my suggestion the two companies handling the pilgrim traffic have agreed that during the present season the return fare from Karachi shall not be less than Rs 115 and that fares from other ports will be adjusted accordingly The agreement was put into force on the 27th October, but since then complaints have been made to me by each party that the other has resorted to rate-cutting in contravention of the agreement These allegations and counter-allegations are now under investigation

Mr. Abdul Qaiyum: In view of the fact that even after this agreement, allegations and counter-allegations have been made, will Government bring in such legislation as will prevent such a practice?

The Honourable Sir Muhammad Zafrullah Khan: I do not know whether in that respect legislation would be more effective than an agreement

Mr. Abdul Qaiyum: But what is the effective remedy which Government consider will stop such a practice?

The Honourable Sir Muhammad Zafrullah Khan: I do not know that people can be made honest by any kind of legislation or rules

Mr. Abdul Qaiyum: But there is legislation about stopping dishonesty

An Honourable Member: What about the Indian Penal Code?

Mr. Abdul Qaiyum: Yes Do Government confess their helplessness? I want to know what steps Government intend to take to stop such a thing —especially when agreements which have been entered into by accredited representatives may be violated.

The Honourable Sir Muhammad Zafrullah Khan: If Government are satisfied that the agreement has been violated, Government will have to consider the question as to what should be done.

Mr. Abdul Qaiyum: What is the position? In view of these allegations, have Government made any enquiry whether these allegations are correct?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid the Honourable Member did not listen to my reply

Mr. Abdul Qaiyum: Will the Honourable Member kindly repeat it if it is not inconvenient?

The Honourable Sir Muhammad Zafrullah Khan: With your permission, Sir, I will repeat the the last part of the reply

"Since then complaints have been made to me by each party that the other has resorted to rate-cutting in contravention of the agreement These allegations and counter-allegations are now under investigation"

Mr. T. S. Avinashilingam Chettiar: May I know whether it has happened in the past that agreements with Government on these matters have been violated?

The Honourable Sir Muhammad Zafrullah Khan: I cannot answer a question like that

Mr. Manu Subedar: Do Government propose to have a permanent settlement of this question, as between these competing lines?

The Honourable Sir Muhammad Zafrullah Khan: That must depend upon the results of the present experiment

Mr. Manu Subedar: Have Government any legal powers to settle this matter and to enforce a settlement which may be arrived at?

The Honourable Sir Muhammad Zafrullah Khan: That question was asked by the Honourable Member in the last Session and it was answered

Mr. Manu Subedar: This is a different question and I think the Honourable Member is evading an answer He must say "yes" or "no"

The Honourable Sir Muhammad Zafrullah Khan: I strongly object to the expression used by the Honourable Member Will he kindly withdraw it?

Mr. Manu Subedar: I will not withdraw it

Mr. President (The Honourable Sir Abdur Rahim) What was the expression used by the Honourable Member?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member said that I was evading an answer to his question

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member must withdraw it

Mr. Manu Subedar: I withdraw it May I repeat my question? I am asking a clear question—whether Government have got legal powers to settle this question as between these two competing companies and enforce such a settlement This is a specific question with regard to these two companies which was not raised before

The Honourable Sir Muhammad Zafrullah Khan: It does not matter whether the particular companies are A and B or C and D The general answer remains the same and applies to these particular companies too If the Honourable Member is not satisfied with the answer given, that is a different matter

Mr. Manu Subedar: Will the Honourable Member read the answer which he gave at the last Session?

Mr. President (The Honourable Sir Abdur Rahim) He says he has answered it

Mr. Abdul Qaiyum: May I know whether the fares were recently brought down from Rs 172 to Rs 20 and that a company had to pay Rs. 27 per passenger for the privilege of carrying him to Jeddah and back?

The Honourable Sir Muhammad Zafrullah Khan: That allegation was made with regard to the rate war last year

INDIANS KILLED AND WOUNDED IN BURMA DURING THE RECENT RIOTS.

1214. *Mr. Abdul Qaiyum Will the Secretary for Education, Health and Lands state

(a) the latest figures about the number of Indians killed and wounded in Burma during the recent riots;

(b) whether any Indian women or children were killed or wounded, if so, their numbers,

(c) whether any decisions have been arrived at by the Burma Government in the matter of compensating Indians for loss of life and property;

(d) what steps have been taken by the Government of India to obtain compensation for Indians from the Burma Government,

(e) the total number of Indians who were forced to leave Burma as a result of the riots, or who voluntarily left Burma, and

(f) the steps taken, or proposed to be taken, to stop the exodus of Indians and to inspire confidence in them?

Sir Girja Shankar Bajpai: Sir, with your permission, I will answer questions Nos 1214 and 1228 together Figures of casualties by race in Rangoon were given in reply to Mr Amarendra Nath Chattopadhyaya's starred question No 1120 on the 19th September, 1938 Figures regarding casualties in the districts and amongst women and children by race as also loss of property have been asked for from the Agent. At the end of last month, it was estimated that only about 300 more refugees who sought repatriation were left; 9,952 had returned to this country Conditions appear to have been normal now for some weeks and the resulting stabilisation of a feeling

of confidence should be the most effective deterrent to any further exodus of Indians. The question of compensation is the subject of negotiation with the authorities concerned.

Mr. Abdul Qaiyum: Will the Honourable Member give the House the latest figure about the number of those who had to leave Burma as a result of the riots?

Sir Girja Shankar Bajpai: I have said that there were 300 at the end of last month who were awaiting repatriation and 9,952 had already left

Mr. Abdul Qaiyum: May I know whether Government will take steps to induce those who came back from Burma to go back to Burma if they want to?

Sir Girja Shankar Bajpai: No such suggestion has reached the Government of India so far My own feeling is that as soon as conditions settle down in Burma, those who want to go back will go back

Mr. T. S. Avinashilingam Chettiar: May I know the number of people who have applied for compensation?

Sir Girja Shankar Bajpai: I have not got any information on that point.

Mr. Abdul Qaiyum: May I know when a decision is likely to be reached on the question of compensation?

Sir Girja Shankar Bajpai: It will be fairly soon, I hope

Prof. N. G. Ranga: May I know how long it will take for conditions to settle down in Burma?

Sir Girja Shankar Bajpai: The information of the Agent is that conditions are already returning to normal

Mr. M. S. Aney: Who will receive the applications for compensation?

Sir Girja Shankar Bajpai: The question of the agency for considering cases relating to compensation is under consideration

ATEBRIN IMPORTED FROM GERMANY.

1215. ***Mr. Badri Dutt Pande:** (a) With reference to my supplementary question to starred question No 172 of the 15th August, 1938, will the Secretary for Education, Health and Lands be pleased to state how much atebrin has been imported every year from Germany during the last two years?

(b) What is the cost thereof?

Sir Girja Shankar Bajpai: (a) and (b) Imports of atebrin are not separately recorded

Mr. K. Santhanam: May I know the total quantity of imports of atebrin into India from all parts of the world?

Sir Girja Shankar Bajpai: We do not record the imports of these proprietary drugs separately.

AGRICULTURAL QUOTA BILL UNDER DISCUSSION IN CEYLON.

1216. *Mr. Manu Subedar Will the Honourable Member for Commerce state.-

(a) whether the attention of Government has been drawn to the Agricultural Quota Bill under discussion in Ceylon, by which an Agricultural Products Regulation Board will be established;

(b) whether the Bill gives unlimited power to the Governor and the Commissioner for Agricultural Marketing to make any decisions in regulating the trade in agricultural products as they think proper, notwithstanding anything in any law to the contrary,

(c) whether a list of "regulated products" has so far been published,

(d) whether any items, which India is exporting to Ceylon, are included,

(e) whether in recent conversations between the representatives of the Ceylon Government and the Government of India this subject was discussed, and

(f) whether Government have an assurance that the operation of the proposed law will be watched so as not to prejudice the trade of India with Ceylon?

The Honourable Sir Muhammad Zafrullah Khan: (a) The Government have not yet received a copy of the Bill but they have seen some press reports relating to it.

(b) to (d) Government have no information at present but they are in communication with their Agent in Ceylon in the matter

(e) There have been no such conversations

(f) Does not arise.

Mr. Manu Subedar: With regard to (f), what is the machinery for watching that the interests of India will not be unduly or adversely affected in Ceylon

The Honourable Sir Muhammad Zafrullah Khan: Our Agent in Ceylon.

Mr. Manu Subedar: Has any correspondence passed between the Government of India and the Agent in Ceylon? I want to know the substance of that correspondence

The Honourable Sir Muhammad Zafrullah Khan: That is the subject matter of the Honourable Member's question, and I have answered it

Mr. Manu Subedar: I want to know what is the latest information on that subject

The Honourable Sir Muhammad Zafrullah Khan: The latest information is that we have asked the Agent for particulars and we have not received his reply.

CONSULTATIONS BETWEEN THE REPRESENTATIVES OF INDIAN STATES AND THE GOVERNMENT OF INDIA AT SIMLA

1217. *Mr. Manu Subedar Will the Honourable the Leader of the House state

(a) whether he is now in possession of any information, which he can give to this House, with regard to consultations which recently took place at Simla between representatives of Indian States and the Government of India;

(b) whether it is intended at any stage in these negotiations to give any information to the representatives of the people in the person of the leaders of Parties in this House,

(c) whether the Government of India have represented to His Majesty's Government the desirability of not coming to a final decision in regard to issues between British India and the Indian States without a tripartite consultation, involving leaders of British India as one of the parties interested,

(d) whether it is a fact that very advantageous financial terms and other concessions have been made to some of the larger States and whether it is expected that these contracts would be binding on the Federal Ministers, and

(e) whether it is true that in some cases these larger States have been induced by such concessions to take a more favourable view with regard to entry into the Federation?

The Honourable Sir Nripendra Sircar With your permission, Sir, I shall reply to questions Nos 1217 1229 and 1233 together

I have nothing to add to the statement made by the Honourable Sir James Grigg on the 10th March, 1938, in reply to Mr T S Avinashilingam Chettiar's starred question No 737

Mr. S. Satyamurti In the previous answer of Sir James Grigg, it was stated that he had nothing to add to the statement of Sir Nripendra Sircar and now the Honourable Member says that he has nothing to add to the statement of Sir James Grigg?

The Honourable Sir Nripendra Sircar Sir James Grigg's answer extended to three typed pages He did not merely say that he had nothing to add to my statement

Mr. Manu Subedar: My question, part (b) of 1217, is not covered by the previous replies I ask whether it is intended at any stage in these negotiations to give any information to the representatives of the people in the person of the leaders of Parties in this House

The Honourable Sir Nripendra Sircar I think that is covered but I do not mind giving a separate reply I am not in a position to make a statement as to what will be done in future

Mr. S. Satyamurti What is the present intention of the Government? Admittedly these negotiations are going on Before any settlement, even *interim*, is arrived at, may I know whether Government have any intention of considering the desirability of consulting leaders of parties in the House?

The Honourable Sir Nripendra Sircar: At present, I am not in a position to state that such consultation will take place

Mr. S. Satyamurti: May I know if it is a mere non-committal statement, because Government have not considered the question at all, or have they come to a temporary conclusion, to be revised later on, that, as at present advised, they will not consult the leaders of parties in this House?

The Honourable Sir Nripendra Sircar The Honourable Member cannot have it in that way He is perfectly aware of the position As to whether they will be consulted or not, no decision has been arrived at, and we must wait for the proper time

Mr. Manu Subedar Have Government considered in what way and whether the contracts made with some of the larger Indian States are going to be accepted by the Legislature in future Have they never considered the point that if there is no prior consultation with any party leaders now or at any stage until these contracts are concluded, there may be some difficulty in carrying on these contracts by the Federal ministers of the future?

The Honourable Sir Nripendra Sircar Government have considered all the relevant matters, including the one mentioned by my Honourable friend

Mr. S. Satyamurti: May I ask specifically whether Government have agreed to give any advantages—financial terms or other financial concessions—to some of the larger States as part of the bargain so as to induce them to join the Federation?

The Honourable Sir Nripendra Sircar In connection with these negotiations, it is not the desire of the Government to act contrary to the public interest and to disclose the stage of the negotiations, the persons with whom the negotiations are taking place, who have said what, or what will happen, and so forth

Mr. S. Satyamurti My friend's four categories do not cover my question My question simply is whether any advantages, financial terms or concessions, have been offered to Indian States or are proposed to be offered with a view to induce them to join the Federation

The Honourable Sir Nripendra Sircar: That is covered by the fact that they must—if such a thing has been done, about which I say nothing —have been part of negotiations, and I have already made it perfectly clear that as to what has been offered, and what has been refused if anything, is a part of the negotiations and it is against the public interest to disclose them

Mr. S. Satyamurti In view of the fact that British Indian interests are vitally affected, may I know whether Government will, before making up their mind finally as to granting these concessions, take steps to consult British Indian public opinion?

The Honourable Sir Nripendra Sircar I have answered that already

Mr. Manu Subedar May I know whether the "public interest" referred to by the Honourable the Leader of the House includes "disclosure" even to the four party leaders in this House?

The Honourable Sir Nripendra Sircar I have nothing to add to my answer

Mr. President (The Honourable Sir Abdur Rahim): This has really been answered The Government are not prepared to give any further information

Mr. S. Satyamurti With reference to the answer to clause (f) of question No 1229, may I ask what the specific answer of the Government is—whether the Federation is to be inaugurated early in 1940 or in 1941?

The Honourable Sir Nripendra Sircar I would refer my Honourable friend to my previous answer, that is a matter for the astrologer.

Sir Cowasji Jehangir Have Government consulted the official astrologer?

The Honourable Sir Nripendra Sircar We are trying to find one

Mr. S. Satyamurti It does seem to me, Sir, that in answering a question of this kind the Honourable the Leader of the House is not taking the question seriously

The Honourable Sir Nripendra Sircar I am taking it very seriously I cannot make any prediction as to the date on which Federation will come

Mr. Badri Dutt Pande Are we to understand that Government are acting as a secret society in the matter of the inauguration of Federation?

The Honourable Sir Nripendra Sircar That is a complete misunderstanding of the position

Mr. S. Satyamurti With reference to the answer to clause (c) of question No 1229, may I inquire specifically whether the draft Instrument of Accession is ready, and has been shown to the Indian Princes?

The Honourable Sir Nripendra Sircar I have already explained why the question cannot be answered, and I have given the grounds

Mr. S. Satyamurti With reference to the answer to part (f) of my question No 1229, may I know what are the outstanding questions between the Indian Princes and the Government of India with regard to the former's accepting Federation?

The Honourable Sir Nripendra Sircar The answer is exactly the same.

Mr. S. Satyamurti With reference to the answer to question No 1233, may I know whether, according to the information of Government, any of the States have signified their assent to the revised Instrument of

The Honourable Sir Nripendra Sircar I think I have made it perfectly clear that Government are not prepared to disclose that

Mr. S. Satyamurti Has the revised Instrument of Accession been shown to the Princes?

The Honourable Sir Nripendra Sircar That is part of the negotiations; if it has been shown, it is part of the negotiations, and I am not going to disclose them

Mr. S. Satyamurti May I know then whether the Instruments of Accession are ready?

The Honourable Sir Nripendra Sircar I am not going to state, Sir, whether it has been shown or not or whether it is ready or not

Mr. S. Satyamurti One more question Am I to understand that Government's attitude is that, until the Federation is established according to their own wishes, they do not propose to give any information to the public or take the public into their confidence

The Honourable Sir Nripendra Sircar That is not the Government's attitude

NEGOTIATIONS FOR INDO-BRITISH TRADE AGREEMENT

1218. *Mr. Manu Subedar: (a) Will the Honourable the Commerce Member state whether Government have communicated to the Board of Trade their final answer with regard to the Indo-British trade negotiations?

(b) Is this answer in conformity with the advice tendered by the majority of the non-official advisers?

(c) Have they also intimated the abandonment of these negotiations?

(d) Are Government free now to consider bilateral trade agreements with other countries?

(e) With which other countries is it proposed to open negotiations, and have any preliminary negotiations been opened?

(f) Has the material with regard to such bilateral agreements been made ready?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). Certain proposals put forward by Government on the basis of the recommendations made by the unofficial Advisers are now under discussion with His Majesty's Government

(c) No; negotiations are still proceeding

(d), (e) and (f) I would invite the Honourable Member's attention to the answers given on the 29th August, 1938, to his question No. 578 and its supplementaries and on the 9th September, 1938, to part (d) of Mr K. Santhanam's question No 887 and the first supplementary question arising therefrom.

Mr. Manu Subedar: With reference to the answer to clause (f) of this question, may I know whether there is any activity in the Commerce Department with a view to examining the position with regard to the

fate of India in relation to important customers so as not to spend any inordinate length of time—as has been done with regard to the Indo-British trade agreement in the matter of negotiating a bilateral agreement? Has there been any material prepared or examined?

The Honourable Sir Muhammad Zafrullah Khan Such examination is being continuously made

EXEMPTION OF JEWELLERY WARE FROM THE OPERATION OF THE SALE OF GOODS ACT

1219. *Mr. Manu Subedar: Will the Honourable the Commerce Member be pleased to state

(a) whether Government have received representations from the jewellery trade in India, pointing out the difficulties created by a judgment of the Bombay High Court with regard to goods given on "Jangad",

(b) whether it is true that, in the jewellery trade in India, goods given out on "Jangad" for inspection, valuation, or for any other purpose, are deemed to belong to the original owner, and whether this practice has hitherto been recognized by law to the extent of being a cognizable offence for a person to appropriate "Jangad" goods,

(c) whether Government have considered the practical difficulties, in which the trade will find itself, if the rights hitherto exercised by the original owner were not restored, or, at all events the legal position made clear,

(d) whether Government have consulted Provincial Governments on this subject,

(e) what are the replies of the Provincial Governments, and

(f) whether Government propose to bring in a Bill exempting jewellery ware from the operation of the Sale of Goods Act, so far as the question of property in such goods is concerned?

The Honourable Sir Muhammad Zafrullah Khan (a) Yes

(b) The information in the possession of the Government of India shows that it is not the case that in all "jangad" transactions in the jewellery trade the property in the goods necessarily remains with the original owner The latter portion of this part does not arise.

(c) and (d) The Government of India have recently considered the matter in consultation with the Provincial Governments concerned and in the light of their views they are not satisfied that any action on their part by way of legislation or otherwise is necessary

(e) The Provincial Governments were not unanimous as to the need for legislation on the subject

(f) The Government of India have no such intention at present

Mr. Manu Subedar May I inquire if Government are satisfied on this fact that before the judgment of the Bombay High Court upset this issue the jewellery trade had certain faculties, *viz*, that when "Jangad" goods were misappropriated by any intermediary whatsoever, the police undertook a proper inquiry, and that subsequent to this judgment this particular

remedy has gone and the Bombay High Court has now decreed that the man has only got a civil remedy against the parties who have taken away the goods and who are regarded as trustees of goods under "Jangad"?

The Honourable Sir Muhammad Zafrullah Khan I am not aware what facilities previously existed which according to the Honourable Member have now ceased to exist, but my information is that there has been a subsequent judgment of the Bombay High Court which has said that the judgment in the previous case must be deemed to be confined to the facts of that particular case

Mr. Manu Subedar May I submit that notwithstanding the information of the Honourable Member the latest position in Bombay is that that particular judgment does not restore remedies which were open and those remedies do not appear to be restorable except by legislation May I have an assurance from the Honourable Member that this matter will be further examined?

The Honourable Sir Muhammad Zafrullah Khan This matter has already been examined

ELECTORAL ROLLS FOR THE FEDERAL COUNCIL OF STATE

†1220. ***Sardar Mangal Singh:** Will the Honourable the Leader of the House please state

(a) when the electoral rules for the election of the members to the Federal Council of State will be made, and

(b) whether any instructions have been issued to the Provincial Governments regarding the preparation of electoral rolls for the next election of the Federal Council of State?

The Honourable Sir Nripendra Sircar: (a) I am not in a position to make any statement on the point raised by the Honourable Member

(b) No, Sir.

COMING INTO FORCE OF THE INSURANCE ACT

†1221. ***Sardar Mangal Singh:** Will the Honourable the Commerce Member please state.

(a) when the rules under the Insurance Act will be ready, and

(b) when the Act is expected to come into force?

The Honourable Sir Muhammad Zafrullah Khan: (a) The Rules under the Insurance Act, 1938, are expected to be ready by the end of February, 1939 Meanwhile, draft Rules are being published in this week's *Gazette of India* and opinions and criticisms thereon will be invited

(b) The attention of the Honourable Member is drawn to the Press Communiqué issued by the Department of Commerce on the 3rd October, 1938, a copy of which is available in the Library of the House

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

LANDS LEASED TO INDIANS IN FIJI.

1222. *Mr. T. S. Avinashilingam Chettiar: Will the Secretary for Education, Health and Lands state.

(a) whether Government have received replies from His Majesty's Government with regard to the evolving of a permanent land tenure of the lands leased to Indians in Fiji, and

(b) if so, at what stage the negotiations over that matter are?

Sir Girja Shankar Bajpai: (a) and (b) Since I furnished a reply to the Honourable Member's starred question No 683 on the 1st September, 1938, the Governor of Fiji has outlined in a speech to Fijian Chiefs, certain proposals for allocating some lands for the exclusive use of Fijians and for offering the remainder to non-Fijians on tenure The proposals are still the subject of negotiation with His Majesty's Government

Mr. T. S. Avinashilingam Chettiar: May I know whether this matter will be settled before the next settlement of the Indian leases?

Sir Girja Shankar Bajpai: As I informed the House on a previous occasion, the majority of the Indian leases do not fall in till 1942, and the intention is to finish this question in less than two years from now if possible

COLONISATION OF JEWS IN KENYA

1223. *Mr. T. S. Avinashilingam Chettiar: Will the Secretary for Education, Health and Lands state

(a) whether he has heard from His Majesty's Government with regard to the colonisation of Jews in Kenya,

(b) if so, whether the report of Jewish colonisation of Kenya is true, and

(c) how it will affect the Indian settlers in Kenya?

Sir Girja Shankar Bajpai: (a) and (b). His Majesty's Government have under consideration a scheme for the settlement of Jewish refugees in the Kenya Highlands under which a company has been formed which would arrange in the first instance for 25 young men, five of them married and accompanied by their wives, to proceed to Kenya to be placed with suitable farmers for training The company would bear the cost of the training and would purchase five or six farms on which these persons would settle at the end of the period of training, when established settlers might be joined by other members of their families The total number of settlers would not be large and there is no intention of forming a Jewish enclave in the Highlands.

(c) As I have indicated in reply to part (a) of Mr. Abdul Qaiyum's question, the matter is one of principle rather than economic effect and, on this aspect of it, representations have been made to His Majesty's Government.

Mr. T. S. Avinashilingam Chettiar: May I ask whether they have received similar representations and whether they have examined the question whether this will affect the trade of the Indians there?

Sir Girja Shankar Bajpai: I do not think that it is likely to affect the trade of Indians there because these people want to settle as farmers and not as traders.

Mr. T. S. Avinashilingam Chettiar: May I ask whether the Government of India have accepted the position that these alien Jews will have a better recognition than Indians in the matter of land in Highlands?

Sir Girja Shankar Bajpai: If the Government of India had accepted that position, there would have been no need to make representations to His Majesty's Government

NEGOTIATIONS FOR INDO-BRITISH TRADE AGREEMENT

1224. ***Mr. Sami Venkatachalam Chetty:** (a) Will the Honourable the Commerce Member please state whether Government have considered the report of the non-official advisers on the Indo-British Trade negotiations?

(b) Is the report unanimous?

(c) When do Government propose to lay either the report or the proposed agreement for consideration by this House?

(d) Have Government renewed negotiations with other countries, which were suspended owing to the Indo-British Trade Agreement being not concluded?

(e) If so, what is the progress made in each case?

The Honourable Sir Muhammad Zafrullah Khan: (a) Yes

(b) No

(c) In the event of any agreement being arrived at between the Government of India and His Majesty's Government for a new trade agreement to replace the Ottawa Agreement, the new agreement will not be given effect before it has been placed before the Legislature for its opinion As regards publication of the unofficial advisers' report, I invite the Honourable Member's attention to the answers given on the 24th August, 1938, to Seth Govind Das's question No 428 and its supplementaries

(d) and (e) The Honourable Member's attention is invited to the answers given today to parts (e) and (f) of Mr Manu Subedar's question No 1218.

Mr. T. S. Avinashilingam Chettiar: May I ask whether it is the intention of the Government that it will not be given effect to unless it is approved by the House?

The Honourable Sir Muhammad Zafrullah Khan: That I am unable to say

Mr. Manu Subedar: May I ask whether, since the last answer was given Government have not reconsidered the position with regard to the publication of the non-official advisers' report?

The Honourable Sir Muhammad Zafrullah Khan: The position continues to be the same

Mr. T. S. Avinashilingam Chettiar: In view of the fact that this Ottawa Agreement is indefinitely continuing, will the Government of India consider the advisability of terminating it in case it is not finished within a particular time?

The Honourable Sir Muhammad Zafrullah Khan: Yes, Sir

Mr. T. S. Avinashilingam Chettiar: What has been the result of such consideration?

The Honourable Sir Muhammad Zafrullah Khan: The matter is under consideration

GHEE ADULTERATION.

1225. ***Mr. M. S. Aney:** Will the Secretary for Education, Health and Lands, be pleased to state

(a) whether his attention has been drawn to the article under the caption "Minimising *Ghee* adulteration" by Satish Chandra Das Gupta, published in the *Harijan* of the 22nd October, 1938, at page 302,

(b) whether any report containing the deliberations and resolutions passed at the *Ghee* Conference arranged by the Central Government in September, 1937, is published and copies of it are available to the public,

(c) whether Government have so far taken any action on all or any of the resolutions of that Conference? If so, what those resolutions are and what the nature of the action taken is;

(d) whether it is a fact that a suggestion to the effect that all hydrogenated oil products should contain ten per cent of sesamum oil, was made at the Conference, and that the same was not accepted on the ground that it would not be proper to discuss it without having the views of the manufacturers of the vegetable products;

(e) whether Government have since moved in the matter and ascertained the views of the manufacturers of the vegetable products, if so, whether Government will publish the same,

(f) the number of factories in British India and Indian States for the manufacture of vegetable *ghee*,

(g) the quantity of vegetable *ghee* manufactured by each of them annually,

(h) the purposes for which the manufactured article is used, and

(i) whether it is not a fact that in other countries *til* or sesamum oil has to be mixed under Government orders, as *til* oil can easily to be detected even when it is mixed with *ghee* vegetable or pure?

Sir Girja Shankar Bajpai: (a) Yes.

(b) The proceedings of the informal *ghee* conference convened by the Agricultural Marketing Adviser to the Government of India in September,

1937, have not been published But copies have been distributed to Provincial Governments, Indian States, Municipalities, Banks, and persons and Associations interested in the *ghee* trade Copies are also available in the Library of the House.

(c) A statement showing the action taken so far on the recommendations of the *Ghee* Conference is laid on the table

(d) Yes.

(e) Steps to ascertain the views of manufacturers of hydrogenated oil products on the general question of standardisation of oils and hydrogenated oil products have been taken The question as to what action should be taken for such standardisation will be taken up when the replies are complete. The question whether the replies of manufacturers will be published has not yet been considered.

(f) Four in British India and one in Indian States

(g) Figues for individual factories are not available It is estimated that the total annual production of all the five factories amounts to 27,000 tons approximately.

(h) It is used as an article of food and also for industrial purposes, *e g* , soap-making

(i) It is understood that regulations requiring the admixture of *til* oil with certain products are in force in some countries

Statement

Recommendations or Resolutions of the Simla *Ghee* Conference	
1. "Since *Ghee* from certain areas presented technical difficulty regarding the standards, it was requested that a special investigation should be made regarding the quality of ghee in Kathiawar and Gujerat, with a view to prescribing special standards, if necessary"	1. An investigation was carried out and the report was discussed at a special conference at Bombay on 23rd January 1938 As a result of that conference, grading of *ghee* is now being done in Kathiawar also
2 "The Committee further resolved that as existing standards laid down for *ghee* by the different Provincial Governments and Indian States differ from those laid down by the *Ghee* Conference convened for the purpose of grading and marking pure *ghee* under the Agricultural Produce (Grading and Marking) Act, 1937, a copy of the prescribed standard may be forwarded to the Provincial Governments and States with the recommendation that the "G" (General) standard be accepted as the presumptive standard of purity with a view to secure uniformity of standards throughout the country".	2 (i) The proceedings of the *Ghee* Conference held at Simla were supplied to the Provincial Governments and constituent States (of the I C of A R) for consideration and necessary action, particularly in regard to the resolutions passed at the conference. (ii) The question of recommending the adoption of uniform standards to all the Provincial Governments will be dealt with in the light of further experience gained in the working of the *ghee* grading stations.
3. "The Conference requests the Agricultural Marketing Adviser to establish experimental *Ghee* grading stations at suitable centres during the next *ghee* session"	3. *Ghee* rules have been notified under the Agricultural Produce (Grading and Marking) Act, 1937, and 18 *ghee* grading and packing stations have been established and about 15,000 maunds of *ghee* have been graded and marked with the AGMARK, as prescribed under the rules.

Recommendations or Resolutions of the Simla *Ghee* Conference	Action taken.
4. "That this conference requests that the Government of India may be requested to add to the schedule annexed to the Agricultural Produce (Grading and Marking) Act, 1937 the following commodities (i) Oilseeds, (ii) vegetable oils, and (iii) vegetable oil products"	4 (i) Proposals for the inclusion of oilseeds and edible oilseed products in the schedule are under consideration, and steps have been taken to consult the trade Certain replies are awaited (ii) Samples of oilseeds and oils have been analysed and draft grade specifications for vegetable oils have been drawn up
5 "This conference recommends to the Government of India and the various Provincial Governments and States (i) that weights and measures should be uniform throughout the country (ii) that market charges and allowances should also be uniform as far as possible"	5 (i) It has been decided to introduce a Bill in the Legislative Assembly regarding the standardisation of weights (ii) A draft model Bill for the regulation of markets and market charges was prepared and circulated to provincial and State marketing staffs
6 "That this conference recommends to the Government of India to devise ways and means to prevent adulteration of *ghee* by various adulterants, especially hydrogenated oils"	6 Under the Government of India Act, 1935, questions relating to the adulteration of food falls within the scope of provincial governments, and it is understood that the colourisation of hydrogenated products is receiving attention in certain provinces Central legislation provides for the grading of *ghee* under the Agricultural Produce (Grading and Marking) Act, 1937 This provides buyers with a pure product and in itself is a step towards reducing the amount of adulterated produce on the market

Prof. N. G. Ranga: Do Government propose to institute such regulations as obtain in other countries in order to make it easier to detect this?

Sir Girja Shankar Bajpai: That really is the point which is under examination

Mr. Manu Subedar: Have Government examined the position with regard to *ghee* adulteration as to whether the penal clauses of the Food Adulteration Act could not be applied to stop adulteration?

Sir Girja Shankar Bajpai: My Honourable friend is aware that food adulteration is a provincial subject and the machinery for imposing the provincial laws is under the control of the Provincial Governments and not under the control of the Government of India What we are considering is the desirability of devising some ingredient which would make the detection of adulteration possible

Prof. N. G. Ranga: Is it the policy of the Government of India to encourage the manufacture of vegetable *ghee* in India to the detriment of the natural *ghee*?

Sir Girja Shankar Bajpai: No, Sir; most certainly not

Mr. Manu Subedar: Is it not a fact that the addition of a colour material to vegetable products was suggested as early as 1927 and that the Government of India have not acted in the matter for the last 10 years?

Sir Girja Shankar Bajpai: I do not think that my Honourable friend is justified in suggesting that the Government of India have not acted on that particular suggestion If he will look up the relevant proceedings of the House for earlier periods, he will find what the Government of India did

INSURANCE COMPANIES FAILING TO MAKE DEPOSITS WITH GOVERNMENT.

1226. *Mr. Badri Dutt Pande: Will the Honourable the Commerce Member be pleased to lay on the table a statement of the Insurance Companies which have failed to deposit with Government in time the Government securities required in terms of the Indian Life Assurance Companies Act, 1912 (Act VI of 1912), section 4 (1), regarding deposits in respect of their published balance sheets

(i) for the period ending 31st March, 1937, and

(ii) for the period ending 31st March, 1938?

The Honourable Sir Muhammad Zafrullah Khan: (i) A statement containing the required information is laid on the table of the House

(ii) Under the Indian Life Assurance Companies Act, 1912, the Companies which closed their financial year on 31st March, 1938, are allowed to deposit Government securities in respect of that year up to the end of the next financial year, *i e*, up to 31st March 1939

Statement showing the Insurance Companies which have failed to deposit with Government in time the Government securities required in terms of section 4 of the Indian Life Assurance Companies Act, 1912 in respect of their business for the year ending 31st March 1937.

1	2	3	4	5	6	7
Serial No.	Name of the Company	Deposit due for business up to 31st March 1937.	Deposit made up to 31st March 1938	Deposit in arrears on 1st April 1938	Deposit made after 1st April 1938	Remarks
		Rs	Rs.	Rs	Rs	
1	Agarwal Assurance Society, Ajmer	46,465	41,000	5,465	5,400	Still in arrears of Rs. 65 only
2	All India Security Life and General Assurance Company, Bombay	69,044	45,000	24,044	4,500	Still in arrears of Rs. 19,544 Company has applied to Court for transfer of its business to the Prabhat Insurance Company *vide*, item 13 below
3	Aryan Life Assurance Society, Bombay	93,298	76,800	17,498	4,000	Still in arrears of Rs 13,498 Provincial Government have been addressed to launch a prosecution against the Company
4	Central Life and General Assurance Company Limited, Lahore	31,779	25,000	6,779		The Company was warned of the consequences on 9th July 1938
5	Dawn of India Insurance, Poona.	56,830	50,200	6,630	5,500	Still in arrears of Rs 1,130
6	Federal India Assurance Company, Delhi	54,863	56,000	8,863	3,500	Still in arrears of Rs 5,363 Chief Commissioner, Delhi has been addressed to launch a prosecution against the Company The Company has written to us that a deposit of Rs 5,500 has since been made
7	Free India General Insurance Company	1,48,590	70,000	78,590	30,000	Also Rs 25,000 have been transferred from the Good Luck Insurance Co Limited, in accordance with orders of the Court. It has also applied for transfer of deposit of Rs 29,100 of the Indo-Asiatic Insurance Co in accordance with the orders of the Court. The matter is under consideration

1	2	3	4	5	6	7
Serial No	Name of the Company	Total deposit due for business up to 31st March 1937	Total deposit made up to 31st March 1938	Deposit in arrears on 1st April 1938	Deposit made after 1st April 1938	Remarks
		Rs	Rs	Rs	Rs.	
8	Glory of India Insurance Company, Lahore	28,552	25,000	3,552		The Company has ceased to transact business It applied for refund of deposit and for this purpose it has been advised either to go into liquidation or to transfer its business to another Company under section 20 of the Indian Life Assurance Companies Act, 1912.
9	G I P Railway Employees Death Benefit Fund, Bombay	75,687	67,000	8,687	9,000	
10	Great Orient Insurance Company, Lahore	Company has not submitted its accounts and statements for the year ending 31st March 1937.				In addition to the arrears for business done during the year ending 31st March 1937 the Company is also in arrears of deposit of Rs 23,013 for its business up to 31st March 1936 The Provincial Government have been addressed to launch a prosecution against the Company
11	Great Peninsular Insurance Company, Madras	48,741	38,000	10,741	..	The Provincial Government have been addressed to launch a prosecution against the Company
12	Hindustan National Insurance Company, Lahore	27,703	25,000	2,703	2,500	The Provincial Government have already launched a prosecution against the Company
13	Prabhat Insurance Company, Bombay	98,997	45,000	53,997		Deposit of Rs 22,300 of the Central Mutual Life Assurance Co has been transferred to the credit of the Prabhat in accordance with Court's orders on the transfer of the business of the former to the latter The All India Security Life Assurance Company (item 2) has also applied to the Court to sanction transfer of its business to the Prabhat If this is sanctioned deposit of Rs 49,500 of the All-India Security will also be transferred to the Prabhat
14	Rajlaxmi Mutual Insurance Society, Karachi	41,691	30,000	11,691		The matter is under consideration.
15	Searchlight Insurance Company, Lahore.	30,751	30,000	751		Still in arrears of Rs 751 only
16	Shakti Insurance Company, Ambala	29,961	25,600	4,361		The Company has ceased to transact business Has applied for refund of deposit but has been asked to give proofs that it has no business on its books
17	Star of India Insurance Company, Lahore	1,41,887	1,24,800	17,087		The Company has applied for transfer of the deposit of Rs. 52,000 of the Taj Insurance Company, in accordance with the sanction of the Court for the transfer of the business of the latter to the former. The matter is under consideration
18	Sterling Insurance Company, Delhi	60,589	43,000	17,589	...	The Company has applied for the transfer of the deposit of Rs. 31,900 of the United National Insurance Company, whose business has been transferred to the Sterling Insurance Company in accordance with the section of Court It has been asked to send certain documents in this connection
19	Unity Insurance Company, Lahore.	43,452	26,500	16,952	..	Provincial Government have launched a prosecution against the Company

INCLUSION OF CERTAIN INDIAN COMMODITIES IN THE PACT BETWEEN THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA.

1227. *Mr. Manu Subedar: Will the Honourable the Commerce Member be pleased to state

(a) whether it is a fact that commodities exported directly from India to the United States of America are included in a pact which is being negotiated between the United Kingdom and the United States,

(b) whether the Government of India have asked His Majesty's Government to include these commodities;

(c) whether His Majesty's Government have asked the Government of India for these commodities being included,

(d) whether the Government of India have considered the effect of such a step in negotiating a bilateral trade treaty between the United States of America and India, and

(e) whether the Government of India are aware that the inclusion of exports from India to the United States of America in any trade negotiations between the United Kingdom and the United States is being resented in Indian commercial circles, if so, whether they have considered the advisability of conveying this feeling to His Majesty's Government?

The Honourable Sir Muhammad Zafrullah Khan: (a) So far as Government are aware, the discussions between His Majesty's Government in the United Kingdom and the Government of the United States of America in regard to a trade agreement are confined to articles of mutual interest to the two countries, although, in the event of an agreement being concluded, any tariff concession granted by the United States of America would, by virtue of the provisions of the United States of America Reciprocal Trade Agreements Act, be automatically extended to imports of similar goods from all countries which do not discriminate against the United States of America

(b) to (e) Do not arise

Mr. Manu Subedar: With regard to part (a) of the question, may I inquire whether India is precluded from a direct negotiation with the United States of America under an Old Convention of 1815?

The Honourable Sir Muhammad Zafrullah Khan: My impression is 'No', but for a definite answer, I am afraid the Honourable Member will have to give me notice.

Mr. T. S. Avinashilingam Chettiar: May I ask whether the Government are considering any proposal to negotiate a trade treaty with the United States of America themselves?

The Honourable Sir Muhammad Zafrullah Khan: I would require notice of that too

COMPENSATION TO INDIANS FOR LOSSES IN BURMA RIOTS.

†1228. *Mr. T. S. Avinashilingam Chettiar: Will the Secretary for Education, Health and Lands, state

(a) whether an estimate of the loss of Indian lives and property in the recent Burman riots has been made,

(b) if so, what are the final figures, and

(c) if any compensation has been secured for the loss suffered, and if so, to how many and how much?

INAUGURATION OF FEDERATION

‡1229. *Mr. S. Satyamurti: Will the Honourable the Leader of the House be pleased to state

(a) the latest position with regard to the inauguration of Federation,

(b) whether there is any truth in the rumour that Federation is to be inaugurated early in 1940, or whether it will be inaugurated only in 1941,

(c) whether the draft Instrument of Accession in its general part is ready and has been shown to the Indian Princes all or any,

(d) whether there is to be any immediate or early consultation with the Indian Princes with regard to their accession to the Federation,

(e) whether any Princes, and if so, how many, have already agreed to accede to the Federation, and

(f) what are the outstanding questions between the Indian Princes and the Government of India with regard to their accession to the Federation?

LIFE OF THE LEGISLATIVE ASSEMBLY.

1230. *Mr S. Satyamurti: Will the Honourable the Leader of the House be pleased to state

(a) whether he has any information with regard to the life of the present Legislative Assembly,

(b) whether it is proposed to dissolve the Assembly at the end of the present period, namely 30th September, 1939;

(c) whether it is proposed to extend the life of the Assembly by another year, and

(d) when the information will be made available to the House?

The Honourable Sir Nripendra Sircar: (a) No

(b) and (c) The decision rests with His Excellency the Governor General I am unable to anticipate the date on which His Excellency's decision will be reached

(d) The Honourable Member may assume that there will be no avoidable delay between the reaching of the decision and its communication to the Assembly

†For answer to this question see answer to question No 1214
‡ For answer to this question see answer to question No 1217

Mr. S. Satyamurti: With reference to the answer to part (d) of the question, may I know whether Government will bear in mind, to the extent to which they have any influence with the Governor General in this matter, that this information should be made available to the House as early as possible in order that we may prepare ourselves for the fight?

The Honourable Sir Nripendra Sircar: The Honourable Member may assume that there will be no avoidable delay between the reaching of the decision and its communication to the Assembly

Mr. S. Satyamurti: That does not help me. I want to know whether the Government of India can give any undertaking to this House, whether apart from the avoidance of any delay between the reaching of the decision and its communication to the House, they will use their good offices to see that the decision is arrived at as early as possible, in order that all the Parties in the House may know the information sufficiently early

The Honourable Sir Nripendra Sircar: I am not prepared to give an undertaking, but I have no reason to think that His Excellency the Governor General will purposely make any delay in coming to a decision

Mr. K. Santhanam: May I ask whether Government will convey to H E the Governor General that our Party, at any rate, does not want the extension of the life of this Assembly?

The Honourable Sir Nripendra Sircar: I ask you, Sir, whether that arises from this question That a particular section of this House does not want the extension of this Assembly, does not arise from this question

Mr. President (The Honourable Sir Abdur Rahim) The Department themselves can convey that.

Mr. K. Santhanam: It arises in this way May I know if Government are aware that the All-India Congress Committee has at its last meeting held in Delhi passed a resolution that the life of this Assembly should not be extended?

The Honourable Sir Nripendra Sircar: That surely does not arise from this question I know there have been instances when resolutions have been passed, but the action has been to the contrary

Mr. K. Santhanam: May I know what the Honourable Member means by the phrase "the action has been to the contrary"?

The Honourable Sir Nripendra Sircar: Like entering the ministries

Mr. S. Satyamurti: I have not understood the answer at all.

The Honourable Sir Nripendra Sircar: I cannot give an answer to a question which is probably not intelligible.

Mr. S. Satyamurti: The question which my friend asked was this whether the attention of Government has been drawn to the resolution of the All India Congress Committee which at its last meeting held at Delhi recommended that there should be no extension of the life of this Assembly

The Honourable Sir Nripendra Sircar: The question was far wider than that To this question, the answer is "yes"

Mr. K. Santhanam: That was exactly the question which I asked

The Honourable Sir Nripendra Sircar: If so, now you have got the exact answer

NEGOTIATIONS FOR INDO-BRITISH TRADE AGREEMENT.

1231. *Mr. S. Satyamurti: Will the Honourable Member for Commerce be pleased to state

(a) the latest stage at which the Indo-British trade negotiations stand at present,

(b) when they are expected to be completed,

(c) whether Government have now made up their mind to place any agreement which may be reached before the House for its opinion before they sign the agreement,

(d) what are the outstanding points of difference still between Great Britain and the Government of India in respect of this matter,

(e) whether Government still propose to act in concert with the opinion of non-official advisers in respect of this matter, and

(f) in view of the protracted nature of these negotiations, whether they intend to terminate the Ottawa Agreement forthwith, and, if not, why not?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b) I invite the Honourable Member's attention to the answers given today to parts (a) and (b) of Mr Manu Subedar's question No 1218

(c) The Honourable Member's attention is invited to the answer given today to part (c) of Mr Sami Venkatachalam Chetty's question No 1224

(d) and (f) The Honourable Member's attention is invited to the answers given on the 19th September, 1938, to parts (c) and (h) of his question No 1123 and its supplementaries

(e) The Honourable Member's attention is invited to the answers given on the 15th August, 1938, to parts (c) and (d) of his question No 212 and the supplementary question arising therefrom.

Mr. S. Satyamurti: With reference to parts (a) and (b), my Honourable friend will pardon me if I did not hear his answer, may I know whether Government can give the House some indication of the time by which these negotiations are expected to be completed?

The Honourable Sir Muhammad Zafrullah Khan: As I informed the Honourable Member and the House during the last Session, at one stage it was hoped that the negotiations were nearly completed Then out of the report of the unofficial advisers several matters arose which had to be taken up with His Majesty's Government They are now being discussed between the Government of India and His Majesty's Government and I can only express the hope that the matter might be brought to a conclusion at no very distant date

Mr. S. Satyamurti: In view of that answer, with reference to part (f) have Government fixed any outside time limit beyond which the Ottawa Agreement will not be continued, if in the meantime another agreement to take its place be not concluded for any reason whatsoever?

The Honourable Sir Muhammad Zafrullah Khan: I am unable to give a definite and specific answer If the Honourable Member will renew the question before the end of this Session, I hope I shall be able to give some definite reply

Mr. Manu Subedar: May I know whether the proposal that is being discussed is whether the unofficial advisers should go to England again for further consultation?

The Honourable Sir Muhammad Zafrullah Khan: Not so far as I am aware

Position of Indians in Burma

1232. *Mr. S. Satyamurti: Will the Secretary for Education, Health and Lands be pleased to state

(a) what the latest position in Burma is with respect to Indians settled there, or trading there,

(b) whether the committee of enquiry has started work,

(c) whether arrangements have been made by the Government of India for enabling Indians to lead proper evidence before that committee of enquiry,

(d) whether the Agent of the Government of India in Burma is helping the Indians in respect of this matter,

(e) whether law and order have been restored throughout Burma;

(f) how many refugees are still waiting in Rangoon for being sent to India, and what arrangements have been made for their repatriation, and

(g) whether any arrangements have been made for compensating the victims of the recent riots, if so, what they are?

Sir Girja Shankar Bajpai: (a) and (e) There are no disorders at present and so far as the Government of India know the situation is practically normal.

(b) to (d) Yes

(f) The Honourable Member's attention is invited to the answer that I gave earlier this morning to Messrs Qaiyum and Avinashilingam Chettiar's questions Nos 1214 and 1228 Repatriation has been effected by the Indian Relief Committees in Rangoon and by the Government of Burma.

(g) I would invite attention to the reply I have given in the course of my answers to questions Nos 1214 and 1228 earlier this morning.

Mr. S. Satyamurti: With reference to parts (a) and (b) may I know whether the attention of Government has been drawn to the recent occurrance in Mandalay, riots which have compelled Indians to close their shops and caused fear and alarm to them in the Mandalay district?

Sir Girja Shankar Bajpai: Our attention was drawn to this particular disturbance We made enquiries from our Agent who said that it was a sporadic disturbance and that fortunately there has been no continuance of it and there was no serious consequence

Mr. S. Satyamurti: With reference to parts (c) and (d) what are the arrangements which have been made by Government through their Agent to enable Indians to lead proper evidence before that committee of enquiry?

Sir Girja Shankar Bajpai: The position as regards that is that the Indian community in Rangoon has itself arranged to be represented before the Committee when occasion requires by a qualified lawyer Over and above that, the Agent may similarly watch the proceedings from the point of view of protecting the Indian interests

Mr. S. Satyamurti: With reference to part (g), may I know whether Government have pressed on the Government of Burma the desirability of enacting a law if necessary in order to pay compensation to the Indian victims of these riots?

Sir Girja Shankar Bajpai: My Honourable friend will, I hope, not press me to disclose details, but I would like to tell him and the House that we have made comprehensive representations to the Government of Burma after taking into account the law and the practice in this country

REVISED INSTRUMENT OF ACCESSION

†1233. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Leader of the House state

(a) whether the revised Instrument of Accession has been made available to the Princes for their consideration,

(b) whether any, and if so, how many, States have signified their consent to it, and

(c) whether any of the States have asked for a further amendment in it?

DEVELOPMENT OF THE DAIRY INDUSTRY IN INDIA

1234. *Mr. K. Santhanam: Will the Secretary for Education, Health and Lands please state.

(a) whether the attention of Government has been drawn to the report of the New Delhi correspondent of the *Hindu* of Madras, published in the issue of the 27th October, 1938, page 7, regarding the development of the dairy industry in India;

(b) whether a circular letter has been sent to Provincial Governments, and whether he will place a copy of the letter on the table of the House; and

(c) whether Government contemplate the re-importation of one more British 'expert' as 'Director of Dairy Research'?

Sir Girja Shankar Bajpai: (a) Yes.

(b) Copies of the two circular letters which have been issued to Provincial Governments regarding Dr Wright's report are placed on the table of the House

†For answer to this question *see* answer to question No 1217

(c) The attention of the Honourable Member is invited to the reply given to part (b) of Mr Abdul Qaiyum's starred question No 578 on the 29th August, 1938

No F 24-2/38-A

GOVERNMENT OF INDIA,

DEPARTMENT OF EDUCATION, HEALTH AND LANDS

Simla, the 17th October, 1938

From

G S Bozman, Esquire, C I E, I C S,
Deputy Secretary to the Govt of India,

To

All Provincial Governments

Report—Dr Wright—Future dairy training in India

Sir,

I am directed to refer to para 4 (ix) of this Department circular letter No. F 17-62/38-A, dated the 8th October, 1938, regarding action to be taken on Dr Wright's report and to communicate the following remarks regarding recommendations 50 to 54 of that report which relate to the future dairy training in India

2 In recommendation 50, Dr Wright has suggested certain alterations in the curriculum of the I D D course, which is at present being given at the Imperial Dairy Institute, Bangalore, and the Allahabad Agricultural Institute, and, in recommendation 51, he has suggested that the course should in future be given at provincial agricultural colleges The Government of India have not yet come to a final decision in regard to the latter recommendation and propose to continue the existing I D D course at Bangalore pending other arrangements for the future The Imperial Council of Agricultural Research have sanctioned a grant to the Allahabad Agricultural Institute to enable it to continue instruction for the I D D up to 1940 Meanwhile, the Government of India consider that the revision of the I D D course along the lines suggested by Dr Wright should be taken up They will, therefore, be glad to be furnished with the detailed suggestions of the Provincial Government regarding the manner in which the present curriculum might be amended I am also to request that the views of the Provincial Government on Recommendation 51, especially on the possibilities of instituting the future I D D course at provincial agricultural or veterinary colleges and the date from which a beginning can be made, may be communicated to the Government of India at an early date (In particular the Government of India will be glad to have the views of the Government of Madras/the Punjab on the possibilities of instituting the course at Coimbatore/Lyallpur, as suggested by Dr Wright on page 99 of his report) In this connection, I am to refer to the recommendation of the Advisory Board of the Imperial Council of Agricultural Research made at its meeting held on the 12th November, 1937, viz, that "until all the provinces make provision for teaching the I D D course, facilities should be provided for students from other provinces and states in such centres as may be established", and to enquire whether, in the event of the number of centres being limited in the first instance, as proposed by Dr Wright, it will be possible for the Provincial Government to admit a limited number of students from other provinces or states

3 Recommendation 52 relates to the future of the present Post-Graduate Course in Animal Husbandry and Dairying given at Bangalore, and the future training in dairy research methods These are at present under the consideration of the Government of India in connection with the scheme for the establishment of an Imperial Dairy Research Institute, recommended by Dr Wright

( ) To Madras/Punjab only.

4 Recommendations 53 and 54 relate respectively to the training of villagers in elementary dairy practices and the provisions of better facilities for training in the production and handling of milk at Veterinary colleges It has also been suggested that serious consideration should be given to the provision of dairy training for women These recommendations are entirely the concern of the Provincial Governments but the Government of India endorse them and would commend them for the best consideration of the Provincial Governments I am to request that, if there is no objection, the action taken or proposed to be taken, by the Government of Madras/etc on these recommendations may kindly be intimated to the Government of India in due course

I have the honour to be,

Sir,

Your most obedient servant,

G S. BOZMAN,
Deputy Secretary

No F.-24-2/38 A

Copy forwarded to all Minor Administrations,/the Imperial Council of Agri Res ,/ the Imperial Dairy Expert, for information

By order,

G S BOZMAN,
Deputy Secretary

No F.-17-62/38-A

GOVERNMENT OF INDIA

DEPARTMENT OF EDUCATION, HEALTH AND LANDS

Simla, the 8th October, 1938

From

G S Bozman, Esquire, C I E , I C S,
Deputy Secretary to the Govt of India,

To

All Provincial Governments

Development of Cattle and Dairy Industries of India—Report of Dr Wright

Sir,

I am directed to refer to the Report on the Development of the Cattle and Dairying Industries of India by Dr. N C Wright and to say that the Government of India have given the most careful consideration to the recommendations contained in that Report The most important general recommendation is that greater attention should be paid to the development and improvement of indigenous products and of indigenous processes and methods both of conversion of milk into various products and of conservation and distribution of milk and milk products As a general statement of policy, the Government of India believe that this recommendation will receive universal approval and they themselves have accepted it in the sense that they believe this should be the main guiding principle in research work undertaken by them They do not, however, on this account propose to exclude further research in regard to the improvement of butter making in India nor will they cease to supply technical assistance to the organised dairy industry.

2. As regards detailed recommendations the one which most affects the Central Government is the proposal to establish a Central Dairy Research Institute under the direction of an officer of outstanding ability The Government of India have examined this recommendation and have accepted it in principle Funds are not at present available for the establishment of the Institute but the Government of India have come to the conclusion that the appointment of an expert coordinating authority

need not on that account be delayed Advertisements have therefore issued for the recruitment of a Director of Dairy Research and if suitable applications are forthcoming the intention is that an appointment should be made towards the end of this year. The officer appointed will be instructed to devise schemes for the improvement of dairying generally in India in accordance with the principles already stated; at the same time his expert knowledge will be at the disposal of any Provincial Government who may desire his assistance The Government of India do not propose to come to any decision regarding the location, layout or equipment of the Central Institute until this officer has had an opportunity to study the position and make suggestions

3. In view of this proposed appointment the Government of India are of opinion that a decision on a number of the detailed recommendations which concern them should be held in abeyance until the Director can assist with expert advice In the meantime, however, it appears that there is not a little preliminary and exploratory work which can be taken in hand The Government of India have taken up items where such work seems possible and desirable with the Imperial Council of Agricultural Research and with the Directors, Imperial Agricultural Research Institute and Imperial Veterinary Research Institute It is clear, however, that the majority of Dr Wright's practical recommendations call for action by Provincial Governments The Government of India fully recognise the authority of Provincial Governments to decide for themselves what action, if any, should be taken in these matters but they believe it will be generally agreed, in order that the best value may be obtained from Dr Wright's comprehensive Report, there should be the utmost co-operation and co-ordination of the work done It is from this point of view that the Government of India have made a survey of Dr Wright's recommendations and I am now to refer to specific items and offer certain suggestions for the consideration of the Provincial Governments —

4 (i) In his recommendations 11—15 Dr Wright proposes that widespread experiment should be carried out in the practice of processing of milk and loose milk distribution The Government of India believe this offers a most important field for practical research but much time and energy might be wasted by unnecessary duplication of experiment They believe that the Director of Dairy Research will be able to give valuable assistance and advice and would be glad to know whether the Provincial Government would agree that any proposal they may have for work on these lines should first be considered by him

(ii) In recommendations 18-19, Dr Wright lays great emphasis upon the necessity for improvement in the manufacture of ghee The Government of India believe that a study of the comparative value of different methods should be undertaken by the Director To make such a study effective the Government of India venture to hope that the Provincial Governments will give the Director the full benefit of their experience and advice

(iii) As regards recommendation 22 the Imperial Council of Agricultural Research have already established experimental ghee grading centres and are working in co-operation with several Provinces and States They have arranged for the establishment of a Central Control Laboratory at Cawnpore and a comprehensive series of analyses has been carried out on samples of ghee collected in various Provinces.

(iv) The Government of India do not propose to expand central research upon the matters referred to in recommendations 23—29 inclusive until the advice of the new Director is available This does not, however, mean that research now in progress will be abandoned or that practical assistance will not be given; nor does it imply that the collection of statistics and information will not proceed as usual

(v) In his recommendation 32 Dr Wright refers to the possibilities of 'mixed farming' This is mainly for Provincial Governments to consider and encourage if they think fit The Imperial Council of Agricultural Research are, however, prepared to make small grants to Provinces for experiments and the Government of India have under consideration the adoption of similar experiments at Delhi and Karnal The Government of India would be glad to know, if the Provincial Governments have no objection, of any proposed experiments in the institution or development of this system

(vi) Recommendations 33-34 are again entirely for the Provincial Governments to consider. The Imperial Council of Agricultural Research will be glad to give any assistance which Provincial Governments may seek.

(vii) So far as stock under their own control is concerned the Government of India have accepted the principles laid down by Dr. Wright in recommendations 35-37 and 39 and would command them to the careful consideration of Provincial Governments

(viii) As regards recommendation 38 the Imperial Council of Agricultural Research have almost completed the definition of the breed characteristics of the eight most important milch breeds (including buffaloes) and it is hoped that the scheme for All-India Pedigree Herd Books will be brought into operation within a few months. The Imperial Council of Agricultural Research have in addition already made certain grants to Provinces to assist in the introduction of milk recording Further action in this respect appears to be mainly for Provincial Governments to consider

(ix) Recommendations 41—43 concern the supply of fodder This question was thoroughly discussed at the Cattle Conference held in Simla in 1937 and the Government of India have no doubt that the conclusions then reached have already been engaging the attention of Provincial Governments As regards recommendation 43 the Government of India think that before any special research is taken up at the Central Institutes it would be advisable to collate the information collected by the Central and Provincial Fodder and Grazing Committees In the meantime the Imperial Council of Agricultural Research have agreed to give special consideration to schemes of research on pasture improvement and propose themselves to approach the Imperial Agricultural Research Institute, New Delhi, to undertake a study of Berseem seed production from the technical aspect

(x) A separate communication will follow regarding the proposals in recommendations 50—54 to revise the Indian Dairy Diploma course

(xi) Recommendations 55, 58, 61, 62 and 64—67 are matters for the Provincial Government to consider They received the general approval of the Advisory Board of the Imperial Council of Agricultural Research and the Government of India therefore commend them for sympathetic attention With reference to recommendation 57 the Imperial Council of Agricultural Research have approved of the creation of a scholarship for a qualified Indian graduate to undergo specialised training in animal genetics in the United Kingdom Items 64—67 were carefully considered at the Cattle Conference

(xii) A separate communication will be made regarding recommendation 68 which is now engaging the attention of the Imperial Council of Agricultural Research

5 I am again to point out that the Government of India recognise that most of the items mentioned above are entirely within the discretion of Provincial Governments The Government of India have, however, endeavoured to indicate what central action they have in view and wish to reiterate their keen desire that all the action taken upon Dr Wright's Report should conduce to the benefit of dairying in India as a whole They would therefore be glad to know what action Provincial Governments have already taken or have under consideration with regard to the various recommendations mentioned in this letter I am to add that the Government of India have under consideration the possibility of holding a combined Cattle and Dairy Conference towards the end of 1939 For the purpose of such a Conference it would be of great value to have a conspectus of the action taken in various directions by the Provincial Governments and I am to enquire whether the Provincial Government would have any objection to forwarding a statement of the progress made by them by about September, 1939

I have the honour to be,
Sir,
Your most obedient servant,

G S BOZMAN,
Deputy Secretary

Mr. Manu Subedar: With reference to part (c) may I know whether this foreign expert is being called out for a few months or as a permanent official?

Sir Girja Shankar Bajpai: As a matter of fact no decision has been taken to call out a foreign expert at all whether temporarily or for a period of years

Mr. M. Thirumala Rao: Is there any truth in the statement appearing in today's *Hindustan Times* that one Dr David is being imported to this post?

Sir Girja Shankar Bajpai: There is no truth in the statement that anybody is being imported to fill this post My recollection of the statement in the *Hindustan Times* is that the High Commissioner in England has selected certain people to be recommended to the Government of India That is all.

Mr. S. Satyamurti: Has there been a change of policy on the part of Government with regard to the production of milk products in this country in order to stop or at least considerably reduce the import thereof into this country from foreign countries?

Sir Girja Shankar Bajpai: I am not sure as to whether strictly speaking that arises out of this question But I can inform my Honourable friend that he will find from the letter which has gone out to the Provincial Governments that the Government of India have attempted no change of policy in this respect as a result of Dr Wright's recommendation

Mr. K. Santhanam: With reference to part (c) may I know whether the Government are in a position to assure us that there will be no importation of British expert in this matter?

Sir Girja Shankar Bajpai: What I have already stated to the House is that the post has been advertised both in India and in England and when the nominations from the selection committee in England and the selection committee in this country are received, then a decision will be taken Other things being equal my Honourable friend may rest assured that an Indian will be selected

Mr. K. Santhanam: May I know if other things will be equal at any time?

Sir Girja Shankar Bajpai: They have been equal on several occasions

TRADE RELATIONS BETWEEN INDIA AND BURMA

1235. *Mr. K. Santhanam: Will the Honourable Member for Commerce please state

(a) whether the present arrangements regarding trade relations between India and Burma will come to an end on the 1st April, 1940,

(b) whether any steps have been taken towards starting negotiations for a fresh agreement;

(c) when the negotiations will begin, and

(d) what arrangements, if any Government intend to make to carry public opinion with them in these negotiations?

The Honourable Sir Muhammad Zafrullah Khan: (a) The Honourable Member's attention is invited to Article 7 of Part I of the India and Burma

(Trade Regulation) Order, 1937 Neither the Government of India nor the Government of Burma have given the other notice to terminate the operation of the Order

(b), (c) and (d) Do not arise

Mr. K. Santhanam: May I know if the answer means that the Government of India propose to continue the agreement after this date?

The Honourable Sir Muhammad Zafrullah Khan: The question has not yet arisen

Mr. T. S Avinashilingam Chettiar: May I know whether Government propose to take up matters only after the agreement is finished or in time for the calling of a fresh agreement if necessary?

The Honourable Sir Muhammad Zafrullah Khan: Not after the operation of the agreement is finished

Mr. S. Satyamurti: In view of the fact that the Indo-British trade agreement has taken years, will Government profit by the lesson thereof and start at least the preliminary enquiries with regard to the substitution of fresh agreement between India and Burma in 1940 as early as possible?

The Honourable Sir Muhammad Zafrullah Khan: It is a matter of opinion as to what is considered as early as possible in a particular case

Mr. S. Satyamurti: When do Government propose to start preliminary talks or preliminary exploration themselves or in consultation with the Government of Burma for replacing the treaty which will expire on the 1st April, 1940?

The Honourable Sir Muhammad Zafrullah Khan: It does not necessarily expire on 1st April, 1940

Mr. S. Satyamurti: Will Government enquire into this matter and see whether it is necessary in the interest of India to replace it on 1st April 1940?

The Honourable Sir Muhammad Zafrullah Khan: If Government become convinced—the matter is continuously under examination—that it is not in the interests of India, that will be done

Mr. K. Santhanam: Have they decided that there is no need to terminate it?

The Honourable Sir Muhammad Zafrullah Khan: As I have said, it is too early to come to a decision on that

IMPORT OF RICE AND PADDY FROM BURMA

236. ***Mr. K. Santhanam:** Will the Honourable Member for Commerce please state

(a) the quantities of rice and paddy imported from Burma into (i) India and (ii) Madras Presidency, during the years 1936-37 and 1937-38,

(b) the average prices of paddy and rice during those years;

(c) whether Government are aware that owing to the continued depression in the price of paddy and rice, the plight of paddy cultivators, especially in South India, is very pitiable;

(d) whether steps are proposed to be taken to levy revenue and protective duties on imports of paddy and rice from Burma in any trade agreement that may be concluded in the near future, and

(e) whether Provincial Governments will be consulted in the matter before the conclusion of any such agreement?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b) A statement is laid on the table

(c) As the statement shows, prices of rice were generally higher in 1937-38 than in the preceding year.

(d) The question of the revision of the Indo-Burma Trade Agreement has not yet been taken up.

(e) Does not arise.

Statement showing the quantity of rice and paddy imported into (i) India and (ii) Madras Presidency, from Burma and the average prices of rice during 1936-37 and 1937-38

	Rice.		Paddy	
	India	Madras Presidency	India	Madras Presidency
	Tons	Tons	Tons	Tons
1936-37	1,033,829	342,163	87,391	18,803
1937-38	1,197,734	680,998	33,233	28,281

Average Prices (Rs per maund)

	Cuddalore		*Calicut*			Local rice superior.
	Tanjore boiled.		Cocanada boiled rice	Thadapalli boiled rice.	Rangoon Hilcher rice.	Rangoon full boiled rice	Rangoon raw rice.
1936-37	3 58		3 38	3·26	3 27	3 08	3·33
1937-38	3 97		3 56	3 34	3 32	3 20	3 30

Prices of paddy are not readily available.

Mr. K. Santhanam: With reference to the answer to part (b), may I know whether it is not a fact that the prices in 1938 have been lower than the prices in 1937?

The Honourable Sir Muhammad Zafrullah Khan: I have laid a statement on the table with regard to the two years—1936-37 and 1937-38 and it shows that the prices in 1937-38 have on the whole been higher than in 1936-37.

Mr. T. S. Avinashilingam Chettiar: May I know whether the Government of India have received any representations from the rice interests in the Madras Presidency that a duty should be levied on imports of Burma rice into this country?

The Honourable Sir Muhammad Zafrullah Khan: I would require notice of that.

Prof. N. G. Ranga: What about the price of rice and paddy in this year —1938-39, since March last?

The Honourable Sir Muhammad Zafrullah Khan: I have said that I have not figures here for the period mentioned by the Honourable Member

Prof. N. G. Ranga: But what is the latest information of the Government of India? Is it not a fact that the prices are falling?

The Honourable Sir Muhammad Zafrullah Khan: I would require notice of that.

Mr. K. Santhanam: May I know if the Government of India will address the Government of Madras in this matter about the existing prices of paddy and rice and about the imposition of a duty on Burma rice in order to raise the price level of paddy in this country?

The Honourable Sir Muhammad Zafrullah Khan: Any views that the Government of Madras sends up will be very carefully considered

CONCESSIONS AND WAGES FOR THE ENGINEERING APPRENTICES OF THE *ex*-"DUFFERIN" CADETS.

1237. **Mr. K. Santhanam:** Will the Honourable Member for Commerce please state

(a) whether Government have fixed any uniform scale of wages for the engineering apprentices of the *ex*-"Dufferin" cadets,

(b) if the answer to part (a) be in the negative, whether they are contemplating the fixing of any such scale,

(c) whether these cadets, while under training on the "Dufferin", were obliged to travel second class and offered concessions on the Railways,

(d) whether such concessions are not available during their period of apprenticeship,

(e) whether Government are prepared to secure them the same concessions during this period; and

(f) what examinations, if any, have been prescribed for them during the period of apprenticeship?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b) No I understand, however, that efforts are being made locally to secure for these *ex*-cadets a uniform scale of wages at Calcutta

(c) Cadets on the "Dufferin" are not *obliged* to travel in a particular class on Railways They are, however, granted certain concessions when travelling to and from their homes at the end and beginning of the terms, *vide* paragraph 16 of the Prospectus, a copy of which is in the Library of the House.

(d) and (e). No

(f) Information is being collected and will be laid on the table in due course.

Mr. K. Santhanam: With reference to the answer to part (c), may I know if the Honourable Member is aware that the "Dufferin" cadets as a rule have to travel in the second class?

The Honourable Sir Muhammad Zafrullah Khan: I am not aware by which class they travel as a rule

RENTS OF RESIDENCES ALLOTTED TO MEMBERS OF THE LEGISLATIVE ASSEMBLY AND PAYMENTS FOR HAULAGE OF THEIR MOTOR CARS

1238. *Mr. K. Santhanam: Will the Honourable the Leader of the House please state

(a) how many residences allotted to the members of the Assembly have been taken up by the members,

(b) whether Government are aware of the general feeling of the members that the rent charged is excessive,

(c) whether Government are prepared to consider the desirability of charging rent at the rate of ten per cent of the daily allowances,

(d) the total payments for haulage of motor cars belonging to the members during the last budget session, and

(e) whether any revision of all these matters is under contemplation?

The Honourable Sir Nripendra Sircar: (a) On the assumption that the Honourable Member is referring to the residences reserved for Members of the Legislative Assembly in New Delhi during the current Session, the position is as follows —

There are six double and 16 single suites in the Western Court, 34 self-contained bungalows and 40 orthodox residences on Queensway and Ferozshah Road and at Windsor Place reserved for Members, but of these only five double and eight single suites in the Western Court, 29 bungalows and ten orthodox residences have, so far, been applied for by Members and allotted to them It will thus be seen that only about 50 per cent. of the orthodox accommodation available for Members of the Legislative Assembly has been taken up by them

(b) No

(c) No

(d) Rs 20,265-9-0 for the haulage of Members' cars and Rs 1,147-0-0 for fares of Members' chauffeurs.

(e) No

Mr. K. Santhanam: With reference to the answer to part (b), will the Honourable Member please inquire from Honourable Members whether the feeling is prevalent or not?

The Honourable Sir Nripendra Sircar: If there is any such feeling why do they not express it? The postage is only one anna

Prof. N. G. Ranga: With reference to part (c), why is it that Government are not prepared to consider the desirability of charging 10 per cent of their allowances, especially when only 10 per cent is charged from Government officials when they occupy Government quarters?

The Honourable Sir Nripendra Sircar: It is a question of opinion Government have come to the conclusion that no inquiry is necessary

Mr. T. S. Avinashilingam Chettiar: May I know on what basis these rents are fixed?

The Honourable Sir Nripendra Sircar: I want notice of that question

Mr. Sri Prakasa: With reference to the answer to part (d), may I know if it is not a fact that the haulage charges for motor cars when they come from long distances are out of all proportion to the needs of the situation, and that it results in a larger amount of money being spent out of the tax-payers' pockets than if all Members were given the ordinary Rs 50 a month allowance, and if Government will consider this matter and make some reduction in these charges so that the position may be more equitable?

The Honourable Sir Nripendra Sircar: The Government will be quite prepared to consider it, but I suggest that the first move may be made by Mr Sri Prakasa and other Members of this House by asking the Government to remove this heavy expenditure

Prof. N. G. Ranga: Is it not clear that when only fifty per cent of the accommodation is taken up by Honourable Members of this House that the rent is rather too high and that the price at which the accommodation is offered is unpopular with the Members?

The Honourable Sir Nripendra Sircar: That, again, is a question of opinion and argument

Mr. Manu Subedar: Have Government considered why a large number of Honourable Members live in Old Delhi and whether there are any economic reasons?

The Honourable Sir Nripendra Sircar: I know that the insinuation of their friends is that it is because they get a motor allowance of Rs 5 a day, but we have no views in the matter

REPORT OF THE TARIFF BOARD ON SUGAR INDUSTRY.

1239. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Commerce Member state

(a) whether Government have finished consideration of the report of the Sugar Tariff Board;
(b) if so, what is the result of the consideration; and
(c) whether they propose introducing any fresh legislation in pursuance of the report?

The Honourable Sir Muhammad Zafrullah Khan: (a) No, Sir.

(b) and (c) Do not arise.

Mr. T. S. Avinashilingam Chettiar: May I know when the report was submitted to the Government?

The Honourable Sir Muhammad Zafrullah Khan: That I have answered on a previous occasion

Mr. T. S. Avinashilingam Chettiar: May I know why so much delay has taken place in the consideration of this report?

The Honourable Sir Muhammad Zafrullah Khan: Because the questions raised in the report are many and of a very complicated and difficult nature

Mr. S. Satyamurti: May I know whether Government propose to finish consideration of this report only in time for the next Finance Bill and not earlier?

The Honourable Sir Muhammad Zafrullah Khan: I could not say, but the consideration is being pushed forward as quickly as possible

Mr. S. Satyamurti: May I know whether, before coming to any final conclusions on the Sugar Tariff Board's Report, Government will give an opportunity to this House and to public opinion generally to represent their views and recommendations on this report?

The Honourable Sir Muhammad Zafrullah Khan: The procedure which will be adopted in respect of this report will be the same as has been adopted generally in respect of previous Tariff Board Reports

Mr. T. S. Avinashilingam Chettiar: May I know, in view of the fact that the sugar industry is one of the most important industries in this country, whether Government will make a departure from the practice adopted hitherto, and submit it to the Assembly for its views before coming to any final decision?

The Honourable Sir Muhammad Zafrullah Khan: It is not their present intention to make any departure

Mr. S. Satyamurti: May I know whether the Tariff Board Report has recommended a continuance of the protection and that Government do not want to accept that recommendation and that that is the reason for the delay?

The Honourable Sir Muhammad Zafrullah Khan: No

MOTION FOR ADJOURNMENT

MURDER OF MR N G MAZUMDAR, SUPERINTENDENT, ARCHÆOLOGICAL SURVEY OF INDIA

Mr. President (The Honourable Sir Abdur Rahim): I have received notice of a motion for adjournment from Mr Lalchand Navalrai who wants to discuss a definite matter of urgent public importance, namely

"Dacoities committed on the border of Baluchistan and Sind in the mountainous districts in which Mr N G Mazumdar, Superintendent, Archæological Survey of India, was brutally murdered and his three clerks injured and also a Muslim zamindar and a Hindu youth were fatally shot by about 15 dacoits armed with guns who plundered houses and disappeared in the Khurhur Hills, this being a result of unchecked depredations prevailing on that border since long"

Apparently, on his own showing, this is not an urgent matter However unfortunate it may be that these dacoities should happen, I rule that the motion is out of order.

Mr. Lalchand Navalrai (Sind Non-Muhammadan Rural). I would like to say a few words, Sir .

Mr. President (The Honourable Sir Abdur Rahim) It is clearly out of order, and I do not, therefore, want to hear the Honourable Member

DEATH OF MUSTAFA KEMAL PASHA

Mr. Bhulabhai J. Desai (Bombay Northern Division Non-Muhammadan Rural) Sir, before commencing the legislative business of this House, may I ask for your permission to refer to an event of almost world-wide importance and world-wide repercussions? I refer to the news of the death of Kemal Pasha, the President of the Turkish Republic I recognise that this House has generally concerned itself with matters which perhaps immediately affect India and Indian questions and yet, this is such an unprecedented event that it is perfectly proper that this House should express its sense of loss to the world of Mustafa Kemal Pasha by his recent death It is not my desire, Sir, on an occasion of this kind to set forth the biography of many events concerning almost the romantic career of Kemal Pasha, but it would not be inappropriate if I said that there is one great outstanding lesson which he left as a legacy, not only to the world, but particularly applicable to the conditions of our motherland, and that is the courage with which he was able to meet and sweep off the face of Turkey every convention that stood in the way of progress by whatever name it was called He was, according to our humble appreciation, one of the most courageous of world reformers In a day he abolished the *purdah*, in a day he established the equality of man and woman, in a day, if not in a few more days, he established a system of law applicable to almost all classes of people, considering not merely the past, but also looking far into the future, and he raised the humiliated and defeated Turkey to an independent and free State The death of such a man is indeed an event which we cannot fail to take notice of What his death will mean to Turkey is more than I can venture to express, but from what one has seen of the events happening there during the last 15 years of his regime, he has established an order which is not easily likely to be disturbed, and the Turkish people have assimilated the great lessons of his life and have launched on a career of progress on which we may well congratulate them I, sir on behalf of this House, if on an occasion like this I can venture to do that wish to express our sense of loss at the death of Kemal Pasha, and may I request you, Sir, that our sense of regret may be conveyed to his successor Ismet Pasha, the President of the Republic?

12 NOON

Syed Ghulam Bhik Nairang (East Punjab Muhammadan). Sir, on behalf of my Party and myself, I associate myself with the condolence motion just moved by the Honourable the Leader of the Opposition In my case as a Muslim, it is more than a formality that I should give expression to feelings of deep sorrow at the passing away of a great figure like the late Mustafa Kemal Pasha who was not only one of the most

outstanding figures in recent Turkish history, but really the most prominent figure in the whole of Asia and a most powerful factor in world politics during the last 15 years It is, Sir, seldom given to a man to bring back to life a body politic which to all intents and purposes is dead, but it was given to Mustafa Kemal Pasha to resuscitate and put fresh life into the remains of the dead Turkish Empire and make Turkey and the Turkish people a living, powerful, self-respecting and independent nation That, Sir, I submit, is more than is ordinarily given to any mortal. It was given to Mustafa Kemal Pasha to effect such marvellous changes as to make him a veritable Messiah of modern Turkey, and it is an achievement for which Kemal Pasha will long be remembered throughout the world I have already said, Sir, that in the case of any Muslim like myself, the event signifies much more than merely the passing away of a great figure from this world, and, therefore, Sir, I submit that it is the desire of my Party and of myself that we should not content ourselves merely with an expression of regret and condolence, but we would request you and also the House to agree to the proceedings of the House being adjourned today to mark our respect for the great soul that has passed away With these few words, Sir, I associate myself with the condolence motion

Mr. M. S. Aney (Berar Non-Muhammadan) Sir, I also wish to associate myself and my Party with the expression of views expressed on the passing away of Mustafa Kemal Pasha In him the world has lost a towering personality He belonged to that race of great men who had the rare good fortune and the rare gift of bringing back to life the dead, or rendering the dead bones in the valley instinct with life Turkey which was given up for lost is now a living, robust nation, full of vitality and full of promise for many good things in the future The credit for all that is due to the extraordinary ability and energy of the late Mustafa Kemal Pasha In fact, his feat has borne out the old story to be true, namely, that there is a great bird called Phœnix which comes back to life even after it is reduced to ashes Kemal Pasha's activities have shown, according to the ideas of many people, that he had infused life into the dead Turkey, and she is now one of the promising nations of the world Considering all other matters, what has attracted me most in the life of Mustafa Kemal Pasha is the extraordinary courage with which he introduced a number of reforms which would have been deemed impossible a few years before in a country which was notorious, so to say, for its extraordinary love of conservatism. It also indicates to me a clear and indisputable demonstration of truth in the lines of the great Sanskrit poet

"Kriya siddhih satwe bhavati mahatam nopkarane",

which means that success depends more upon the mettle of the man rather than upon the means he handles Kemal Pasha was a man with that mettle, and was, therefore, really a great man of this age Sir, I wish you to convey the message of condolence on behalf of this House to those whom he has left behind in charge of his great country

Mr. A. Aikman (Bengal European) Sir, I desire to associate my Party and myself with the vote of condolence which has just been proposed. We have realised, Sir, in common with the people of every other country, that in the passing of Kemal Pasha there has been lost to civilization an outstanding figure, a soldier, a diplomat and a nation builder.

[Mr A Aikman.]

It is in the last-named capacity that he has shown a unique example of what the courage and determination of one man can accomplish It is fitting, Sir, that this House should desire to pay a tribute to his achievements and we would associate ourselves with the proposal that the proceedings of the House be adjourned out of respect to his memory

Maulana Zafar Ali Khan (East Central Punjab Muhammadan) Sir, with your permission, I would like to say a few words on this subject

Mr. President (the Honourable Sir Abdur Rahim) The Deputy Leader of his Party has already spoken, so the Honourable Member must be as brief as possible

Maulana Zafar Ali Khan: Sir, as a special privilege I should like you to permit me to say a few words as Mustafa Kemal Pasha's death means more to the Mussalman world than to any other section of humanity He was a Mussalman, and, as a Mussalman, what I have felt I put in verse and I should like to read it out to the House

"Ata Turk Mustafa Kamal

(Nauuar Allah o marqadahu)

Zafar Ali Khan

Kya puchhte ho ummat e khair ul-wara ka hál
Dékhoge jisko, yáoge gham se use nidhál
Yeh gham woh hai jo dil se jigar tak utar gaya
Agsá e Chín se ta ba muzáfát i-Purtayal
Is gham men mubtala hai Arab bhi Ajam ke sáth
Sahib dilo yeh gham hai gham i-Mustafa Kamál
Dunya se woh mujahid-i-a'zam guzar gaya
Dhunde se bhi milegi na jis ki tumhen misal
Millat ki mushkilat ko ásán kar diya
Us ki azimat-on ne, ba-tá-id-i-Zul-Jalál
Guzre the jis ko riste hue tin sau baras
Us zakhm ke liye woh bana shakl-i-mdimál
Jo saltanat zamáne ki sartáj thi kabhi
Us ka waqár az sar e nau kar diya bahál
Charke diye Salib-parston ko par ba par
Le kar barha woh hátli men jab khanjar e Hilál
Naubat phir Asia men woh bajne lagi, jise
Sunte rahe hain Kaisar o Pápa hazár sál
Kábul se ta ba Ankara, Irán se ta ba Misr
Basne laga phir ánkh men Islam ka jamál
Qám Kamal karke chála jis mulk men ko
Ai Rabb-i-Ka'ba ab na ho sharminda e zawál
Turkan ki jin bold-on ko rad kar chuka hai tu
Islamyián-i-Hind ke sar se bhi unko tál

Delhi,

Friday, 12th Nov 1938."

With these words, I associate myself with the condolence Resolution proposed by my Honourable friend, the Leader of the Opposition here, with this proviso that the proceedings of the House should not close so far as Mustafa Kemal Pasha's memory is concerned with a few words of sympathy and with a few expressions of grief and the conveyance of our sympathy to the Turkish nation, but also that, as a mark of respect and as a tribute to the memory of one of the greatest figures of the modern age—I mean *the* greatest figure of the modern age—the House should close today and a holiday should be observed I should like to know the decision of the President on this subject, and if as I think the Leader of the European Group is with us and if the Congress is with us, then, of course, the decision will be according to our wish If not, then we shall not be able to take part in the proceedings and will leave the House

Mr. President (The Honourable Sir Abdur Rahim) It is unusual in this House to move a motion with reference to the death of a Ruler of a foreign State, but the circumstances, as pointed out by the Leader of the Opposition, are very special in this case, for Kemal Ataturk, whose death we all deplore, was a man of such predominant influence in the world politics of the day and his activities have influenced the lives of such large sections of the people of Asia in a manner which finds no parallel in the history of modern times, that I felt justified in allowing this matter to be mentioned Kemal Ataturk was so well known and his achievements were so recent and so conspicuous that it is hardly necessary for anyone to dilate upon them The loss to Turkey must be very great indeed, for Kemal Ataturk not only saved Turkey from political annihilation by his military genius, but as a far-seeing statesman he laid a new foundation, a very strong foundation for the national life of his people which bids fair to withstand the terrible destructive forces which are now let loose all over the world I shall convey the deep and profound sympathy of this House with the Turkish nation in this great loss of theirs, to the successor of Kemal Ataturk, His Excellency Ismet Ineunu

A request has been made by the speakers of the Muslim League Party that the meeting of the Assembly may be adjourned today But I cannot do that unless all sections of the House agree and make that request to me

The Honourable Sir Nripendra Sircar (Leader of the House) Well, Sir, I can say that I do not object to the House being adjourned if that is wanted by the other sections.

Mr. Bhulabhai J. Desai: Yes, I have no objection

Mr. President (The Honourable Sir Abdur Rahim) Very well, then, as a mark of respect to the memory of Kemal Ataturk, the meeting of the Assembly is adjourned

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 15th November, 1938.

LEGISLATIVE ASSEMBLY.

Tuesday, 15th November, 1938.

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

STARRED QUESTIONS AND ANSWERS

(*a*) ORAL ANSWERS.

LORD CHATFIELD'S ENQUIRY.

1240. ***Mr. Abdul Qaiyum:** Will the Defence Secretary please state

(a) whether the scope of Lord Chatfield's enquiry includes the question of relative liabilities of Indian and Imperial revenues regarding cost of defence services in India,

(b) when the enquiry is likely to begin, and how long it is expected to last,

(c) the names of persons who will work with Lord Chatfield in the said committee, and

(d) whether Government propose to obtain the verdict of the House before entering into further commitments under the Chatfield Report?

Mr. C. M. G. Ogilvie: (a) The Honourable Member is referred to the terms of reference announced in this House by the Honourable the Finance Member on September the 13th It will be for the Committee to interpret these terms which do not exclude consideration of the point referred to

(b) The Committee began to function from November the 9th, and is expected to finish its enquiry in January

(c) The Honourable Member is referred to the Press Communiqué of 14th of October

(d) No

Mr. Abdul Qaiyum: With reference to the answer to part (c) of the question, may I know the reasons why no Indian was appointed on this Committee?

Mr. C. M. G. Ogilvie: I think there is another question on the paper referring to that point.

Mr. Abdul Qaiyum: This arises out of part (c) of this question

Mr. C. M. G. Ogilvie: Well, the reason is that the Committee was appointed on the request of the Government of India which asked His Majesty's Government to send out here an expert delegation versed in the British rearmament scheme, to investigate the problems of Indian defence on the spot

Mr. Abdul Qaiyum: Does it mean that there is not a single Indian expert in India available in such matters?

Mr. C. M. G. Ogilvie: Yes

Mr. Abdul Qaiyum: Is it not a sad commentary on British rule that this deplorable state of things should exist?

Mr. C. M. G. Ogilvie: I do not think so

Mr. T. S. Avinashilingam Chettiar: May I know whether Government are aware of a newspaper report that Lord Chatfield is supposed to have said that they will go into political questions also?

Mr. C. M. G. Ogilvie: No I have not heard that he said so

Mr. Abdul Qaiyum: With reference to the answer to part (d) of the question, may I know the reasons why Government will not consult this House before implementing the recommendations of this Committee?

Mr. C. M. G. Ogilvie: I think the Honourable Member is not perhaps quite accurate in talking about implementing the recommendations of this Committee This Committee will report to His Majesty's Government, and finally, as a result of negotiations between the two Governments, something may happen

Mr. Abdul Qaiyum: Is it not a fact that these recommendations will mainly affect the Indian people and the Indian exchequer? I want to know, as far as the financial aspect of this report is concerned, whether this House will be consulted before giving effect to the recommendations?

Mr. C. M. G. Ogilvie: It is impossible to make any forecast about the financial effects of the Committee's recommendations

Mr. Abdul Qaiyum: I am not asking any question about any financial forecast I want to know—and I put a plain question, namely, whether this House will be consulted before any decisions are arrived at by the Government as a result of the report and communications with the Home Government

Mr. C. M. G. Ogilvie: The Honourable Member has already received a quite clear answer, which is in the negative

Mr. Manu Subedar: May I know whether the material placed before the Lord Chatfield Committee will be made available to the Leaders of Parties in this House so that they may consider it and form their own opinions?

Mr. C. M. G Ogilvie: No

Mr. T. S. Avinashilingam Chettiar: May I know whether there are any civilians on that Committee—non-experts?

Mr. C. M. G. Ogilvie: Yes. There is one civilian member from His Majesty's Treasury.

Mr. T. S. Avinashilingam Chettiar: If there are British civilians who are included in the Committee, did Government find it difficult to get any politician or civilian here to be included in the Committee?

Mr. C. M. G. Ogilvie: Government did not think it necessary, because .

Mr. T. S. Avinashilingam Chettiar: We cannot hear properly on this side of the House, Sir The Honourable Member is replying in such a low voice

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member (Mr Ogilvie) will speak up I cannot hear him too

Mr. C. M. G. Ogilvie: Government did not find it necessary

Mr. T. S. Avinashilingam Chettiar: May I know whether the terms of reference to the Committee include reference to any political and financial questions?

Mr. C. M. G. Ogilvie: Political—no The terms of reference are at the disposal of the Honourable Member

Mr. S. Satyamurti: With reference to my Honourable friend's answer to the last question, may I know whether it is not a fact that the Chatfield Committee wanted evidence from some people on the constitutional and political situation in India with regard to Indian defence forces, in order to enable them to come to decisions on questions referred to them?

Mr. C. M. G. Ogilvie: They wished for evidence on those points, not that they might come to conclusions or make decisions about them—they are not in their terms of reference—but in order to obtain the views of distinguished Indian politicians on the general questions of Indian defence policy

Mr. S. Satyamurti: With reference to the answer to part (a) of the question, may I know whether the scope of Lord Chatfield's enquiries—I am asking this question in the light of the information given to the House by the Honourable the Finance Member some time ago—includes—I have some doubt about it, that is why I am asking—includes the question of the sharing between Indian and Imperial revenues of the cost of Indian defence forces treating them as part and parcel of the imperial defence forces?

Mr. C. M. G. Ogilvie: I can again only refer the Honourable Member to the terms of reference, which it is for the Committee to determine But I have personally no doubt that such matters will receive due consideration.

Mr. S. Satyamurti: I am specifically asking whether the Government of India will place before this Committee this aspect of the question, namely, that Indian forces are, admittedly, partially at least, maintained

for Imperial defence purposes—whether, therefore, Government will, in their evidence before the Committee, place this aspect that, as a result of the maintenance of these forces as part of the Imperial defence forces, a part of that expenditure must come out of the Imperial revenues?

Mr. C. M. G. Ogilvie: Government are prepared, to the best of their ability, to place before the Committee the opinions of every kind held in India on this subject

Mr. S. Satyamurti: What are the opinions of the Government of India which they are going to place on this question before the Chatfield Committee?

Mr. C. M. G. Ogilvie: I am entirely unable to disclose what evidence the Government of India would place before the Committee

Mr. Lalchand Navalrai: Will the Honourable Member tell me whether this Committee will examine non-official Indians and also what kind of evidence they will take?

Mr. C. M. G. Ogilvie: The Committee will certainly examine non-official witnesses, but as regards the kind of evidence they will take, I am afraid I cannot possibly answer that in reply to a supplementary question, or indeed at all

Mr. K. Santhanam: With reference to the answer to part (a) of the question, may I know whether the scope of Lord Chatfield's enquiry includes the question of the entire withdrawal of British regiments stationed in India?

Mr. C. M G. Ogilvie: I can only refer the Honourable Member to the terms of reference, which it is as I have said, the business of the Committee to interpret

Mr. T. S. Avinashilingam Chettiar: May I ask for a little elucidation of the terms of reference? Government should certainly know

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has stated that it is for the members of the Committee

Pandit Krishna Kant Malaviya: May I know from the Honourable Member if the policy of the Government of India is that Indians should take no interest in the defence of their own country?

Mr. C. M. G. Ogilvie: Certainly not

Mr. S. Satyamurti: With reference to the answer to part (d) of the question, may I know whether Government contemplate, even in their most pessimistic moments, any further commitments on Indian revenues as a result of the Chatfield Committee's report?

Mr. C. M. G. Ogilvie: I can make no forecast whatever

Mr. S. Satyamurti: May I know whether the Honourable Member is not aware that this Committee has been primarily appointed in order to see whether the Indian exchequer cannot be relieved to some extent at least, by a grant from Imperial revenues, whether this Committee is contemplated to report in favour of additional expenditure from the Indian exchequer?

Mr. C. M. G. Ogilvie: I cannot possibly say what the Committee may recommend

Mr. Manu Subedar: May I ask whether the Government of India have put before the Chatfield Committee the question of the United Kingdom Treasury taking over the cost of all the British regiments and removing it from the head of the Indian revenues?

Mr. C. M. G. Ogilvie: I have already stated that I cannot disclose what the Government of India have said or propose to say

Mr. K. Ahmed: In view of the fact that there is a great commotion in the country for not including one Indian on the Committee, do Government propose to follow the same example as the Simon Commission did in this country by adding at least one Indian, as a colleague of the Chatfield Committee and thus relieve the situation, or the situation may become worse still?

Mr. C. M. G. Ogilvie: I have already answered that question

Mr. N. V. Gadgil: It is impossible to hear the Honourable Member

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

GURKHAS SERVING IN THE INDIAN ARMY.

1241. *Mr. Abdul Qaiyum: Will the Defence Secretary please state

(a) the number of Gurkhas now serving in the Indian Army; the latest figures about them,

(b) the total number of Indians, excluding Gurkhas, serving in the Indian Army;

(c) the reasons for the retention of this non-Indian element in the Army;

(d) the reasons for not recruiting people in India instead of the Gurkhas, and

(e) whether the martial races cannot supply adequate men to enable Government to dispense with the services of the Gurkhas?

Mr. C. M. G. Ogilvie: (a) and (b) The required information is contained in the Actual Strength Return of the Army and Royal Air Force in India, copies of which are in the Library

(c), (d) and (e) Gurkhas have been recruited in the army in India for over a hundred and twenty years, and throughout that long period have proved themselves to be excellent soldiers who have served India bravely and loyally To break this ancient tradition would not only be a poor return for the service they have rendered, but it would also close to us a

source of supply of first class military material It is the policy of the military authorities to recruit in peace a proportion of every approved class in order to provide a sufficient basis for expansion in war and it should be remembered that during the Great War of 1914-18 it was necessary to enlist 55,000 Gurkhas in addition to tapping every possible source in India

Mr. Abdul Qaiyum: May I know the reasons why it is considered necessary to maintain this large non-Indian element in the Indian army?

Mr C. M. G. Ogilvie: I have given the reasons in some detail

Mr. Abdul Qaiyum: Is it due to distrust of the Indian people?

Mr. C. M. G. Ogilvie: Certainly not

Mr. Abdul Qaiyum: Is there any other country where foreigners are recruited and maintained in the army; if so, what are they?

Mr. C. M. G. Ogilvie: Certainly, France and Spain

Mr. Abdul Qaiyum: They are subjects of France and Spain The Gurkhas are not British subjects In view of the fact that there is a great demand from provinces like Bengal, Madras and Bihar for a share in the army, may I know why Government will not remove the Gurkhas and recruit people from these provinces, especially educated young men?

Mr. C M. G. Ogilvie: I am not aware whether there is a demand from Bengal or the other provinces, but the answer is that the Gurkhas, as I have already said, are one of the approved classes, in order to provide a sufficient basis for expansion in war and for this purpose it is necessary to recruit a certain proportion of them in time of peace

Mr. Abdul Qaiyum: After all, the Indian people pay for the Gurkha soldiers, and why should not Indians be recruited in the place of these people

(No answer)

Mr. N. V. Gadgil: May I ask the Honourable Member whether it is not a fact that there is a treaty with the Nepal Government under which the Government of India have agreed to recruit and maintain 20,000 Gurkhas in the Army?

Mr. C. M. G. Ogilvie: I do not think that arises from this question and in any case it is no business of the Defence Department

Mr. S. Satyamurti: In view of the fact that it is now recognised that the defence of India should be increasingly the concern of the people of India in association with the British Government, may I know whether Government have re-examined or will re-examine the policy of confining the recruitment in the Indian Army to the people of India and not extending it to outsiders?

Mr. C. M. G. Ogilvie: No, Sir - They will not do anything of the kind.

Mr. S. Satyamurti: May I know the reasons why Government will not at least re-examine the question?

Mr. C. M. G. Ogilvie: The policy is quite clear and there is no need to re-examine it

Mr. S. Satyamurti: Is it not a fact that even in the second Round Table Conference it was laid down that the defence of India must be the increasing concern of the people of India?

Mr. C. M. G. Ogilvie: I do not see how that concerns this The question of the defence of India is being properly attended to

Mr. Badri Dutt Pande: Is it a fact that the Nepal Government does not even allow Indians to enter into their territory and in view of that may I know why the Nepalese are recruited in the Indian army?

Mr. C. M. G. Ogilvie: I cannot say I do not think that arises from this question

Mr. Badri Dutt Pande: Is it not a fact that there are hillmen on the border of the Himalayas who are as stout and efficient as the Gurkhas? May I know why they are not recruited?

Mr. C. M. G. Ogilvie: I have no doubt that there are men as stout as anybody in those places I have no doubt that they are also recruited

Mr. Abdul Qaiyum: Will the Honourable Member give us the total number of Gurkhas at present in the Indian army?

Mr. C. M. G. Ogilvie: To save the Honourable Member the trouble of looking it up in a book which is easily accessible to him, I may give from memory the figure of 18,000, which I think is approximately correct

Mr. S. Satyamurti: May I know whether Nepal is being paid Rs 10 lakhs for the privilege of having Gurkhas recruited in the Indian army, and whether, from the point of view of the Indian exchequer, which is getting poorer and poorer, Government will reconsider the position, stop this recruitment, and make this 10 lakhs available to the Indian people?

Mr. C. M. G. Ogilvie: I am unable to see how that arises from this question.

Mr. S. Satyamurti: It does

Mr. President (The Honourable Sir Abdur Rahim) He is not prepared to answer it.

Mr. S. Satyamurti: That is a different matter. He cannot say that it does not arise from this question It arises for this reason The Honourable the Finance Member also is here. I am asking, in view of the fact that this 10 lakhs of rupees are going out of India every year whether Government will not save this money and get as good material from India for the Indian army?

Mr. C. M. G. Ogilvie: I am unable to answer that question as a supplementary. I should have to examine the case The Honourable Member had in any case better put any question on that subject to the Foreign Secretary

RAILWAY AND CUSTOMS RETURNS

1242. *Mr. Abdul Qaiyum: Will the Honourable the Finance Member be pleased to state

(a) the latest figures with regard to railway and customs returns for the current financial year,

(b) whether anything has been done, or is proposed to be done, to reduce expenditure in the light of these returns, and

(c) if so, what economies have been effected so far?

The Honourable Sir James Grigg: With your permission, Sir, I will answer questions Nos 1242 and 1268 together

I would refer the Honourable Members to the reply which I gave on the 7th September, 1938, to questions Nos 806, 817 and 820 The savings so far secured amount to about Rs 111 lacs and further savings will become effective in next year's budget As I have stated in the House on a number of occasions, all possible economies are being effected, including, I may add, temporary restrictions on recruitment of staff, and no new expenditure has been sanctioned which was not absolutely inescapable or definitely remunerative

Mr. S. Satyamurti: May I know whether, as a result of this ruthless campaign of retrenchment to which my friend has referred, any savings have been effected in the Defence Department?

The Honourable Sir James Grigg: Savings have been effected in the Defence Department but they have been unfortunately counter-balanced by extra expenditure in Waziristan and elsewhere

Mr. S. Satyamurti: There has been increase of expenditure in the Defence Department, instead of saving?

The Honourable Sir James Grigg: For the current year, that may be

Mr. S. Satyamurti: May I know whether, as a matter of fact, the Government of India have considered and recommended a ten per cent cut in salaries of Government officials and the Secretary of State turned the recommendation down?

The Honourable Sir James Grigg: No Sir The Honourable Member may not know that I certainly do not want to anticipate the budget for next year

Mr. S. Satyamurti: I am not asking about the budget of next year May I know whether, as a part of the budget of this year, the Government proposed a ten per cent cut in salaries?

The Honourable Sir James Grigg: I am not prepared to answer that question.

Mr. S. Satyamurti: May I know whether all departments have co-operated with the Honourable the Finance Member in respect of retrenchment proposals, and whether he has received equal co-operation from all

The Honourable Sir James Grigg: I am not a judge of equality in these matters It can only be a matter of opinion whether the co-operation has been equal I can say that the co-operation has been general

Mr. S. Satyamurti: May I know whether there has been any stoppage of recruitment of staff to the various departments?

The Honourable Sir James Grigg: Yes, I said "including, I may add, temporary restrictions on recruitment of staff"

Mr. S. Satyamurti: Temporary, up to what time and to what extent?

The Honourable Sir James Grigg: I suppose, as long as the necessity lasts

Mr. S. Satyamurti: As regards the answer to clause (e) of the question, may I know whether apart from the retrenchment, there have been, as I have known more than once, new posts or new scales of pay or new allowances in any department including the department of my Honourable friend?

The Honourable Sir James Grigg: New scales of pay or new allowances —I do not think so New posts, yes, mostly of a temporary character, but not in any case unless they are absolutely inescapable or definitely remunerative For example, it would be folly not to appoint extra officers in the revenue-collecting departments if they brought in a good deal more money than their pay

Mr. S Satyamurti: May I take it that no new post has been created, which is not definitely remunerative?

The Honourable Sir James Grigg: Or unless it is absolutely inescapable

Mr. S. Satyamurti: May I have some examples of those that were considered to be inescapable?

The Honourable Sir James Grigg: I can give the Honourable Member some examples During the emergency in connection with foreign affairs certain preparations to meet the possible outcome of the emergency had to be made and staff had to be appointed for that purpose

Mr. S. Satyamurti: Has the staff been disbanded, and what has been the cost of the staff?

The Honourable Sir James Grigg: I cannot give an answer about the cost, it has not been very much; and the staff will be disbanded as soon as the preparations are complete

Mr. K. Santhanam: With reference to the answer to part (b), may I know if the Honourable Member, in his search for economies, is considering the desirability of abolishing all special pay and additional pay given to the officials today?

The Honourable Sir James Grigg: I have not considered that, because there are certain statutory vested interests

Mr. Lalchand Navalrai: Is it a fact that orders have been issued that officers and subordinates who are on leave should be asked to come back, and that the temporary persons are to be asked to go away?

The Honourable Sir James Grigg: That is not within my personal knowledge if Departments have done so, that is a matter of departmental routine

Mr. Manu Subedar: May I know whether it is a part of the scheme of retrenchment that employees in a temporary grade, even if they have rendered five, ten or fifteen years' Government service, are being asked to go away in various Departments of Government including that of Audit?

The Honourable Sir James Grigg: I must have notice of that

Mr. T S. Avinashilingam Chettiar: May I know whether steps were taken to approach the Secretary of State for the necessary amendment of rules in case there are persons who are receiving extra sums for various reasons above their pay?

The Honourable Sir James Grigg: It is not a question of the amendment of rules, it is a question of the amendment of the Government of India Act

Mr. S. Satyamurti: Have Government considered and passed orders on a matter which my Honourable friend undertook sometime ago to look into, viz. that certain public servants could get more pay if they went on leave after certain acting arrangements, and have the Government taken any steps to prevent that anomaly causing a waste of money to the Indian exchequer?

The Honourable Sir James Grigg: I gave a certain assurance on that matter which was conditional on the passage of the Indian Income-tax legislation substantially in its present form

WASTAGE AMONGST CERTAIN OFFICERS OF THE ARMY.

1243. ***Sardar Mangal Singh:** Will the Defence Secretary please state the number and percentage of annual wastage amongst

(i) the Kings's Commissioned British Officers,

(ii) the King's Commissioned Indian Officers, and

(iii) the Viceroy's Commissioned Officers

from 1932 to 1937?

Mr. C. M. G. Ogilvie: (i) British King's Commissioned Officers —1,085, or approximately 6·42 per cent per annum

(ii) King's Commissioned Indian Officers —33, or approximately 3 92 per cent per annum

(iii) Viceroy's Commissioned Officers —1,618, or approximately 8 81 per cent per annum

Sardar Mangal Singh: May I know the factors out of which this wastage takes place?

Mr. C. M. G. Ogilvie: Retirement, death, resignation

Sardar Mangal Singh: May I know if the figures relate only to the British officers attached to the Indian regiments, or do they relate to the officers in the British regiments?

Mr. C. M. G. Ogilvie: No, they relate only to British officers of the Indian Army

Sardar Mangal Singh: As regards (ii), may I know whether the figure relates to the Indian commissioned officers turned out from the Dehra Dun Academy or only to Indian "King's Commissioned Officers"?

Mr. C. M. G. Ogilvie: The question asked for figures in respect of King's Commissioned Indian Officers, and the answer was, therefore, limited to that category

ACTION ON THE RESOLUTION *re* IMPLEMENTING THE RECOMMENDATIONS OF THE INDIAN SANDHURST COMMITTEE.

1244. *Sardar Mangal Singh: Will the Defence Secretary please state

(a) whether Government have considered the resolution regarding implementing the recommendations of the Indian Sandhurst Committee passed by the Central Assembly on the 2nd September, 1938;

(b) whether Government have decided to appoint a committee in the terms of that resolution,

(c) if so, when that committee is likely to commence its work, and

(d) what would be the terms of reference of that committee?

Mr. C. M. G. Ogilvie: (a) Yes

(b) Government have decided to appoint a committee but its composition has not yet been finally decided

(c) Probably in the beginning of the new year

(d) These have not yet been finally decided.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government have decided to follow the Resolution passed by this House in this matter?

Mr. C. M. G. Ogilvie: I have informed the Honourable Member in part (b) of my answer that the Resolution has been accepted in principle

Mr. T. S. Avinashilingam Chettiar: I want to know whether the amendment moved in this House and passed in this House has been accepted, *viz*, that the majority of the Committee should be elected Members of this House.

Mr. C. M. G. Ogilvie: I have already clearly replied to the Honourable Member but perhaps he did not hear my reply I said that the composition of the Committee has not yet been finally decided

Mr. T. S. Avinashilingam Chettiar: May I know whether the principle contained in that amendment to that Resolution has been accepted?

Mr. C. M. G. Ogilvie: I have already informed the Honourable Member that the composition of that Committee—whether it will be wholly or partly made up of elected Members of this House—has not yet been decided

Sardar Sant Singh: May I know whether the Leaders of Parties will be consulted with regard to the personnel to be taken on that Committee?

Mr. C. M. G. Ogilvie: I cannot yet inform the Honourable Member on that point

Mr. T. S. Avinashilingam Chettiar: May I know—when the Government consider Resolutions of this House—whether that is long or immediately after they are passed by this House?

Mr. C. M. G. Ogilvie: That varies from time to time

Mr. T. S. Avinashilingam Chettiar: This Resolution was passed in September If so, may I have an elucidation of that phrase "from time to time"?

Mr. C. M. G. Ogilvie: Some Resolutions, if they are of a simple type which require little consideration, are decided upon at once, others are decided upon after more mature consideration, and others after very mature consideration

ILL-TREATMENT METED OUT TO MIAN IFTIKHAR-UD-DIN, M.L.A., BY THE BOMBAY CUSTOMS OFFICIALS

1245. *Sardar Mangal Singh: Will the Honourable the Finance Member please state.

(a) whether his attention has been drawn to the press statement issued by Mian Iftikhar-ud-Din, Member, Legislative Assembly (Punjab), Secretary, Congress Assembly Party, and published in the *Tribune*, dated on the 8th October, 1938, regarding ill-treatment meted out to him by the Bombay Customs officials on his return from Europe.

(b) whether his person was searched in a way which would have enraged even a convict;

(c) whether it is a fact that about 500 persons disembarked from the same boat,

(d) whether all other persons were also subjected to a similar treatment, or Mian Iftikhar-ud-Din, alone was singled out for such a humiliating treatment,

(e) how long the search lasted,

(f) whether it is a fact that his wife and child were not given clothes to change for the night up till 2-30 in the morning,

(g) the number and names of the books and other papers that were taken away from him: and

(h) whether all of them have been returned to him, or some of them have been retained as objectionable?

The Honourable Mr. R. M. Maxwell: (a) Government have seen the press statement referred to

(b) No The search was made in the normal courteous manner, under the supervision of a senior Customs Officer

(c) No the correct number is 344

(d) No other passenger's person was searched

(e) The search of his person was completed in a few minutes, the examination of books took about two hours

(f) No restriction was placed on the clearance of wearing apparel and other personal effects

(g) A list of those taken for examination is placed on the table

(h) A large number was confiscated Those released have not yet been taken over by the owner

List of Literature detained from Mr M Iftikhar-ud-Din, M L A , Passenger "Conte Biancomano" on 3rd October 1938

1 "The Labour Monthly" Four Bound Volumes of all issues for
Vol 16 for 1934
Vol 17 for 1936
Vol 18 for 1936
Vol 19 for 1937
} Edited by R Palme Dutt.

2. "The Labour Monthly" Six monthly editions for April to September 1938. Edited by R. Palme Dutt

3 "Why you should be a Socialist" by John Strachey (Pamphlets) Published by Victor Gollancz Ltd *Six copies*

4 "Pollitt Visits Spain" By Harry Pollitt (Pamphlet) Published by International Brigade Wounded and Dependents Aid Fund, London

5 "A Letter to Ivanov" By J Stalin (Pamphlet) Published by International Publishers, New York

6. "Conserted Action or Isolation · Which is the Road to Peace" By Earl Browder. (Pamphlet) Published by International Publishers, New York

7. "Lenin on the Jewish Question". (Pamphlet) By Lenin Published by International Publishers, New York

8. "The Constitution of the United States with the amendments also the, The Declaration of Independence" (Pamphlet) With an introduction by Earl Browder Published by International Publishers, New York

9 "Negro Liberation" By James S Allen (Pamphlet) Published by International Publishers, New York

10 "Molotov on the New Soviet Constitution" (Pamphlet) Published by International Publishers, New York

11 "The Soviets and the Individual" By Joseph Stalin (Pamphlet) Published by International Publishers, New York

12 "Austria" By Harry Pollitt (Pamphlet) Published by the Communist Party of Great Britain

13 "Truth about Trotskyism Moscow Trial January 1937" By Harry Pollitt and R Palme Dutt (Pamphlet) Published by the Communist Party of Great Britain

14 "Unity Against the National Government" (Pamphlet) By Harry Pollitt Published by the Communist Party of Great Britain Two copies

15 "Fascist Agents Exposed in the Moscow Trials" By R Page Arnot and Tim Buck Published by the Communist Party of Great Britain (Pamphlet)

16 "Colonies Mandates and Peace" By Ben Bradley (Pamphlet) Published by the Communist Party of Great Britain

17 "Passionaria" (Pamphlets) *Two copies* One published by the Communist of G B and the other by Workers' Library, Publishers, Inc, New York

18 "France Today and the People's Front" By Maurice Thorez Published by Victor Gollancz

19 "The Unity of the French Nation" By Maurice Thorez (Pamphlet) Published by Workers' Library, Publishers

20 "France of the Peoples' Front and her Mission in the World", by Maurice Thorez (Booklet) Published by Workers' Library, Publishers, New York

21 "Son of the People" By Maurice Thorez Published by Lawrence and Wishart

22 "What is Communism" By Earl Browder Published by Workers' Library, Publishers, New York

23 "The People's Front in the United States" By Earl Browder Published by Lawrence & Wishart

24 "Marxism and the National and Colonial Question" By J Stalin Published by Lawrence & Wishart

25 "World Revolution 1917—1936" By C L R James Published by Martin Secker and Warburg, London

26 "Marxism and Modern Thought" By N I Bukharin and others Published by George Routledge and Sons, Ltd, London

27 "The Working Class against Fascism" By G Dimitrov Published by Martin Lawrence, Ltd

28 "The United Front" By G Dimitroff Pub by Lawrence & Wishart

29 "What are We to Do"? By John Strachey Published by Victor Gollancz, Ltd.

30 "The Theory and Practice of Socialism" By John Strachey Published by Victor Gollancz, Ltd

31 "Selected Works of V I Lenin". Vols 8, 9 & 10.—

Vol. 8. "The Period of War Communism" (1918—1920)

Vol 9 "New Economic Policy-Socialist Construction"

Vol 10 "The Communist International".

Published by Lawrence & Wishart

32 "The Constitution and Bye Laws of the Communist Party of the United States of America" (Pamphlet), Published by Workers' Library, Publishers, New York

33 "James W Ford What He is and What he Stands For". By Ben Davis. (Pamphlet) Published for the National Campaign Committee of the Communist Party, New York City, by Workers' Library Publishers, New York.

34 "Resolutions of the Ninth Convention of the Communist Party" (Pamphlet) Workers' Library Publishers, New York

35 "The Assassination of Kirov" By M Katz (Pamphlet) Published by Workers' Library Publishers, New York

36 "Youth Marches towards Socialism" By Wolf Michal (Pamphlet) Pub by Workers' Library Publishers, New York

37 "Youth and Fascism" By O Kuusinen (Pamphlet) Published by Workers Library, Publishers, New York

38 "Mother Bloor, the Spirit of '76" By Ann Barton (Pamphlet) Pub by Workers' Library Publishers, New York

39 "For or Against the United Front" (Pamphlet) By Ernest Fischer Pub by Workers' Library Publishers, New York

40 "Heroines" By Sasha Small (Pamphlet) Published by Workers' Library Publishers, New York

41. "Lenin on the I L P" (Pamphlet) Introduction by W Rust Published by Workers' Library Publishers, New York

42 "China March towards Unity" By Mao Tse-Tung, Wang Ming, G Dimitroff I J E Snow The Central Committee of the Communist Party of China Published by Workers' Library Publishers, New York

43 "The Communist" Monthly Magazine Copies for January to April and June to August 1938. *(Seven edition)* Pub by the Communist Party of the U S A, Editors —Earl Browder, Alex Bittleman and V J Jerome

44 "The Communist International" Magazine Organ of the Executive Committee of the Communist International Published by Workers Library Publishers, Inc, New York (Thirteen copies) (January, February, March, April, May, June, July, November and December 1937, January, February, April, June and July 1938)

45 "Engles in the Struggle for Revolutionary Marxism" By D Z Manuilsky (Pamphlet) Published by Modern Books Ltd

46 "For Peace For the Defence of the Soviet Union" By Andre Marty (Pamphlet) Pub by Modern Books, Ltd

47. "The Revolutionary Movement in the Colonial Countries" By Wang Ming (Pamphlet) Published by Modern Books, Ltd

48 "The Working Class against Fascism", by G Dimotrov (Pamphlet) Pub by Modern Books, Ltd, London, (Two copies)

49 "The Results of the Socialist Construction in the U S S R" By D Z Manuilsky. (Pamphlet). Pub by Modern Books

50 "The Fight Against War and Fascism" By Ercoli (Pamphlet) Pub by Modern Books, Ltd

51 "The Working Class against Fascism Speech in reply to the Discussion" By G Dimitrov Pub by Modern Books (Pamphlet)

52 "Full Text of the Resolutions Adopted at the Seventh Congress". Published by Modern Books (Pamphlet)

53 "Youth and the Struggle against Fascism and War", by O Kuusinen (Pamphlet), Pub by Modern Books

54 "The Success of the Anti-Fascist United Front" By M Thorez Published by Modern Books, (Pamphlet)

55 "Indian Politics" (Pamphlet), By R Palme Dutt and Ben Bradley Published by Ben Bradley, London

56 "Young Communist Review" Monthly Magazine *(Two copies)* for August 1938, Pub by Young Communist Review, New York City Official Publication of the National Council of the Young Communist League, New York

57 "Hunger and Terror in Harlem" By James W Ford (Pamphlet) Pub by the Harlem Section of the Communist Party New York City

58 "The Communist and the Struggle for Negro Liberation" By J W Ford (Pamphlet) Pub. by the Harlem division of the Communist Party

59 "Lessons of the Wrecking Diversionist and Espionage Activities of the Japanese German-Trotzkyite Agents By V M Molotov Pub by the Co-operative Publishing Society of Foreign Workers, in the U S S R., *i.e.*, C. P. S. U.

60. "The Soviet Union and the Working Class of the Capitalist Countries". By G Dimitrov Pub by C P S U

61 "Speech Delivered at a Meeting of Voters of the Stalin Electoral Area, Moscow. By J Stalin" Published by C P S U (Pamphlet)

62 "The Twentieth Anniversary of the October Revolution" By V M Molotov (Pamphlet) Pub by C P S U

63 "The Constitution of Socialism" By V M Molotov (Pamphlet), Published by C. P S U

64 "Defects in Party Work and Measures for Liquidating Trotskyite and other Double Dealers" By J Stalin Pub by C P S U (Pamphlet)

65 "The Left News" Two copies For July and September, 1938 Pub and Edited by Victor Gollancz

66 "The Life of Lenin" By P Kerzhentsev Pub by C P S U

67 "World News and Views", Weekly paper, published by H R G Jefferson and Printed by the Marston Printing Co (Three copies)

68. "International Press Correspondence" Weekly paper, published by H R G Jefferson, and printed by the Marsten Printing, Co

69 "Soviet Communism Dictatorship or Democracy?" By Sydney and Beatrice Webb (Left Review Pamphlet), Published by the Left Review

70 "Is Soviet Communism a New Civilization?" By Sydney and Beatrice Webb (Left Review Pamphlet), Published by the Left Review

71 "Science & Society" A Marxian Quarterly Magazine Pub by Science & Society Inc, New York (Five copies) Spring, Summer and Winter 1937 Fall and Spring 38

72. "The Meaning of Marx" A Symposium by Bertrand Russel, John Dewey, Maurice Cohen, Sydney Hook and Sherwood Eddy, Pub by Farrar & Rinehart. (Pamphlet)

73 "Life Begins With Freedom" By Henry Winston Pub by New Age Publishers, New York (Pamphlet)

74 "Young Communists and the Unity of the Youth" By Gil Green (Pamphlet) Pub by Youth Publishers, New York

75 "Resolutions of the National Negro Congress" Held in Chicago February 14, 15, 16, 1936" (Pamphlet)

76 "Second All-Southern Negro Youth Conference" (Official Proceeding, April 1—3, 1938) Pamphlet, published by Southern Negro Youth Congress (Two copies)

77 "Soviet Understanding" By R Terrell Pub by William Heinemann, Ltd. London

78 "Civil War in Spain" By Betram D Wolfe (Booklet) Pub by Workers' Age Publishers, New York City.

79 "A Philosophy for a Modern Man" By H Levy Pub by Alfred A. Knopf, New York

80 "U S S R Handbook" Edited by Louis Segal Pub by Victor Gollancz

81 "Crisis and Criticism" By Alick West Pub by Lawrence & Wishart

82 "The Modern Quarterly" Magazine Made and printed in Great Britain for Lawrence and Wishart and Victor Gollancz by Purnell and Sons, Ltd, London

83 "New Masses" Paper Published Weekly by Weekly Masses, Co, Inc, New York Copy for August 30 1938 (Containing an article by Earl Browder).

84 "Who Is Prosperous in Palestine". By British Resident (Labour Monthly Pamphlet No 7) Extract of matter published in the Labour Monthly for November

85 "Writers Take Sides"

86 "Youth in Britain today for Peace and Social Justice"

87 "Arise"

88. "Italy's Failure in Abyssinia".

89 "Spain 1938"

90 "The New Soviet Constitution"
91. "Let Me Live".
92 "Czechoslavakia"
93 "From Spanish Trenches"
94 "The War Against the West"
95. "Biology and Marxism".
96 "The American on the Soviet Union".
97 "Empire—A Monthly Record".
98 "China Today".
99 "Italian Fascism"
100 "Creative Arts in War Time".
101 "American Legion and Civil Liberty".
102 "Youth Seeks Peace Freedom and Progress".
103 "Youngville U S A.".
104 "Events"
105 "Germany Today"
106 "Indian Student"
107. "Why the League has Failed"
108 "*Three copies* (Typed Matter) "

Sardar Mangal Singh: May I know whether a list of these books was supplied to Mian Iftikhar-ud-Din at the time of the search, or after that?

The Honourable Mr. R. M. Maxwell: A list has since been supplied to him.

Sardar Sant Singh: May I know if the Honourable Member will make enquiries as to the time taken in the searching his person, because of the fact that Mian Iftikhar-ud-Din himself told me that he was kept in a room for two hours?

The Honourable Mr. R. M. Maxwell: The most minute inquries have already been made on that point and it is certain that the search of his person only occupied a very few minutes. I think the Honourable Member must have misunderstood what he was told as regards the two hours The two hours was an inclusive time and during most of that time the passenger was not present at all but left his servants and he himself had gone off to engage accommodation in a hotel

Sardar Sant Singh: May I know if it is not a fact that he was taken to a room and was there detained for a long period?

The Honourable Mr. R. M. Maxwell: No, Sir, it is not a fact

Mr. S. Satyamurti: May I know why he was picked out for personal search?

The Honourable Mr. R. M. Maxwell: Because there was reason to suppose that he was importing prohibited literature

Sardar Sant Singh: Is it a fact that the books that were confiscated belonged to a popular library belonging to Government in Lahore?

The Honourable Mr. R. M. Maxwell: I am not aware of that.

Sardar Sant Singh: Will the Honourable Member kindly look at the stamp on that book that they belong to the Government Public Library at Lahore?

The Honourable Mr. R. M. Maxwell: If the Honourable Member assures me that this gentleman took books from the Public Library at Lahore along with his personal baggage to Europe and came back with them, I will see whether there is a case for an inquiry on that point

PERMISSION TO RAJA MAHENDRA PRATAP OF MUTTRA DISTRICT TO RETURN TO INDIA

1246. *Mr. Badri Dutt Pande: (a) Will the Honourable the Home Member be pleased to state if the United Provinces Government have written to the Central Government to grant unconditional permission to Raja Mahendra Pratap of Muttra District to return to India?

(b) If so, what action have Government taken or propose to take in the matter?

The Honourable Mr. R. M. Maxwell: (a) A confidential communication was received from the United Provinces Government on the subject

(b) I have nothing to add to the reply given by the Honourable Sir Henry Craik on 22nd March, 1938, to starred question No 883

Mr. S. Satyamurti: Was this communication from the United Provinces Government received before or after the answer to which my Honourable friend has referred?

The Honourable Mr R. M. Maxwell: It was received after the answer was given

Mr. S. Satyamurti: May I know whether, after the receipt of this communication from the United Provinces Government, Government have reconsidered the question?

The Honourable Mr. R. M. Maxwell: Yes, Sir, we went into the question

Mr. S. Satyamurti: And have they come to the same conclusion that the embargo on his return should continue?

The Honourable Mr. R. M. Maxwell: That is not the exact decision that was expressed in my Honourable predecessor's reply that I have referred to

Mr. S. Satyamurti: Is he free to return now?

The Honourable Mr. R. M. Maxwell: He has not applied.

Mr. Badri Dutt Pande: Is it a fact that this gentleman, Raja Mahendra Pratap, has written to the United Provinces Government that he will live peacefully if he is allowed to return and will also accept provincial autonomy? What is the hitch now in allowing this man to return to India from abroad?

The Honourable Mr. R. M. Maxwell: I am not aware of any such communication from the gentleman to the United Provinces Government

PERMISSION TO LALA HAR DAYAL TO RETURN TO INDIA.

1247. *Mr. Badri Dutt Pande: Will the Honourable the Home Member be pleased to state whether the newspaper report that Lala Har Dayal has been permitted to return to India by Government is correct?

The Honourable Mr. R. M. Maxwell: The newspaper reports that Lala Har Dayal has been permitted to return to India by Government in view of his having given an undertaking not to participate directly or indirectly in any unconstitutional movement, are correct

DISCONTINUANCE OF AUDIT SUPERVISION OF PROVINCIAL OFFICES

1248. *Mr. Badri Dutt Pande: (a) Will the Honourable the Finance Member be pleased to state if supervision of some of the Provincial offices has been discontinued by Government?

(b) If so, from which date?

(c) What savings have accrued to the Indian Exchequer by the discontinuance of this practice?

The Honourable Sir James Grigg: (a) and (b) Presumably the Honourable Member has in mind the temporary suspension of local inspections by the Indian Audit Department as a measure of economy If so, the position is that towards the end of last Septemwer orders were issued suspending local inspections of both Central and Provincial offices These orders do not apply in the case of local Fund Audit where the cost is recovered from Provincial Governments, certain non-Government institutions from which the cost of audit is recovered, and some special items which it has been considered necessary to retain

(c) It is anticipated that this measure will result in a saving of about Rs 1½ lakhs during the current year

Mr. Badri Dutt Pande: Have the United Provinces Government written to the Central Government that under the Government of India Act it is the duty of the Central Government to make provision for the inspection of all Provincial Government offices?

The Honourable Sir James Grigg: The Honourable Member has better put down a question on that subject I cannot reply to it off-hand

Mr. Badri Dutt Pande: May I know how many clerks have been retrenched?

The Honourable Sir James Grigg: The Honourable Member had better put that down too

FACILITIES TO HOLDERS OF STERLING SECURITIES IN INDIA.

1249. *Mr. Manu Subedar: Will the Honourable the Finance Member be pleased to state:

(a) whether the investor in England in Rupee Paper has got the facility of registration of his holding in England and of interest being paid to him in England by a draft on Calcutta;

(b) when this facility was created and for what reasons;

(c) whether Government have considered the proposal for giving corresponding facilities to holders of sterling securities in India to have the same registered in India and to have interest paid to them in India by a draft on London;

(d) whether any representation has been received by Government to this effect from any quarter; and

(e) whether Government have decided to put right this discrimination between British holders of Indian Government securities and Indian holders of sterling securities?

The Honourable Sir James Grigg: (a) Yes

(b) It is a practice of very long standing

(c) and (d) No.

(e) There is no question of discrimination; the circumstances are different

Mr. Manu Subedar: May I inquire whether there is any material difficulty in extending similar facilities to Indian holders of sterling securities?

The Honourable Sir James Grigg: That is not the question which the Honourable Member has put down It is not a question of any particular difficulty, but there seems to be no reason for giving special facilities

Mr. Manu Subedar: The question put down is in part (e)

"whether Government have decided to put right this discrimination between British holders of Indian Government securities and Indian holders of sterling securities?"

The Honourable Sir James Grigg: I deny the discrimination. I say that the circumstances are quite different

Mr. Manu Subedar: After that denial, may I inquire whether Government have considered this question and whether there are any serious material difficulties in giving these facilities which I am suggesting should be given to Indian holders of sterling securities?

The Honourable Sir James Grigg: I have not considered it from the point of view of material difficulties We have considered it from the point of view of the need for the facilities and we are of opinion that there is no need to give them If the Honourable Member wants to know why the circumstances are quite different, then the reason is this: the rupee securities are held in England mostly by people who acquired them during their residence in India and it is undesirable that they should unload them on the market at the time of their leaving their service in India No such consideration applies in the other case which the Honourable Member has in mind

Mr. Manu Subedar: May I inquire why Indian holders of sterling securities should not be paid by drafts on Calcutta in that way? If the Honourable Member is not in a position to reply to this question rightaway, I shall be quite content if he will assure me that he will look into the matter.

The Honourable Sir James Grigg: I cannot give the Honourable Member any assurance for I do not think any special facilities are required The Indian holders of sterling securities are people who buy and sell in the International market for securities and there is no special facility needed in those cases

EXEMPTION FROM INCOME-TAX OF PERSONS HOLDING GOVERNMENT SECURITIES.

1250. ***Mr. Manu Subedar** Will the Honourable the Finance Member state

(a) when the concession was given to those, who bought Government securities through the Post Offices and left them there, of exemption from income-tax,

(b) what was the amount of revenue lost in this manner during 1936-37 and 1937-38,

(c) is the decision to withdraw this concession now an isolated decision, or, is it part of any general policy;

(d) if it is a general policy, could a statement of that policy be made to this House?

The Honourable Sir James Grigg: (a) In 1904.

(b) It is not possible to estimate the loss

(c) The decision has been taken because of representations from certain Provincial Governments that the exemption gave an unfair advantage to the Government of India securities over those of Provincial Governments It is not part of any general policy

(d) Does not arise

Mr. Manu Subedar: May I inquire whether Government will consider the continuation of the exemption hitherto on an assurance by the party that he is not holding Government securities beyond the Rs 10,000 permitted under this rule?

The Honourable Sir James Grigg: That won't meet the case of the representations made to us by the Provincial Governments

TYPE OF VESSEL FOR INDIA'S NAVAL DEFENCE.

1251. ***Mr. T. S. Avinashilingam Chettiar:** Will the Defence Secretary state.

(a) whether Government have decided the type of vessel they will get for India's naval defence,

(b) the cost of that vessel; and

(c) how it is proposed to be met?

Mr. C. M. G. Ogilvie: (a) Not yet

(b) and (c) Do not arise.

Mr. T. S. Avinashilingam Chettiar: May I inquire whether it is left to the Chatfield Committee to determine this matter?

Mr. C. M. G. Ogilvie: The Chatfield Committee will undoubtedly inquire into this matter

Sir Cowasji Jehangir: May I ask the reason for this delay even in deciding the type of the ship? If the delay is so long when are we going to get the ships?

Mr. C. M. G. Ogilvie: I am afraid I cannot tell the Honourable Member when we are going to get these ships These ships are extremely expensive and we want to be quite sure that we are getting the right type of ship as we do not want to spend our money without a proper return

CHANGE IN THE PRESENT EXCHANGE RATIO.

1252. *Mr. T. S. Avinashilingam Chettiar Will the Honourable the Finance Member state

(a) from how many Provincial Governments the Central Government have received representations regarding the change of the present exchange ratio,

(b) what reasons they give for advocating the change, and

(c) whether in light of these representations, Government have considered the advisability of reconsidering the matter of the change of ratio?

The Honourable Sir James Grigg: I would refer the Honourable Member to my reply to Sardar Mangal Singh's question No 107 on the 10th August, 1938

Mr. T. S. Avinashilingam Chettiar: May I know if the Government of India have received any representations from the Provincial Governments after that?

The Honourable Sir James Grigg: I have answered questions on this subject at intervals during the last Session and I have nothing more to add to what I said on that variety of occasions

Mr. T. S. Avinashilingam Chettiar: That answer which is referred to is that these communications are confidential or there is anying more communicative in the answer?

The Honourable Sir James Grigg: I should not be surprised if the answer contained a suggestion to that effect

Mr. S. Satyamurti: In view of the answers of my Honourable friend previously, I recollect—I may be wrong and, if so, I hope he will correct me—they were uncommunicative on the ground that all the communications of the Central Government are confidential May I know with reference to clause (c) of this question, whether Government have changed their mind, because of these representations from the various Provincial Governments, or have they rejected the idea of reconsidering this matter in spite of these representations?

The Honourable Sir James Grigg: Yes, Sir

Mr. T. S. Avinashilingam Chettiar: May I know if Government have claimed this thing on the basis that it is in the interests of the agriculturists that there should be no change in the ratio?

The Honourable Sir James Grigg: I think this subject was fully dealt with in Simla in reply to supplementary questions

Mr. Muhammad Azhar Ali: May I know why the Government is uneasy over receiving adjournment motions on the question of ratio?

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

APPOINTMENT OF AN INDIAN AS DEPUTY DIRECTOR OR ASSISTANT TO THE DEPUTY DIRECTOR OF CANTONMENTS.

1253. *Mr. Badri Dutt Pande: Will the Defence Secretary be pleased to state

(a) whether any Indian has been appointed as Deputy Director or Assistant to the Deputy Director of Cantonments in any of the Commands, and

(b) if the answer to part (a) be in the negative, whether Government intend to make such appointment, and if so, when?

Mr. C. M. G. Ogilvie: (a) No Indian has been appointed as Deputy Director One Indian officer was appointed Deputy Assistant Director in a Command to fill a temporary vacancy

(b) The attention of the Honourable Member is invited to the reply I gave to part (c) of Mr Sham Lal's starred question No 374 on the 18th February, 1938

Mr. Badri Dutt Pande: About this post of the Deputy Director, I want to know whether no Indian has been found who was fit enough to occupy this post or whether this post is reserved for Europeans?

Mr. C. M. G. Ogilvie: The post is not reserved for Europeans It is filled entirely by selection from the commissioned ranks of the Indian army At present there are no King's commissioned Indian officers or Indian commissioned officers in the Cantonment Department

MILITARY ESTATES OFFICERS IN INDIA.

1254. *Mr. Badri Dutt Pande: (a) Will the Defence Secretary be pleased to state the total number of Military Estates Officers in India? How many of them are Indians and how many are Europeans?

(b) Is it a fact that after the enactment of Cantonments (Amendment) Act, 1936, the number of Military Estates Officers has been increased? If so, by what number?

(c) What were the expenses per annum on the salary of Military Estates Officers and their office expenses before the Amendment Act, and after the new organisation?

(d) Is it a fact that none of the Military Estates Officers is a civilian? If so, why?

(e) What is the rate of pay of a European and an Indian Military Estates Officer?

(f) Is it a fact that the Military Estates Officers are paid higher rates of pay and allowances than Executive Officers in Cantonments?

Mr. C. M. G. Ogilvie: (a) The information required by the Honourable Member will be found on page 736 of the current Indian Army List, a copy of which is in the Library of the House

(b), (c) and (e) Prior to the re-organisation of the Cantonments Department consequent on the enactment of the Cantonments (Amendment) Act, 1936, Military Estates Officers and their establishments were on a temporary or part time basis There were twelve such appointments which were filled from the cadre of the Cantonments Department It is not possible to state, with any accuracy, the expenses per annum on the officers or their office expenses as the former varied according to the rank and pay of the officers filling the appointments from time to time and the establishment was on a temporary footing on different rates of pay for different periods There are now 17 Military Estates Circles For the salary and conditions of recruitment and service of officers of the re-organised Cantonments Department (British and Indian) a reference is invited to Army Instruction (India) No 214 of 1937, a copy of which is available in the Library The average cost of a Military Estates office establishment and contingencies is Rs 6,500 per annum

(d) Yes, as they are recruited from the Indian Army and from no other service

(f) Yes

Mr. Badri Dutt Pande: What are the special qualifications required for Military Estate officers? Are there any such qualifications attached to this office?

Mr. C. M. G. Ogilvie: It is rather a long question to answer in the course of a supplementary Estate management generally which involves a knowledge of acquisition proceedings and so forth

Mr. Badri Dutt Pande: Are they recruited in England?

Mr. C. M. G. Ogilvie: They are recruited from the Indian army and from no other source

Mr. Badri Dutt Pande: Have they to pass survey and settlement examination?

Mr. C. M. G. Ogilvie: They have at various times of their service to pass examinations

PUBLICATION BY THE GOVERNMENT OF INDIA GIVING THE YEAR'S ACTIVITIES OF VARIOUS DEPARTMENTS IN ONE BOOK.

1255. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Home Member please state:

(a) the latest year for which the publication styled "India in . . . ." prepared for presentation to British Parliament, has been published and circulated to members of this House;

(b) whether it is a fact that the issue for 1934-35 was circulated to members as late as October, 1937,

(c) the reason for the delay,

(d) the steps, if any, proposed to be taken to issue the publication within six months of the expiry of the year to which it relates, and

(e) whether there is any other single publication by Government of India which gives the year's activities of various departments together in one book?

The Honourable Mr. R. M. Maxwell: (a) 1934-35

(b) Yes

(c) There was some difficulty in obtaining the services of a suitable officer to compile the Report and the matter was delayed for that reason until June, 1936, when the officer selected began the work The draft of the report was completed in the middle of April, 1937, and the Secretary of State's approval to the final chapter was received in June The report was published on 12th October, 1937

(d) No further reports will be prepared In this connection I invite the attention of the Honourable Member to the reply given to Mr Sri Prakasa's question No 44, dated the 24th August, 1937

(e) No

EXAMINATION FEES CHARGED BY THE FEDERAL PUBLIC SERVICE COMMISSION.

1256. *Dr. Sir Ziauddin Ahmad: (a) Will the Honourable the Home Member please state if it is a fact that every candidate who applies for appearing at any examination conducted by the Federal Public Service Commission, pays prescribed fees with his application form?

(b) Is it a fact that the Federal Public Service Commission rejects a number of candidates who are otherwise qualified to appear in the examination, without giving reasons?

(c) Are the examination fees of the candidates who are not allowed to appear at the examination returned to the candidates? If not, why not?

The Honourable Mr. R. M. Maxwell: (a) Yes

(b) No.

(c) Examination fees are not charged to candidates not admitted to the examination. Application fees or, in the case of the Ministerial Service Examination, consolidated fees are not returnable as they are intended to cover the cost of dealing with the applications

Mr. Lalchand Navalrai: May I know with regard to part (b) why is it that reasons are not given to the candidate so that he may remove those defects and reappear at another examination?

The Honourable Mr. R. M. Maxwell: The question was whether the Federal Public Service Commission rejects candidates without giving reasons, and my reply was, No That is, reasons are given

Dr. Sir Ziauddin Ahmad: Is it not a fact that the candidate is simply informed by the Secretary that the Federal Public Service Commission regret that they are unable to grant such permission, and when such is the case, why should not the fees be returned?

The Honourable Mr. R. M. Maxwell: I understand that in all cases where a candidate is not admitted to the examination, the rule under which he is not admitted is quoted to him so that he may know the reasons

Dr. Sir Ziauddin Ahmad: Is it not a fact that the reasons are not given and the public does not know for what reasons these applications are rejected, so much so that there is great dissatisfaction among the public for not knowing the reasons Publicity is given to all kinds of rumours

The Honourable Mr. R. M. Maxwell: All the information that I have been able to get from the Federal Public Service Commission as regards their practice in the matter suggests that there is no reason why the public should be under a misapprehension The candidates would be aware of the reasons for which they have been excluded

Dr. Sir Ziauddin Ahmad: The Public Service Commission may have their own good reasons But unfortunately these reasons are not communicated to the candidates and they do not know what those reasons are The candidates do not know who scrutinises their applications, whether they are scrutinised by a clerk, or whether they are scrutinised at all, or whether decision is arrived by weighing the application In fairness to the candidate it is desirable that the whole thing should be published

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

LEGISLATION FOR THE SPECIAL TRIAL AND CARE OF JUVENILE DELINQUENTS.

1257. *Shrimati K. Radha Bai Subbarayan: Will the Honourable the Home Member be pleased to state -

(a) which of the Provinces have introduced legislation, such as Children's Acts, for the special trial and care of juvenile delinquents,

(b) whether such enactments are in force in the centrally administered areas, and

(c) if the answer to part (b) be in the negative, whether and when Government propose to introduce such legislation, and, if not, why not?

The Honourable Mr. R. M. Maxwell: (a) So far as the Government of India are aware Children's Acts have been passed by the Provincial Legislatures of Madras, Bombay, Bengal and the Central Provinces, and a similar Bill was introduced in the United Provinces Legislative Assembly in January, 1938

(b) The Bombay Children's Act is in force in the Province of Ajmer-Merwara with certain modifications

(c) There is no such proposal under consideration as the need for such an Act in other Chief Commissioners' Provinces has not so far been felt

Shrimati K. Radha Bai Subbarayan: May I ask, Sir, how have Government come to the conclusion that the need is not felt?

The Honourable Mr. R. M. Maxwell: If representations are made showing the need for such a measure, Government would certainly be prepared to consider them at any time

Shrimati K. Radha Bai Subbarayan: Is it not a fact, Sir, that there has been a demand for such legislation?

The Honourable Mr. R. M. Maxwell: Not so far as my records show

Shrimati K. Radha Bai Subbarayan: Have not societies, like the Children Aid societies, appealed to the Government to introduce such legislation?

The Honourable Mr. R. M. Maxwell: I am not aware of that

Mr. Sri Prakasa: Is the Honourable Member waiting for applications from the children themselves?

The Honourable Mr. R. M. Maxwell: Any such applications would no doubt receive due attention

REGULATION OF MONEY-LENDER'S BUSINESS AND DEVELOPMENT OF ALTERNATIVE CREDIT AGENCIES FOR AGRICULTURISTS

1258. *Mr. Manu Subedar: Will the Honourable the Finance Member state:

(a) whether a communication, dated the 15th August, 1938, has been received from the Governor of the Reserve Bank of India dealing with paragraph 41 of the Statutory Report of the Reserve Bank under section 55 (1) of the Reserve Bank of India Act,

(b) whether it is the opinion of the Reserve Bank of India that the agricultural debt relief legislation is restricting the amount of capital hitherto made available to agriculturists by the money-lender and is a material deterrent to them to avail themselves of any facilities for additional capital from scheduled banks, or from the Reserve Bank through re-discount of their bills;

(c) whether Government have considered the advisability of discussing this matter with the Finance Ministers of the Provinces or the Revenue Ministers, with a view to evolving a plan for financial assistance to the cultivator on lines indicated by the Central Banking Committee,

(d) whether it is a fact that the Reserve Bank of India themselves in the Statutory Report made suggestions for the regulation of the business of the money-lender and developing alternative credit agencies; and

(c) what steps have Government taken to bring to the notice of the Provincial Governments the communication of the Reserve Bank of India, dated 15th of August, 1938?

The Honourable Sir James Grigg: (a), (b) and (d) I would refer the Honourable Member to the reply given in the Council of State to question No 147 on the 20th September, 1938

(c) This is for Provincial Governments to consider in the first instance with reference to local conditions in each province

(e) It has been communicated to the Provincial Governments

Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member please read out the answer which was given in the Council of State?

The Honourable Sir James Grigg: I do not think it would be in order to read out every answer to which reference has been made

Mr. President (The Honourable Sir Abdur Rahim). Is the answer a long one?

The Honourable Sir James Grigg: The answer is a long answer to the extent that it circulate certain correspondence and certain documents which cover three or four pages

Mr. T. S. Avinashilingam Chettiar: Without the correspondence portion, the main answer alone may be read out.

Mr. President (The Honurable Sir Abdur Rahim) The Honourable Member says it is a long answer

Mr. Manu Subedar: With reference to part (c), may I enquire—the Honourable Member said that this is for Provincial Governments to consider in the first instance with reference to local conditions in each province—even if the Provincial Governments were to decide that they would have to receive financial assistance, for such financial assistance to reach the poor cultivators, they would have to receive from the Government of India either directly or through the Reserve Bank which has been specifically charged under the Act with certain functions. Might I enquire what the Government of India have done to prompt the Reserve Bank to go further with this and bring about co-operation between them and the Provincial Governments for securing additional financial facilities to the cultivators?

The Honourable Sir James Grigg: There is no reason to suppose that the Reserve Bank are unaware of their responsibilities in this matter or that they would fail to discharge them With regard to the other question which the Honourable Member has raised, namely, "Am I aware that Provincial Governments cannot do anything unless I give them money", unfortunately that has been represented to me on more than one occasion

Mr. Manu Subedar: My query is specifically this. At the Finance Ministers' Conference does the Finance Member propose to raise this issue and to draw the attention of the Provincial Ministers to draw up a scheme in which material assistance can be given by the Reserve Bank?

The Honourable Sir James Grigg: I should have thought that there was no need to do this, at any rate for the Governments which are represented by the same Party to which the Honourable Member belongs

Mr. Manu Subedar: I am referring to all Governments

The Honourable Sir James Grigg: I do not think the implication that all the Provincial Governments are unaware of their responsibilities in this matter is one which will be pleasing to the rest of his Party

Mr. Manu Subedar: My implication only was whether all Provincial Governments—not merely those belonging to my Party, but all Provincial Governments—are alive to this issue and are actively considering it But the whole rub is whether they would have the necessary financial assistance on capital account. The Honourable Member has got a bee in his bonnet about help from the Government of India on revenue account I am not referring to any revenue assistance I am referring to the question whether on capital account, either from the Government of India direct or through the Reserve Bank they will receive the necessary financial assistance and whether this matter has been considered

The Honourable Sir James Grigg: The Honourable Member had better read the correspondence to which I referred At any rate he will then have an appreciation of the difficulties involved

INDIAN ORDNANCE FACTORY APPRENTICE SCHEME

†**1259. *Seth Govind Das:** (a) Will the Defence Secretary please state for how many years now the Indian Ordnance Factory apprentice scheme is being worked?

(b) How many years' course is it?

(c) What kinds of engineering posts are the apprentices trained for?

(d) Is it a fact that the scheme was originally inaugurated with the object of stopping foreign recruitment for such posts in the Ordnance Factories as Foremen, Assistant Foremen, etc?

(e) Is it a fact that non-Indians continue to be recruited for the above-mentioned posts, while Indian apprentices on completion of their course either go unemployed or are offered temporary jobs on meagre salaries? If so, why?

(f) Are Government prepared to re-organise the Ordnance Factories apprentice scheme on the Indian State Railway Mechanical Apprentice Scheme offering the same prospects to ex-Ordnance apprentices as are enjoyed by the Railway apprentices? If not, why not?

Mr. C. M. G. Ogilvie: (a) A regular scheme for the training of Apprentices in Ordnance Factories was started in 1934

(b) The courses vary with different factories It is three years in the Cordite Factory, four years in the Metal and Steel, and the Harness and Saddlery Factories, five years each in the Gun Carriage, the Rifle and the Gun and Shell Factories and six years in the Clothing Factory.

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

(c) Appointments as Supervisor, Chargeman, Assistant Foreman and Foreman in General Mechanical Engineering at Gun Carriage Factory, Rifle Factory and Gun and Shell Factory and in Specialised Trades, *e.g.*, steel and non-ferrous metal production at the Metal and Steel Factory, tanning and Currying at the Harness and Saddlery Factory, acid and Explosives manufacture at the Cordite Factory and tailoring and cutting at the Clothing Factory

(d) The object of the scheme now in existence is to provide for the Indianisation of the factory staffs.

(e) No Non-Indians are recruited for higher appointments such as Foreman or Assistant Foreman when suitably qualified Indians are not available

(f) No The State Railways scheme is intended for a different purpose, namely, recruitment to the Superior Revenue Establishment of State Railways

HEADQUARTERS OF THE OFFICES OF THE ARMY HEADQUARTERS

†1260. ***Seth Govind Das:** (a) Will the Defence Secretary please state whether the headquarters of some units of the Defence Headquarters are Delhi and Simla, while the headquarters of others are only Simla? If so, the reason therefor?

(b) Is it a fact that the headquarters of such departments as Military Finance, Military Accountant General Military Lands and Cantonments are Simla and Delhi, while the headquarters of departments, such as Supply and Transport, Munitions Production, Arsenal, Military Training, etc , are only Simla? If so, why?

(c) Is it a fact that the effect of Delhi/Simla headquarters is the move of officers and clerks of these departments between Simla and Delhi at considerable Government expense *plus* grant of house allowance to clerks, while the Simla offices are permanently located at Simla without the grant of house allowance to the clerks?

Mr. C. M. G. Ogilvie: (a) Headquarters of the Army and Air Force in India are permanently located at Simla Only the minimum staff required for efficient administration are moved to Delhi during the cold weather

(b) Defence Department Secretariat, including the Military Accounts Department and Military Lands and Cantonments, normally move to Delhi, whilst the offices of Army Headquarters, which include the Directorates dealing with the subjects mentioned by the Honourable Member, are divided between Delhi and Simla for the reasons given above

(c) Officers and clerks detailed to proceed to Delhi with the Government of India are moved at Government expense Owing to the shortage of residential accommodation in Delhi, a certain number of clerks have to make their own arrangements Such clerks as are not allotted Government accommodation are eligible for the Delhi compensatory house rent allowance This allowance is to compensate individuals for absence from their permanent headquarters.

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

RACIAL DISCRIMINATION IN THE SCALES OF PAY AND SERVICE CONDITIONS FOR CLERICAL PERSONNEL OF THE ARMY HEADQUARTERS.

†1261. *Seth Govind Das: Will the Defence Secretary please state whether it is a fact

(a) that scales of pay and service conditions for clerical personnel of Army Headquarters offices are drawn up on racial basis,

(b) that while an Indian member of the Indian Army Corps of Clerks with high academic qualifications has to start service on Rs. 50 per mensem, a non-Indian member of the same Corps is paid more than Rs 300 per mensem (including allowances) to start with, if so, why, and

(c) that whenever a policy of economy in expenditure on clerical establishments at Army Headquarters is given effect to, it is always the Indian who suffers, the non-Indian element being left untouched, if so, why?

Mr. C. M. G. Ogilvie: (a) No, but they are necessarily different for the reasons given in reply to part (b) of Mr Satyamurti's starred question No 826 of 27th September, 1937

(b) No I would refer the Honourable Member to the terms and conditions of service for Indian and British clerks of the Indian Army Corps of Clerks which are reproduced on pages 2016-18 of the Legislative Assembly Debates of the 12th September, 1938, and to the reply I gave on the 27th September, 1937, to Mr Satyamurti's starred question No 826

(c) No

CLERKS IN CERTAIN BRANCHES OF THE ARMY HEADQUARTERS.

†1262. *Seth Govind Das: Will the Defence Secretary please state

(a) the number of clerks employed in the Central Registries of the various departments of the Defence Headquarters, and their financial effect,

(b) the number of clerks employed in the Establishment Sections dealing with questions of pay and allowances for officers, clerks and menials in the various departments of Defence Headquarters, and their financial effect,

(c) the total number of clerks designated *Cashier* and who are in receipt of a special allowance of Rs 50 per mensem in the various departments of Defence Headquarters, and their financial effect, and

(d) whether Government have ever considered the question, with a view to economy in public expenditure, of centralizing the activities of the present multiple Central Registries, Establishment Sections and Cashiers in Defence Headquarters, in one office to serve all the departments?

Mr. C. M. G. Ogilvie: (a) 64 clerks; Rs 1,39,356 per annum.

(b) 44 clerks; Rs 1,13,688 per annum.

(c) 12 clerks; Rs 7,200 per annum

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

(d) The question of establishing a combined Central Registry for all the Branches of Army Headquarters was considered in 1929 but has up to the present been found to be impracticable.

STRENGTH OF INDIAN MINISTERIAL STAFF IN CERTAIN BRANCHES OF THE ARMY HEADQUARTERS.

†1263. *Seth Govind Das: Will the Defence Secretary please state:

(a) the sanctioned permanent strength of Indian ministerial staff in the following offices of Army Headquarters:

General Staff Branch

Adjutant General's Branch,

Military Secretary's Branch,

Quartermaster General's Branch,

Ordnance Branch, and

Engineer-in-Chief's Branch,

(b) the number of Indian courtesy titles conferred during the last ten years on Indian members of the above-mentioned offices,

(c) the sanctioned permanent strength of Indian clerks in the following offices

(i) Defence Secretariat, and

(ii) Military Finance Branch, and

(d) the number of Indian courtesy titles awarded during the last ten years to Indian members of the above-mentioned two offices?

Mr. C. M. G. Ogilvie: (a) to (d) The figures asked for by the Honourable Member are as follows

	Sanctioned strength.	No. of titles.
General Staff Branch	47	3
Adjutant General's Branch	70	1
Medical Directorate	40	Nil.
Judge Advocate General's Office	8	Nil.
Quartermaster General's Branch	86	1
Master General of the Ordnance Branch	131	Nil.
Contracts Directorate	80	1
Assistant Director of Ordnance Services' (Provision) Office	51	Nil.
Engineer-in-Chief's Branch	66	Nil.
Defence Department Secretariat	86	3
Military Finance Branch	89	2

SPECIAL ALLOWANCES GRANTED TO OFFICERS AND CLERKS OF THE ARMY HEADQUARTERS.

†1264. *Seth Govind Das: Will the Defence Secretary please state

(a) the designations of officers and military clerks of Army Headquarters who are granted the following special allowances in addition to the salaries attached to the posts held:

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

(i) Simla local allowance, and

(ii) Duty allowance;

(b) what are the amounts of these allowances, and the substantive salary drawn by the individuals; and

(c) the reason for granting such allowances to highly paid staffs?

Mr. C. M. G. Ogilvie: (a), (b) and (c) The information required by the Honourable Member is as follows:

(1) Civil Engineer Adviser to the Director of Ordnance Factories.
pay Rs 1,250 per mensem, duty allowance Rs 100 per mensem, local allowance Rs 50 per mensem

(2) Assistant Civil Engineer Adviser to the Director of Ordnance Factories
pay Rs 1,050 per mensem, duty allowance Rs 100 per mensem, local allowance Rs 50 per mensem

(3) Tram Conducting Warrant Officer:
pay Rs 420 per mensem, local allowance Rs 50 per mensem

(4) and (5) Two technical military clerks.
pay Rs 469 and Rs 380 per mensem, local allowance Rs 50 per mensem each

(6), (7) and (8) Three military clerks
pay Rs 250, Rs 250 and Rs 190 per mensem—draw a duty allowance for working as stenographers in addition to their clerical duties One of them gets Rs 40 per mensem and the other two Rs 20 each per mensem

The reason for the grant of duty allowance to the Civil Engineer and his Assistant is that their duties at Army Headquarters are more onerous and responsible than in ordnance factories or arsenals. The duty allowance to clerks acting as stenographers is to compensate them for extra work The local allowance in each case in which it is granted is intended to meet the increased cost of living at Simla

NON-APPOINTMENT OF AN INDIAN TO THE CHATFIELD COMMITTEE.

1265. *Mr. S Satyamurti: Will the Defence Secretary be pleased to state

(a) the reason why no Indian, or Indians, has been appointed to the Chatfield Committee,

(b) the arrangements which are being made for presenting India's case before that Committee; and

(c) whether any non-official opinion will be consulted in respect of the evidence to be laid before the Committee, if not, why not?

Mr. C. M. G. Ogilvie: (a) The Committee was appointed by His Majesty's Government on the invitation of the Government of India, which desired that an expert body from the United Kingdom should investigate on the spot the problems of Indian defence. In the circumstances and in view of the terms of reference the appointment of any member from India other than a military expert was not to be expected.

(b) The Committee will be placed in possession of full documentary evidence and will examine witnesses It will also visit certain areas of primary importance from the point of view of defence

(c) Yes

Mr. S. Satyamurti: With reference to the answer to clause (a) of the question, do the words "military experts" only mean soldiers or also civilians conversant with military matters?

Mr. C. M. G. Ogilvie: No, Sir It means only soldiers versed in the technical aspects of defence

Mr. T. S. Avinashilingam Chettiar: How many civilians are there in the Committee?

Mr. C. M. G. Ogilvie: I informed Honourable Members—I think in answer to a previous question—that there was one

Mr. Abdul Qaiyum: With reference to part (b) of the question what are the areas to be visited by this Committee?

Mr. C. M. G. Ogilvie: I do not think they have been finally decided

REVENUE RETURNS AND EXPENDITURE OF THE GOVERNMENT OF INDIA.

1266. *Mr. S. Satyamurti: Will the Honourable the Finance Member be pleased to state

(a) the latest figures of all revenue returns of the Government of India, including Customs, Railways, Income-tax and other Departments as compared with the previous year,

(b) the latest figures of expenditure for the same period as compared with those of the previous year, and

(c) what, according to the present expectations, is likely to be the deficit in the general and in the Railway revenues at the end of the financial year, if the present tendencies continue, more or less?

The Honourable Sir James Grigg: (a) and (b) I would invite a reference to the published returns

(c) I cannot anticipate my budget speech

Mr. S. Satyamurti: I am asking whether, taking the figures as they are today, according to the latest figures available, there is likely to be a deficit in the revenue side of this year's budget.

The Honourable Sir James Grigg: I also made my customary refusal to be a prophet before I must.

Mr. S. Satyamurti: I do not want the Honourable Member to be a prophet I want him to be a factual and truthful speaker. I am asking, Sir, what according to the Honourable Member's opinion, based on the figures available to him on the customs, railways, income-tax and other receipts, will be the deficit—on the figures just now available.

The Honourable Sir James Grigg: I am at present engaged in considering the figures as they come in.

Mr. S. Satyamurti: In view of the fact that we have got to pay while he calls the tune, I am asking him whether he will take the House into confidence and tell us on the figures which are now available to him and from which he can draw the inference, what will be the deficit

The Honourable Sir James Grigg: I am sorry The Honourable Member is extremely persuasive and extremely persistent but I do not propose to answer his question

Mr. S. Satyamurti: Will the Honourable Member confirm or contradict me if I say that 8 crores will be the deficit in the budget?

The Honourable Sir James Grigg: I do not think the Honourable Member need take an unduly pessimistic view nor do I think he need embark on a series of figures until he guesses the right one

Mr. Muhammad Azhar Ali: Is it a fact that the Customs revenue is falling?

The Honourable Sir James Grigg: Will the Honourable Member refer to the returns?

Mr. Lalchand Navalrai: The Honourable Member has established the practice of not giving information Is it good or bad?

The Honourable Sir James Grigg: That is a matter of opinion My own opinion is that it is a good one

An Honourable Member: Ours is that it is not

INTRODUCTION OF A COMPREHENSIVE BANKING LEGISLATION

1267. *Mr. S. Satyamurti: Will the Honourable the Finance Member be pleased to state

(a) whether he has heard from the Reserve Bank on the question of the need for any amendment of the Act in regard to their relations to schedule banks,

(b) whether he has examined the question, and

(c) whether he proposes to introduce suitable legislation, or take steps to introduce a comprehensive Banking Act, for India, if not, why not?

The Honourable Sir James Grigg: (a), (b) and (c) I am not at present in a position to add anything to what I said in this respect in the statement I made in reply to certain short notice questions on the 22nd August, 1938.

Mr. S. Satyamurti: In view of the fact that much water has flown in the river near Delhi since that answer was given, may I know whether the Government of India have re-examined the question in view of strong

public opinion in the country, and whether they will consult the Reserve Bank on this very important question which affects the future of Indian banking in this country?

The Honourable Sir James Grigg: If the Honourable Member will refer to the statement I made, he will find that it contained a remark of this kind

"This is the first occasion in the history of the Reserve Bank in which assistance has been required on account of a run, and though, so far, it considers that legal powers adequate (and, after all, the powers given to the Bank in the Act were based on a most careful examination of central banks in other countries), it is examining them in the light of their recent practical application and will invite the comments of the scheduled banks If, thereafter, the Bank considers any further powers desirable it will no doubt report to Government"

There is the process of consulting other banks to be gone through first before any question of representation to the Central Government arises I have no doubt that that process is going on

Mr. S. Satyamurti: What, according to the information of the Government, is the stage which this consultation with scheduled banks has reached? When is it expected to be completed? When do Government expect to hear from the Reserve Bank on the question of the need or otherwise for amending the Reserve Bank Act?

The Honourable Sir James Grigg: The Honourable Member is trying to break down my customary silence on matters of this nature. He wants consultation between the Government and the Reserve Bank before the stage at which it is possible to have it

Mr. S. Satyamurti: I am not trying to break his "customary silence" I know it very well But, I am asking, Sir, whether Government can throw any light on the stage at which the matter stands at present, and in view of the fact that the public are vitally interested in the matter, when Government expect to hear from the Reserve Bank on this very important question

The Honourable Sir James Grigg: I honestly cannot tell the Honourable Member any specific date but I can assure him from my private knowledge that there has not been any delay or desire to burke the question

Mr. S. Satyamurti: Clause (c) of my question Have Government taken any steps to introduce a comprehensive Banking Act for India?

The Honourable Sir James Grigg: A good deal of the banking legislation recommended by the Banking Enquiry Committee has been in one place or another already passed into law.

Mr. Manu Subedar: Have representations been received as to the necessity of changing the Reserve Bank Act, and if so, what have Government done over those representations?

The Honourable Sir James Grigg: I cannot answer that off-hand The Honourable Member had better put it down

RETRENCHMENT IN THE GOVERNMENT OF INDIA DEPARTMENTS

†1268. ***Mr. S. Satyamurti:** Will the Honourable the Finance Member be pleased to state

(a) whether he has undertaken any campaign of retrenchment in view of the possible loss of revenue, if so, what the main lines of retrenchment are,

(b) whether Government considered and recommended a ten per cent cut in salaries of Government officials, and whether the Secretary of State turned down the recommendation,

(c) whether all Departments have been addressed to retrench their expenditure drastically, and what the response of the various Departments has been,

(d) whether there has been or will be any retrenchment in the recruitment of the staff to the various Departments, if so, what, and

(e) whether any new posts, or new scales of pay, or new allowances have been created, or sanctioned, since the 1st April, 1938, in the Government of India, if so, what they are?

CONTROL OVER DEFENCE EXPENDITURE EXERCISED BY THE FINANCE DEPARTMENT

1269. ***Mr. Brojendra Narayan Chaudhury:** Will the Honourable the Finance Member please state

(a) the nature of control over Defence expenditure exercised by the Finance Department,

(b) the total amounts of the proposed expenditure sent by Defence Department to Finance for scrutiny and sanction during each of the last five years,

(c) the total amounts objected to in the first instance by Finance Department in those years,

(d) the total amounts ultimately agreed to by Finance Department in those five years,

(e) the total amounts ultimately demanded as grants in those years,

(f) whether it is the function of audit only to scrutinise whether the actual expenditure is within the grant, and

(g) whether audit can cut down proposals?

The Honourable Sir James Grigg: (a) The Honourable Member's attention is invited to my speech and that of the Defence Secretary in the House on the 13th September, 1938, on the Resolution moved by Rajrada Hans Raj wherein the nature of control over Defence expenditure exercised by the Finance Department was dealt with

†For answer to this question, *see* answer to question No 1242

(b), (c), (d) and (e) Figures for five years are not readily available. Figures for the years 1936-37, 1937-38 and 1938-39 are given below

(In lakh of Rupees)

	1936-37.	1937-38.	1938-39.
Total amount originally proposed by administrative authorities	45,75	45,65	45,99
Total amount agreed to by the Finance Department	45,45	44,62	45,18
Total amount reduced	30	1,03	81

(f) No Audit also sees that the expenditure incurred is covered by proper sanction of the competent authority

(g) Audit scrutinises all orders having a financial implication and can challenge them if, in its opinion, the orders are issued by an authority not competent to issue such orders or infringe any of the canons of financial propriety.

Mr. Manu Subedar: May I know, Sir, whether this check from the Finance Department is on the expenditure as a whole on what they call the net expenditure or whether it is on each separate grant under each separate head?

12 NOON.

The Honourable Sir James Grigg: Both.

Mr. Manu Subedar: May I know whether it is a fact that the Army has frequently spent more than what was settled between the Finance Department and the Army Department, and particularly may I inquire what is the position with regard to the last official year for which the full figures of expenditure are now available to the Honourable Member?

The Honourable Sir James Grigg: I cannot give details with regard to the last official year without notice, but it is obvious that if the necessity for military operations arose during the course of the year, or for other extraneous causes extra expenditure is thrust upon the army estimates, there will be an excess over the amount originally sanctioned

Mr. S. Satyamurti: May I know whether, in respect of those items, the Finance Department must actually sanction the expenditure or they have no voice at all in the matter? What I mean is, has the Finance Department simply to accept the excess expenditure and has no voice in the matter at

The Honourable Sir James Grigg: It depends on circumstances. In some cases the necessity is so compelling that they have no voice in the matter; in other cases which involve a new policy, the Finance Department and the Finance Member have a right to be consulted in the inception of that policy

Mr. S. Satyamurti: Does the Defence Department spend in advance out of the reserves with them and then present the bills to the Finance Department, or do they wait before expending even a pie beyond the budget for the sanction of the Finance Department?

The Honourable Sir James Grigg: The Honourable Member can rest assured that for expenditure out of reserves the sanction of the Finance Department is required, and he may rest assured that there is no question of small expenditures being incurred in the first year which commit Government to big expenditure in subsequent years without specific sanction of the Finance Department before any expenditure at all is incurred

Mr. Manu Subedar: Is it a fact that the arrangement between the Finance Department and the Army Department is one-sided in that if money which has been already sanctioned is not expended, it is used by the Commander-in-Chief in any manner he likes whereas if there is an excess on account of reasons which the Honourable Member stated like unexpected operations elsewhere that excess is to be met from the general revenues?

The Honourable Sir James Grigg: No, Sir, no expenditure is allocated to the Defence Member to spend as he likes, and if the Honourable Member thinks that that arrangement is one-sided, I can assure him that the defence authorities regard the arrangement as one-sided in that they say 'it is all giving and no taking', and that they are doing the giving

Mr. Manu Subedar: May I know what happens to the amount which was proposed to be spent in any particular year which was sanctioned and which was agreed between the Finance and Defence Departments, but which for some reason or other was not spent by the Defence Department?

The Honourable Sir James Grigg: There are various arrangements If there is a saving on the budget as a whole, that goes into the defence reserve fund to be allocated with the consent of the Finance Department, but for projects for which it has not yet been possible to find expenditure There is also a fairly general arrangement that if a scheme for which provision has been made cannot for whatever reasons be started in a particular year, the allocation is put in the defence reserve fund, but if the contention or the question is, do the Defence Department get a free hand in spending any savings on their budget, leaving out of question the fact that there has not been any saving in the last two years, the answer is quite unmistakably no

Mr. S. Satyamurti: May I know whether the Government work on the principle that the Finance Department has more or less a contract budget of 45 crores a year, and may I know if the Honourable Member is satisfied as a result of his experience during the last four or five years that his control over the Defence Department is just as complete and as comprehensive as over other civil departments?

The Honourable Sir James Grigg: I think I would rather like the Honourable Member to address that question to the Defence Department.

Mr. S. Satyamurti: I am asking whether the Honourable the Finance Member is working on the assumption that there is a contract budget as it were,—I am using that phrase in a loose sense,—for the Defence Department of 4.5 crores?

The Honourable Sir James Grigg: Not in any statutory or strict sense is there any contract The budget figure is fixed from year to year in discussion between the Defence authorities and myself, and once it is fixed if for any reason they make savings during the year they are allowed to put them into the defence reserve fund in order to lighten the burden on future defence estimates, but the arrangement which was adopted in 1926, under which the Defence Department was promised a budget of 55 crores for 4 years is no longer in operation and never was in operation for more than about a year

(*b*) WRITTEN ANSWERS.

RELIEF IN RESPECT OF INDIAN AND UNITED KINGDOM INCOME-TAX

1270. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Finance Member please state

(a) the amounts of relief in respect of the United Kingdom income tax given under section 49 of the Indian Income-tax Act, 1922 (XI of 1922), in each of the last four years,

(b) whether the Honourable Member has any idea as to the corresponding amount of relief given in the United Kingdom in respect of Indian income-tax, whether he is aware that the reliefs in the United Kingdom are not even a tenth of the reliefs given in India,

(c) whether his department intends to move for the abrogation of the mutual relief arrangements with the United Kingdom and deletion of section 49, if not, why not,

(d) whether his Exchequer gains or loses by the existence of section 49,

(e) whether the Indian people gain or lose as a whole by the existence of section 49,

(f) the reason for differentiating United Kingdom from other foreign countries and from other British Dominions for income-tax relief, and

(g) how old the reciprocal arrangements with the United Kingdom are, whether it is only since 1920?

The Honourable Sir James Grigg: (a) I would refer the Honourable Member to Return No III in All-India Income-tax Reports and Returns copies of which are in the Library.

(b) No

(c) I would refer the Honourable Member to my speech in the Legislative Assembly on the 7th April, 1938, moving for a Select Committee on the Income-tax (Amendment) Bill

(d) and (e) It is obvious that it costs the Exchequer money to give this or any other relief but whether the country as a whole gains or loses in consequence it is impossible to say seeing that to decide the question would

mean comparing the state of development as it is when the external capital has been attracted and as it would have been if there had been no relief and the amount of United Kingdom capital attracted to India had been correspondingly smaller

(f) It is a question of reciprocity, foreign countries and other British Dominions (except Burma, Ceylon and Aden) have not expressed a desire to enter into arrangements with British India for double income-tax relief

(g) They have been in force since 1922

EXEMPTION OF CERTAIN PERSONS FROM INCOME-TAX AND SUPER-TAX

1271. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Finance Member please state

(a) the total amounts of relief given *i e*, loss incurred by exemptions in the matter of income-tax and super-tax and corporation tax under section 60 of the Indian Income-tax Act, 1922 (XI of 1922), in the last year for which figures are available (paragraph 17 Manual)

(i) to Ruling Chiefs and Princes of India in respect of different classes of income,

(ii) to Indian States in respect of different classes of income under the Income-tax Act or any other Act,

(iii) to officers of Government on leave allowance or salary,

(iv) to officers of local authorities, or to employees of companies, or to private employers under any circumstances, and

(b) the reasons or the principle followed in the grant of concession or exemption in each case of the above mentioned items, *i e*, Ruling Chiefs, States, et cetera?

The Honourable Sir James Grigg: (a) (i) The information is not available

(ii) The Indian States are *not* liable to income-tax under the Indian Income-tax Act They are liable to income-tax if the provisions of the Government Trading Taxation Act of 1926 are attracted No question of loss by exemption under section 60 of the Act, therefore, arises

(iii) and (iv) I would refer the Honourable Member to the reply given to starred question No 926 on the 12th September, 1938

(b) *Ruling Chiefs and Princes.*—The exemption was apparently given at a time when the Government of India were anxious to attract subscriptions to their loans

Indian States —In view of the reply to part (a) (ii) above, this does not arise

Leave allowance or salary of officers of Government and officers of local authorities or employees of companies, etc —I would refer the Honourable Member to the reply given to part (a) of starred question No 924 on the 3rd March, 1936

TAKING OF EVIDENCE BY THE CHATFIELD COMMITTEE

1272. *Mr. T. S. Avinashilingam Chettiar: Will the Defence Secretary state:

(a) whether the Chatfield Committee has begun taking evidence,

(b) whether they have prepared the names and numbers of persons from whom evidence is to be taken,

(c) if so, whether the evidence will be taken only from officials, or non-officials also, and

(d) when they are expected to submit their report?

Mr. C. M. G. Ogilvie: (a) Yes

(b) Yes

(c) From both

(d) Early in 1939

NOTIFICATION TO VILLAGERS FOR HOLDING MILITARY MANŒUVRES

1273. ***Mr. T. S. Avinashilingam Chettiar:** Will the Defence Secretary state

(a) whether they are aware of the news titled 'peasants ousted for military manœuvres on page 8 of the *Hindustan Times*, dated the 28th October, 1938,

(b) whether the facts stated in it are true, and whether a memorandum signed by the villages of Ujrai, Mulpur, Sarai Garhi, etc., have been received,

(c) whether they have been paid compensation, if so, how much, and

(d) how is the holding of manœuvres usually notified to the villages, and how the authorities satisfy themselves that there is proper notification to the villagers?

Mr. C. M. G. Ogilvie: (a), (b), (c) and (d) The article in the *Hindustan Times* has been brought to the notice of Government, who have not yet received any other intimation of the alleged occurrences Enquiries have been instituted, and a detailed answer will be furnished as soon as the information required has been received

UNSTARRED QUESTION AND ANSWER

SUPERANNUATION OF STAFF IN THE CUSTOMS SERVICES

90. Mr. P. R. Damzen: Will the Honourable the Finance Member please state if it is proposed to introduce superannuation into the Custom Services, and whether this superannuation will be based on the principle of thirty years' service or fifty years of age, and the reason for such superannuation if it is to be introduced?

The Honourable Sir James Grigg: The rules governing superannuation and retirement in the Customs Department are Fundamental Rule 56 and Articles 465 and 465-A of the Civil Service Regulations, copies of which are in the Library of the House There is no proposal under consideration to modify these rules

STATEMENTS LAID ON THE TABLE

Information promised in reply to starred question No 21 asked by Mr Sham Lal on the 8th August, 1938

OFFICERS PUNISHED FOR DISHONESTY AND CORRUPTION ON RAILWAYS.

(a) The number of non-gazetted staff on the State-managed Railways punished during the financial year 1937-38 for dishonesty and corruption was 72 on the Eastern Bengal, 41 on the East Indian, 31 on the Great Indian Peninsula and 19 on the North Western Railway There was no case of a similar nature amongst gazetted staff during the same period

(b) and (c) In respect of non-gazetted staff, the practice on all State-managed Railways is not uniform On the East Indian and North Western Railways, the name of an employee dismissed for a serious offence with brief particulars of the case is notified through the Railway Gazette or through the monthly bulletins, circulars, etc On the Eastern Bengal Railway, a list of non-gazetted staff dismissed or discharged is circulated to District Officers only once a month, while on the Great Indian Peninsula Railway, the names, etc, of dismissed inferior staff only are notified in the Weekly Gazette

As regards gazetted staff on State managed Railways, the practice is to notify in the *Gazette of India* the names of officers dismissed or removed from the service

Information promised in reply to unstarred question No 19 asked by Mr Muhammad Azhar Ali on the 31st August, 1938

NON-ADMISSION OF CERTAIN NON GAZETTED STAFF TO THE STERLING BRANCH OF PROVIDENT FUND ON THE EAST INDIAN RAILWAY.

Government are informed that the member of the non-gazetted staff to whom the letter quoted by the Honourable Member related has since been admitted to the sterling branch of the provident fund

Information promised in reply to parts (b) and (c) of starred question No 804 asked by Dr. P N. Banerjea on the 6th September, 1938

PRICE AND SYSTEM OF EXTRACTION OF COAL FROM MINES IN ASSAM.

(b) and (c) The ordinary 'pillar and stall' system of working which prevails in the Bengal, Bihar and Central Provinces coalfields is followed in coal mines in Assam, other than those belonging to the Assam Railways and Trading Company, Limited In the latter mines, this seams are extracted in one operation, retreating from the far end, while thick seams are worked in two to four sections, depending on the thickness of coal and the bands in them, in accordance with what is known as the "chamber" or "opening" system of working

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Information promised in reply to starred questions Nos 857, 858 and 859 asked by Mr Muhammad Nauman on the 8th September, 1938

APPOINTMENT OF TRACERS AND DRAUGHTSMEN IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

Starred question No 857—(a) The rules for the recruitment and training of subordinate railway staff were made applicable to the recruitment of draftsmen on the East Indian Railway in 1937 The recruitment conditions mentioned in these rules did not, therefore, apply to draftsmen and tracers recruited prior to March, 1937, and none has been recruited since that date Communal allotment was not obtained when certain temporary draftsmen selected from a panel of approved draftsmen were made permanent owing to an oversight, but steps have been taken to prevent a recurrence

(b) Does not arise.

VACANCIES OF TICKET COLLECTORS IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

Starred question No 858—(a) Presumably the Honourable Member is referring to the Government of India, Home Department Resolution, No F.-14/17-B./35 of the 4th July, 1934, regarding the representation of Muslims and other minority communities in Government service If so, the position is that owing to certain enquiries which had to be made from railway administrations before fixing separate percentages for various minority communities on different railways, the Railway Board issued detailed instructions in the beginning of December, 1934 The Railway administrations took some time to frame detailed instructions to ensure that there would not be any difficulty in the practical application of the orders, and on the East Indian Railway, the orders were circulated to all concerned in April, 1935, from which date they have been given effect to

(b) In view of the reply to part (a) above, this does not arise

RECRUITMENT AND TRANSFER OF MUSLIM CLERKS IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

Starred question No 859—Communal percentages are applicable to initial recruitment of staff Subsequent transfers of staff from one category to another are made in the interest of service irrespective of the proportion of various communities in each category

Information promised in reply to parts (e) to (h) of starred question No 974 asked by Mr Akhil Chandra Datta on the 13th September, 1938

BREACHES DUE TO FLOODS IN THE EAST INDIAN RAILWAY LINE IN MURSHIDABAD DISTRICT.

(e) The examination was conducted solely by railway officers and not in the presence or with the aid of Provincial or District Engineers

(f) and (g) Mr S Tidy, Superintendent, Way and Works, and Mr K C Goswami, Assistant Superintendent Way and Works, watched the flood from 19th to 24th August, 1938

Mr S F Ahmed, Deputy Chief Engineer, examined the flood from Katwa to Barharwa on the 22nd, 23rd and 24th along with the above-mentioned officers

The portion between Azimganj and Mamgram was inspected on the 24th August, 1938, and the vicinity of Azimganj between 12 hours and 14 hours on that date

(h) The embankment in question is owned by the Irrigation Department of the Government of Bengal, but so far as Government are aware, though it was found to be badly damaged by scour opposite Bahrampur on the 28th August, 1938, it had neither been breached nor overtopped

STATEMENT OF BUSINESS

The Honourable Sir Nripendra Sircar (Leader of the House) Sir, may I make a submission with reference to the business to be taken up tomorrow? The members of the Select Committee on the Income-tax Bill were, I understand unanimous in desiring that the motion for the consideration of the Bill as reported by the Select Committee should be taken up tomorrow with one day's curtailment of the period of one week referred to in the proviso to clause (a) of Standing Order 41 (1) If this arrangement has your approval, the Income-tax Bill will be taken up tomorrow and proceeded with *de die in diem* and any business on the current list which is not disposed of today will stand over

Mr. President (The Honourable Sir Abdur Rahim): If that is the general desire of the House, I am prepared to waive the Standing Order so far as one day is concerned Is it the general desire of the House that the Income-tax Bill should be taken up tomorrow?

Several Honourable Members: Yes, yes

THE PREVENTION OF CRUELTY TO ANIMALS (AMENDMENT) BILL

The Honourable Mr. R. M. Maxwell (Home Member) Sir, I move

"That the amendment made by the Council of State in the Bill to amend the law relating to the prevention of cruelty to animals be taken into consideration"

The amendment relates to item (*h*) in sub-section (2) of proposed section 15 inserted by clause 13 in the original Bill This clause was inserted by an amendment during the Second reading of the Bill, and although Government accepted the substance of the amendment, I took the occasion to point out that the drafting stood in need of some improvement That has now been done, and the result is clause (*h*), as it appears in the Bill returned by the Council of State. This preserves the sense of the original amendment and puts it into a satisfactory form

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

"That the amendment made by the Council of State in the Bill to amend the law relating to the prevention of cruelty to animals be taken into consideration"

Mr. K. Santhanam (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) I rise on a point of order, Sir No Bill, as amended by the Assembly, is supplied to the Members, and now we are supplied with a statement and a Bill as amended by the Council of State We have no means of comparing the section as it stood after the Assembly sent it to the Council of State with the section as it stands

Mr. President (The Honourable Sir Abdur Rahim) Surely the Honourable Member had the Bill before him before?

Mr. K. Santhanam: No, Sir The Bill, as amended by the Assembly, has never been placed in the hands of the Members of the Assembly, in fact the Honourable the Home Member himself said that the particular section which was amended by the Assembly was re-amended by the Council of State We have not been supplied with a comparative statement showing what amendments were carried out in the Council of State in the Bill as passed by the Assembly Unless we have some means of comparing it, we cannot intelligently consider it

Mr. President (The Honourable Sir Abdur Rahim). Can the Honourable the Home Member tell the House what was the amendment carried out in the Council of State?

The Honourable Mr. R. M. Maxwell: Clause (*h*), as passed by the Assembly, read as follows. The governing words are:

"The Provincial Government may make rules."

[Mr R M Maxwell]

That is, section 15 (*h*) reads as follows

"prohibiting the impounding of cattle in any cattle place without adequate provision being made for adequate space, food and water"

The point raised by the Honourable Member himself in regard to one of these rules was that the rules should not prohibit things but that they should prescribe the conditions under which a thing should be carried on At the time when that clause was moved, I pointed out that the drafting of this amendment which was moved by my Honourable friend, Prof Ranga, was not quite satisfactory in form, but at that time it was not possible on the spur of the moment to make a drafting amendment and it was, therefore, left to put the matter right in the Council of State

Mr. K. Santhanam: I am glad that my Honourable friend has made a drafting correction there, but I should like to know why he has not made a similar correction in clause (*e*), which says, "prohibiting the use of any bit " where also the word "prohibiting" appears I am afraid the Government do not care to look into these matters with the attention that they deserve If the word "prohibiting" is not applicable to a clause like (*h*), why should it have been removed from (*h*) and not from (*e*)? May I know whether my friend would make an amendment here and sent it back to the Council of State so far as section 15 (2) (*e*) is concerned?

Mr. President (The Honourable Sir Abdur Rahim) Is it necessary?

Mr. K. Santhanam: That is the argument which the Honourable Member gave for the amendment which we are asked to pass

The Honourable Mr. R. M. Maxwell: That clause (*e*) was passed by this House without amendment, and the only clause which is now under the consideration of the House is clause (*h*), and not clause (*e*)

Mr. S. Satyamurti (Madras City Non-Muhammadan Urban) I want to raise the general point arising out of this matter raised by my Honourable friend, Mr Santhanam We never get copies of the Bills as passed by the Assembly at all Take, for example, the Motor Vehicles Bill According to the Standing Orders, we can insist on copies of a Bill being supplied to us before the third reading is taken up But, generally by the time the third reading is reached, the Members become tired, and the Standing Order is waived and we pass the Bill I have been in this House for the last four years, and I have never got copies of any Bill as passed by this House, until it is passed by the other House and becomes an Act You need not give a final ruling today, but I should like you to consider it and give us some opportunity of looking at our own handiwork,—what we have done with regard to the Bills coming before us. We go through the Bill clause by clause and make amendments, but after that what happens I do not know I believe it goes to the other House, but we must get copies of the Bill some time or other

Mr. President (The Honourable Sir Abdur Rahim): You get it after it is passed by the other House and consented to by the Governor General

Mr. S. Satyamurti: I am not thinking of that stage I am thinking of the stage after it is passed by this House Because, after all, in the other place, so far as this Party is concerned, we have got friends working in the other House Moreover, it is the House of Commons practice,—I speak subject to correction—that a Bill passed by the House must be available to the House. Otherwise, we will have to consider whether the third reading should not be put off till we get copies of the Bill as amended, clause by clause, by us You may issue orders that as soon as the office can prepare copies of the Bill as passed by this House they may be supplied to Honourable Members

Mr. President (The Honourable Sir Abdur Rahim) Before the third reading?

Mr. S. Satyamurti: No After the third reading, but within a week or ten days we should be able to get copies of Bills as passed by this House I think it will help all Parties, including the Government, to see their own handiwork and if there is any improvement to be suggested, then either the Government or our friends in the other place may take it up and do the needful

The Honourable Sir Nripendra Sircar (Leader of the House) I do not know whether it is really a matter for you or for me to direct your office to do it, but in any case the matter is of importance and I am quite prepared to consider it and see what can be done

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

"That the amendment made by the Council of State in the Bill to amend the law relating to the prevention of cruelty to animals be taken into consideration"

The motion was adopted

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

"That the following amendment made by the Council of State be agreed to

"In clause 13, for item (*h*) of sub-section (*2*) of the proposed Section 15, the following item was substituted, namely

'(*h*) prescribing the manner in which cattle may be impounded in any place appointed for the purpose, so as to secure the provision of adequate space, food and water'"

The motion was adopted

THE EMPLOYMENT OF CHILDREN BILL

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour) Sir, I move·

"That the amendment made by the Council of State in the Bill to regulate the admission of children to certain industrial employments be taken into consideration"

This is a purely consequential matter and need not detain the House for more than a minute The House will recollect that in the Bill as presented in this House, sub-clause (*1*) of clause 3 prescribed a limit of age of 15 years, and sub-clause (*2*), of 14 years, and consequently, clause 5 (*2*) provided for a certificate that the child had attained the age of 15 years or of 14

[Sir Muhammad Zafrullah Khan]

years as the case may be This House was pleased to raise the age limit in sub-clause (2) of clause 3 to 15 years also, so that in both the sub-clauses of clause 3 the age limit became 15 and the certificate, therefore, will be that the child has attained the age of 15 years and the necessity of providing for a certificate that he has attained the age of 14 years for the purposes of sub-clause (2) of clause 3 has ceased This is a consequential amendment to that effect It was not made here by an oversight and the Council of State has now made that amendment so as to provide in sub-clause (2) of clause 5 that such certificate shall be that the child has completed his fifteenth year and they have omitted the words "or fourteenth" and "as the case may be" It is a purely consequential amendment Sir, I move

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

"That the amendment made by the Council of State in the Bill to regulate the admission of children to certain industrial employments be taken into consideration"

The motion was adopted

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

That the following amendment made by the Council of State be agreed to
'In clause 5, in sub clause (2) the words "or fourteenth" and the words "as the case may be" were omitted' "

The motion was adopted

THE AJMER-MERWARA MUNICIPALITIES REGULATION (AMENDMENT) BILL

Sir Girja Shankar Bajpai (Secretary, Department of Education, Health and Lands) Sir, I beg to move

"That the Bill further to amend the Ajmer Merwara Municipalities Regulation, 1925, for the purpose of lowering the educational qualification entitling a person to be enrolled as an elector be taken into consideration"

Sir, at present, the educational qualification prescribed for an elector to a municipality in Ajmer-Merwara is the possession of a graduate's degree The qualification which we propose in the amending Bill is the holding of a certificate of having passed the examination of the fourth standard of an upper primary school This is the qualification which is prescribed for elections to the Legislative Assembly of the United Provinces, but there are certain other features of the qualification on which I should like to comment Actually, so far as the educational qualification for a municipal election is concerned, the qualification we are proposing now is lower than that prevalent in any province except in Madras And, even so far as the qualification for election to Provincial Legislative Assemblies is concerned, it is lower than what prevails in any presidency except Madras This, Sir, is the qualification which the Municipal Committee of Ajmer-Merwara recommended and also the qualification which has the approval of the Municipal Reform Association of Ajmer-Merwara which, I believe, is a fairly advanced body, in so far as its views on these questions are concerned Together with the other reductions of qualifications that are being made by the Chief Commissioner under his own powers, this will have the effect of increasing the number of electors from 7,000 to 80,000. I

think it will be agreed that this marks a substantial step forward Nevertheless, I notice from certain amendments of which my Honourable friends, like Mr Santhanam and Mr. Avinashilingam Chettiar, have given notice that they think that we have not gone far enough and that we ought to follow the example of Madras and prescribe a pure literacy test I should like to say that if we are not going as far as that it is not because we have insufficient respect for the example of Madras or any distrust of democracy but really because two practical considerations stand in the way In the first place, it is the view of our educational advisers that the possession of a certificate of having passed the fourth upper primary standard examination is the minimum qualification necessary to establish permanent literacy, and the second is that, whereas the test which we propose is a simple and automatic one, namely, the production of a certificate, the other would involve an examination of each individual who claims that he is literate within the prescribed rule, and for that in a small area such as Ajmer-Merwara we have not adequate administrative staff at present But there is another aspect of the question which has been brought to our notice, namely, that this change which we are making now is not immutable or expected to stand for all time It is almost certain that sooner or later there will be the necessity for a further broadening of the basis of the franchise Now, with regard to the income and property qualifications, provision for that exists in the regulation without the necessity of resorting to fresh legislation As regards the educational qualification, such power of amendment is not vested in the Executive, but that particular point can be met by the acceptance of Mr Santhanam's second amendment if it finds favour with the House I have already explained the reasons why it will not be possible for us immediately to adopt any standard other than the one which we have indicated in the Bill, namely, the fourth upper primary standard, but I can assure the House that when the time is ripe for a change, neither the Government of India nor the local administration will be found either tardy or unsympathetic That, Sir, is all I need say I move

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

"That the Bill further to amend the Ajmer-Merwara Municipalities Regulation, 1925 for the purpose of lowering the educational qualification entitling a person to be enrolled as an elector be taken into consideration"

Mr. N. V Gadgil (Bombay Central Division Non-Muhammadan Rural) I am glad that the Honourable Member in charge of the Bill has shown his willingness to accept the amendment of which notice has been given by my friend, Mr Santhanam In the Government of India Act, a special lower educational qualification has been provided for women and for certain other people In my province of Bombay those who are on the electoral roll of the Provincial Legislative Assembly or the Provincial Council are entitled to be on the electoral roll of the municipality as well as the district local boards Taking these two categories, namely, women and the scheduled castes, according to the Government of India Act, 'literate' means in relation to any person, "able to read and write in some language or dialect selected by him, being a language or dialect in common use in some part of India" A woman who is literate in this sense is entitled to be on the electoral roll A similar qualification has been laid down in the case of the scheduled castes. In fact, their number works out at one-tenth in every constituency, whether it is municipal or under

[Mr N V. Gadgil]

the district local boards I, therefore, submit, that if Ajmer-Merwara cannot be given the benefit of the reforms for which it is clamouring, at least in the matter of franchise it should be as wide as possible and merely declaring that it is not practical to do it immediately is not enough. I think if it is practical in all other provinces it should be more practical and easier in a particularly small province like Ajmer-Merwara. Therefore, I am not entirely satisfied with the mere intention of the Honourable Member that he is going to accept the amendment to be moved by Mr Santhanam I shall be satisfied only if he is in a position to assure us that this franchise so far as the educational franchise is concerned will be as wide as is provided for women and the scheduled castes With these words, I support the motion for consideration

Mr. M. S. Aney (Berar Non-Muhammadan) I only want a little explanation from the Honourable Member who moved this motion He has himself admitted that the franchise which he has now proposed is not sufficiently wide and is certainly much below the franchise allowed in other provinces but I am not rising to speak on that point now I want to ask him for an explanation on a different point The qualification which is laid down here is 'the holder of a certificate proving that he has passed the Upper Primary examination or any other examination prescribed by rule in this behalf as at least equivalent to that examination' It means that the man who can produce the certificate will be entitled to vote But there might be men who have passed higher examinations but they may not hold the certificate for the upper primary examination I want to know in such a case whether those persons who have passed the higher examination will be entitled to be on the electoral roll if they are unable to produce the certificate of the upper primary examination I am not suggesting an imaginary difficulty A case like that has actually occurred in my province For certain purposes a boy who has passed the primary examination is held eligible under certain local laws in Berar The eligibility of a boy who has passed the matriculation examination was considered to be of doubtful nature as he could not convince the officer that he held the certificate of having passed the primary examination It was seriously contended that unless he produced a certificate for the upper primary examination, he was not in a position to consider whether this man was eligible under this rule or not, and here, unless he holds a certificate, I do not know whether my Honourable friend there will be entitled to be a voter on the list of Ajmer-Merwara Municipality at all If he has not preserved his certificate for the upper primary examination and is not in a position to produce it before the returning officer who is entrusted with the duty of preparing the electoral roll, he certainly stands the risk of being rejected Considering these difficulties, I think the wording of the clause will have to be modified to some extent so as to avoid the same difficulty I wish my Honourable friend also to consider the other suggestion made by my Honourable friend, Mr. Gadgil, *viz* , whether the literacy test at least in the case of women and the scheduled castes so far as Ajmer-Merwara is concerned, cannot be brought down to the level existing in the Bombay Presidency With these words I support this amendment.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, I have reason to be thankful to my Honourable friend Sir Girja Shankar Bajpai, for the alacrity and considerateness with which he

has listened to my representations in this behalf Friends from Ajmer-Merwara have been writing to me for some time past pressing upon me the desirability of getting the franchise lowered in their Province. The United Provinces to which I belong and the province of Ajmer-Merwara are culturally very much alike, and naturally I was anxious that the franchise of both these places should be as far as possible one and the same. In fact there are rumours that not before long Ajmer-Merwara might be tacked on to my Province, and then we should not like to have people who are lagging behind and who might pull us down instead of being pulled up by us I am, therefore, naturally anxious that the franchise should be on the same basis as that in my Province and I am glad that the representations that I then made to my Honourable friend opposite were listened to with sympathy by him and that he has brought forward this Bill before the House.

I have a letter in my possession from the General Secretary of the Provincial Congress Committee of Ajmer-Merwara who took the lead in this matter, saying that he and others for whom he spoke would at least for the present be satisfied if the educational qualification was put at the primary or the upper primary stage, but the problem that the Honourable the Leader of the Nationalist Party has put forward is rather a serious one, and while he was speaking I said to myself that if clever lawyers were to interpret not the spirit but the letter of the law, I should not have the franchise myself if I went to Ajmer, for, though I have passed so many so-called higher examinations, this particular examination I have never passed, and if I were put to the test I would be sure to fail today as I think I should fail in most of the examinations I have already passed Therefore, it is a problem into which my Honourable friend opposite should carefully go, so that these legal subtleties which my Honourable friend, Mr Aney, has referred to may not arise later on depriving large numbers of desirable people of the vote

Sir, the difficulty, so far as I can find out, has been that franchise qualifications in Ajmer-Merwara have to be prescribed by Statute and that they could not so far be prescribed from time to time by administrative rules. In most Provinces, and certainly in my Province, the qualifications are lowered from time to time and have been considerably lowered of late by the rule-making powers of Government There also formerly one had to be a graduate before he could be a candidate in municipal elections Now the educational qualification has been very much lowered I am glad that my Honourable friend opposite is accepting Mr Santhanam's amendment because that amendment specifically gives the right to Government to frame rules so that from time to time they may lower the franchise I have a comparative statement in my hands, also supplied by the General Secretary of the Provincial Congress Committee of Ajmer-Merwara, to the effect that the other qualifications, besides the educational, for the franchise in Ajmer-Merwara, were very high as compared with the franchise in, say, the United Provinces or in the Central Provinces and Berar I think that that also is a matter which should be taken into consideration by Government Today they are lowering the educational franchise but there are other and perhaps more important matters regarding the franchise that have also to be looked into For instance, while in the United Provinces Assembly a land revenue of only Rs. 5 is necessary to give the franchise .

Mr. President (The Honourable Sir Abdur Rahim) It is not necessary for the Honourable Member to go into all that now.

Mr. Sri Prakasa: I was trying to induce the Honourable Member to look into the other point also, but I shall leave that for the moment I would only say that I am glad that the educational franchise is being lowered; and as my friends of Ajmer-Merwara seem to be satisfied at least for the present with the proposal as made by Government, I think the House would be wise in accepting this along with the amendment of my friend, Mr Santhanam, so that the franchise may be lowered later on without Government having to come before the Legislature for the purpose. Sir, I welcome the Bill and support it

Rai Bahadur Seth Bhagchand Soni (Ajmer-Merwara General) Sir I am very glad that my Honourable friend, Sir Girja Shankar Bajpai, has brought forward this present Bill to amend the Ajmer-Merwara Municipalities Regulation so as to lower the educational franchise I am sure and confident that the people of my constituency will feel very very grateful to Government for giving them this long-needed reform Of course, it will increase the number of the electors from some seven thousand to thirty thousand, and that is very satisfactory, and let us hope that more reforms will come from the Government in course of time With these words, I again thank my Honourable friend, Sir Girja Shankar Bajpai, for this Bill.

Prof. N. G. Ranga (Guntur cum Nellore Non-Muhammadan Rural) Sir, I am not surprised at all at the unqualified satisfaction which my Honourable friend, Rai Bahadur Bhagchand Soni, has expressed to Sir Girja Shankar Bajpai for this Bill, but the Bill is certainly not due to my friend, Rai Bahadur Bhagchand Soni's efforts, and if my friend goes on expressing his satisfaction, I am sure Government will not be coming forward to improve the political conditions and status of these people in Ajmer-Merwara.

Sir, I find that sub-clause (*b*) of sub-section (2) of section 30 of this Regulation of 1925 gives a number of qualifications ranging up to a big number which are prescribed for enabling any one to become a voter, and in all the other series of qualifications except for the first one power is given to the Local Government to prescribe any lower or higher qualifications of property in land or buildings or in other things It is only when we come to the question of education that such a power has not been given and if my Honourable friend, Mr Santhanam's amendment is accepted that power will be given to the Local Government So, what I would like to know is the use that has been made so far of this permissive power that has been given to the Local Government to reduce these qualifications in regard to any of these six items? It is not fair to the House to be asked to consent to an amendment of only one of these items without, first of all, knowing exactly to what extent in regard to other qualifications action has been so far taken by the Local Government to increase the number of voters or to make it more easy to more people to enrol themselves as voters. We are only told that from 7,000 the list of voters will go up to 30,000 We would like to know whether it is going to be as a result of this proposed amendment here or whether it has been the result of various other amendments that had already been made by the Local Government in its discretion If so, in regard to which of these particular qualifications, they have taken action and to what extent, as a result of that action the number of voters has gone up, and so on. That information has not been vouchsafed to us It is only fair to ask for that information We

should be supplied with as full information as possible so that we may be in a better position to come to proper judgment in regard to the value of this amendment In the second place I am rather doubtful whether many of these adults who consider themselves to be educated today but who had not had the opportunity of going to any of these primary or upper primary schools 10 or 20 years ago, when, I dare say, most of these schools were not in existence, would be able to get themselves qualified under this particular prescribed condition There are, I am sure, thousands of people in villages as well as in the towns of Ajmer-Merwara who will experience this particular difficulty They have not had this particular certificate at all

Sir Girja Shankar Bajpai: If I may correct my Honourable friend, the villages of Ajmer-Merwara are not concerned, because we are dealing only with municipalities

Prof. N. G. Ranga: What will happen to those people who hail from villages and live in towns where they work as labourers? They have studied somewhere in village schools as a result of which they have learnt how to read and write Are they not to be enabled to qualify themselves for this vote? If this particular certificate is insisted upon, it would be impossible for these people to become voters Then, I do not know whether the Local Government is going to be advised to issue instruction to the headmasters of these upper primary schools to examine all those persons who wish to be examined that way as to whether they have the capacity to read and write and then to issue certificates If they are not going to issue such certificates, then certainly it is going to disqualify a large number of people who otherwise ought to be considered as properly qualified for this vote Therefore, I want the Government to think of a suitable way by which this particular difficulty can be overcome and these people can be helped to qualify themselves for the vote

Then, my Honourable friend said that there is a difficulty in adopting the Madras method of examining anyone, who comes to qualify himself for the vote, whether he knows how to read or write and then agreeing to give him the vote He says there are not enough administrative officers and so on If that is so, that particular difficulty must be experienced by every other Provincial Government After all, the other Provincial Governments are not having many officers than the Provincial Government of Ajmer-Merwara

Sir Girja Shankar Bajpai: The point I wanted to bring to my Honourable friend's notice was that with the exception of Madras no other province has adopted this method

Prof. N. G. Ranga: But, at the same time, under the Government of India every woman and depressed class

Sir Girja Shankar Bajpai: That is another point

Prof. N. G. Ranga: As has already been pointed out, this particular qualification exists and it is being satisfied by millions and millions of people of this country and certainly administrative officers have been found to cope with this work. Unless it is due to the usual inertia and

[Prof. N G Ranga]

unwillingness on the part of the Government officers not to undertake any further responsibility, there can be no legitimate reason in the way of accepting this amendment given notice of by my Honourable friend, Mr. Avinashilingam Chettiar

But, really speaking, we need not unnecessarily worry ourselves even about this particular difficulty because the proper thing to do is the universal franchise I do not know why the Government of India should fight shy of it After all, we should aim at it and we should achieve it as soon as possible, if not immediately If we are to achieve it for the sake of this Central Legislature as well as the Provincial Legislatures, then the best thing to do is to make a beginning in the case of the municipalities. I would like to know whether the Government of India are prepared to give a lead to the various Provincial Governments in this regard by making this departure and establishing the universal franchise for these municipalities which are in the centrally administered areas. If the Central Government wishes to be as backward as it has been now, then, of course, the Provincial Governments will teach them a lesson

Babu Baijnath Bajoria (Marwari Association Indian Commerce) Sir, I rise to contradict an uncharitable remark which has fallen from the lips of my Honourable friend, Prof. Ranga, when he said that Rai Bahadur Seth Bhagchand Soni had no hand in this measure for which he should be thanked

Mr. M. S. Aney: Rai Bahadur Seth Bhagchand Soni does not stand in need of charity!

Babu Baijnath Bajoria: That is so The fact is that my Honourable friend drew the attention of the Government about this reform several times by bringing questions on the floor of the House

Prof. N. G. Ranga: If that is so, I am sorry for having said that

Babu Baijnath Bajoria: I am glad that my Honourable friend has realised that . Another thing which I would like to say is that my Honourable friend, Mr Sri Prakasa, assumed that before long the territory of Ajmer-Merwara may be merged in his province He is probably counting his chickens before they are hatched Sir, I am glad that this measure has been brought by the Government It is a long-needed reform and it will be welcomed by all I do not know what the qualification for the Delhi Municipality is If it is higher, I think Government will take a leaf from this measure and try to bring a similar measure for lowering the qualification of franchise for election to the Delhi Municipality With these words, I support the motion

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan) Sir, I welcome the principle which underlies this Bill and I congratulate my Honourable friend, Sir Giria Shankar Bajpai, on having introduced this Bill and for having placed so many educational facilities in the way of those who want to avail themselves of the right of being electors in the municipalities of Ajmer-Merwara But I should like to point out that every civilized Government must see to it that all people living in its

country should be educated and there should be no ignorance In this case, if a man does not hold the prescribed certificate and if he has not passed the upper primary standard, whose fault it is? There is no reason why he should not be given the right to vote. We must have adult franchise, and if a young man does not possess that certificate, it is not his fault

Mr. K. Ahmed (Rajshahi Division Muhammadan Rural) In that case all the illiterate masses would vote for the Maulvies

Maulana Zafar Ali Khan: Then, there are certain other things to be taken into consideration How are we to know that, if a man has been educated at some private seminary, for instance, a *pathshala* or a *masjid* and his qualifications are higher than those who hold this upper primary certificate, such a man should not be permitted to be elected on the basis of that education If the Honourable Member can give us an assurance that the men who have received their education in institutions other than Governmental institutions will be entitled to be voters and electors, then I will be satisfied In the villages, of course, there is a system of education People read at *pathshalas* and at *masjids* and their standard of education, as compared with the standard prescribed in Governmental institutions, is higher in my opinion So they must be given credit for that In the case of those people who have educational qualifications from whatever sources, whether Governmental or non-governmental, they should be brought within the ambit of this Bill That is one thing

Then, last but not the least, I should like to say that higher education has been given by nature to man—our ears, our noses, our eyes, our hands and even our mouths The Government should see to it that there is compulsory education, then there will be no use in introducing this Bill If there is compulsory education, then naturally everybody would be educated If not, let us have adult franchise Ignorant persons are better than many Members here They are more clever With these remarks, I extend my support to the Bill, and I hope that the Honourable the Mover of this Bill will assure us that, so far as those men who receive education at non-Governmental institutions are concerned they will not be removed from the sphere of the Bill

Shrimati K. Radha Bai Subbarayan (Madura and Ramnad *cum* Tinnevelly Non-Muhammadan Rural): Sir, I am glad that the Government have considered the need for extending the franchise in Ajmer-Merwara by lowering the educational qualification, and I also appreciate very much that the Honourable the Mover of the Bill has accepted the amendment which has been suggested by my Honourable friend, Mr. Santhanam I should like to express the earnest hope that the administration of this Province will use the power that they are being entrusted with for lowering the educational qualification to literacy as soon as possible I should like to put in a strong plea on behalf of women in particular It is a fact, Sir, that school education and passing of examinations are comparatively more backword among women than among men This is particularly so in a province where the system of purdah exists and this fact was brought home to me during my work on the Indian Franchise Committee. I understand that purdah prevails very strongly in Ajmer-Merwara and it follows, therefore, that it will be difficult for women to

[Shrimati K. Radha Bai Subbarayan]

have school education which would enable them to pass examinations. I myself know that there are several women, even in the most orthodox families, who are quite literate and quite intelligent and able to exercise their franchise It will be unfair to insist on such women having educational qualifications which prescribe the passing of an examination. I do most earnestly hope that the Government as well as the Administration of this province will give their very earnest attention to this question

Then, Sir, there are one or two points in the remarks of my Honourable friend the Mover which I should like to reply to With regard to following the lead of Madras he said—if I heard his words correctly—that it was not lack of respect which stopped them from following that lead I should like to point out, that, it is not a matter of courtesy or respect, but one of wisdom and necessity to accept the lead that a progressive province gives He also mentioned that the Educational Commissioner was of opinion that in this Province the passing of an examination, I think it is primary examination, is necessary for a person to be classified as literate I am open to correction, but I got that impression

Sir Girja Shankar Bajpai: I might correct the Honourable lady What I did say was that both the Indian Franchise Committee of 1932 and our Educational experts felt that permanent literacy was not likely to be acquired unless a person had read up to and passed that standard of examination

Shrimati K. Radha Bai Subbarayan: Since then we have made great progress in this country, I hope What I should like to point out, Sir, is that the lowering of educational qualification to literacy is not going to cause any harm, is not going to lead this country into any danger There need be no fear of any revolution Madras has proved that literacy qualification can be used with great benefit and advantage to the province If it has been successful in Madras, there is no reason why it should not be successful in other provinces I hope I shall be pardoned if I say, that it seems to me that an unfair reflection is cast on the intelligence of the people of those provinces where the Government refrain from introducing literacy as a qualification for franchise I do hope that Government will pay some heed to these points

Mr. K. Ahmed: Sir, I want to say just a word or two Sir, it is very encouraging to the House to see a Lady Member speak on a subject like this But, Sir, after giving so much encouragement and so much facility, to the fair sex at the last Session of this Assembly, I am sorry to make a remark against the Honourable Lady Member today I should say that the Honourable Lady Member has neglected to take her due share in the propaganda work in Ajmer-Merwara. If only the Honourable Lady Member goes to Ajmer-Merwara and brings out all the members of her sex of the purdah, she would have done a great service. Sir, if all the faults are to be laid at the door of the Government of India and of the Ajmer-Merwara Administration, if all the blame is thrown on them, then what have these ladies been doing till now? Why could they not penetrate into the purdah and do propaganda work and try to bring their sisters from inside the purdah? I do not find any such activities in that province It is but right that voters should send the right sort of persons to the municipalities I ask the

Honourable Lady Member to raise the standard of the fair sex by doing propaganda work They must take advantage of the situation and act in the living present Surely, if women are allowed to remain in darkness and if enlightened Members like the Honourable Lady do not take the trouble of bringing light to these women, how can the Government help them? The members of the fair sex have got an organisation even in this Imperial City I find all sorts of ameliorative measures are brought forward in this House to help the women The ladies, the members of the fair sex, come here to this Assembly and if they do not utilise their time by doing propaganda work, I shall be very sorry that the thing which we expected has not come

With these few remarks, Sir, I congratulate the Government on giving this facility to Ajmer-Merwara by lowering the educational qualification, so that more persons will become enrolled as electors thereby

Sir Girja Shankar Bajpai: Sir, I think I am entitled to claim that the Bill has on the whole had a favourable reception from the House There are certain points raised by different Honourable speakers which call for comment, and I propose to take them up, not necessarily in the order in which the Honourable Members spoke, but in the order of their importance The first and foremost is the practical point raised by my Honourable friend, Mr Aney, and also supported by my Honourable friend, Maulana Zafar Ali, namely, what is to happen to persons who may in effect possess a higher educational qualification but may not be able to produce a certificate of having passed the Upper Primary (fourth standard) examination or any other examination prescribed by rule in this behalf as at least equivalent to that examination In so far as the evidence depends upon having passed an examination, it may be possible for us to cover that by the latter part of this particular clause But I can assure my Honourable friends that I shall have the point further examined, and if I find our wording is not adequate for the purpose which is mentioned, then in that case, we shall take the opportunity, when this Bill goes before the Council of State, to have the position rectified That also covers what my Honourable friend, Maulana Zafar Ali, said, and I hope that my assurance on this point will satisfy him

I then pass on to my Honourable friend, Mr Gadgil Mr Gadgil drew attention to the fact that not merely in Madras but in all other provinces, so far as women and members of the scheduled castes are concerned, the test is a literacy test and not the test of a certificate of a particular examination That is perfectly true, and if I may say so, the reason why the administrations concerned have been able to cope with this particular qualification adequately is that the numbers involved are comparatively small I have not had an opportunity of examining the point as regards women and the scheduled castes in Ajmer-Merwara in consultation with the Local Administration, but my Honourable friend may rest assured that we shall take this up with the Local Administration and if a lowering, immediately, of these qualifications for women and the scheduled castes is practicable, we shall make the requisite rules

I do not know that there is any other point of substance by way of suggestion that remains to be dealt with My Honourable friend, Professor Ranga, who is nothing if not always disparaging, felt that on this occasion also Government had been guilty of something nefarious Well, the truth of the matter is that, as I explained in my opening speech, Government's

1 P M.

[Sir Girja Shankar Bajpai].

measures will have the effect of raising the number of electors from 7,000 to 80,000 and that fact will follow not from the lowering of the educational qualification, because the standard of education in Ajmer-Merwara is not very high, but from the substantial reduction which has been made in the proprietary and income qualifications, a reduction which the Chief Commissioner can make in exercise of the powers that are vested in him under the existing regulations I do not happen to have a comparative statement with me now of the qualifications that prevailed before and the qualifications which are being introduced now, but I can get the Honourable Member a comparative statement which will satisfy him that the claim of substantial reduction which I am making on behalf of the Local Administration is correct

Then, Sir, the Honourable lady, Mrs Subbarayan, suggested that there has been sufficient progress since 1932 so that the educationists' advice of 1932 has become inoperative The point of the advice is not that there has not been an extension of education The point is that unless you put in a certain minimum period, you are likely to relapse from literacy to illiteracy That really is the point of the suggestion—that unless you have studied up to the fourth standard, you are not likely to have acquired permanent literacy

I think that is all that I need say at this stage

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

"That the Bill further to amend the Ajmer-Merwara Municipalities Regulation, 1925, for the purpose of lowering the educational qualification entitling a person to be enrolled as an elector be taken into consideration"

The motion was adopted

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

"That clause 2 stand part of the Bill"

Mr. K. Santhanam (Tanjore cum Trichinopoly Non-Muhammadan Rural) I am moving amendment No 4, Sir I move

"That in clause 2 of the Bill to the proposed sub-clause (i) the following be added at the end

'that he possesses such lower educational qualification as may be so prescribed, or'"

Sir, all the relevant points have been indicated by other speakers I am no more convinced than Professor Ranga that either administrative or other convenience requires the postponement of the introduction of the literacy qualification I would rather have moved my amendment No 2, but in view of the fact that Government have taken the initiative and have reduced the qualification, and in view of the fact that this amendment gives the power to extend it further to literacy stage, and Government have promised to consider the desirability of its introduction as early as possible, I have not thought fit to divide the House on this matter But I hope that whether Government immediately introduce the literacy qualification or not, they would at least make some provisions in virtue of my addition They must accept the school certificate from a primary school. In my own province there is no Upper Primary examination. It has been abolished now for many years and a boy or girl from the Upper Primary School simply on the basis of his or her school certificate, goes over to the High School There should be no difficulty in recognising the Upper Primary certificate

Then, Sir, as Mr Sri Prakasa and Mr Aney have pointed out, the Primary Certificate should automatically include every higher examination. I hope that the Government will be able to make administrative arrangements to introduce literacy test as early as possible I understand that if the literacy test were to be introduced today, there won't be an addition of more than 1,000 or 2,000 to the number of voters We are not considering any franchise for a general electorate We are considering a franchise only to the three municipalities in this area And in municipal areas there should be little or no administrative difficulty in enforcing even adult franchise I do not think they should be afraid of administrative difficulties for introducing only this adult franchise I hope the Government will carry out their policy in regard to this matter as early as possible

Mr. President (The Honourable Sir Abdur Rahim). Amendment moved

"That in clause 2 of the Bill, to the proposed sub clause (i) the following be added at the end .

'that he possesses such lower educational qualification as may be so prescribed, or' "

Prof. N. G. Ranga: Sir, I did not get any assurance from the Honourable Member which I asked for, in regard to those who have studied in private schools, but who have not been able to pass any examinations whatsoever I am not concerned with those who have passed the higher examinations After all, their number may not be very much,—it may be 50 or 100 If my friend has shown so much solicitude in regard to these 100 or 200 people who have obtained higher certificates than the certificate insisted upon here, then I do not know why my friend is not willing to give us the assurance that in regard to these people also he will see to it that the administration will try to be considerate towards their claims and consider them to be qualified for voting provided they satisfy some lower test that is prescribed by the local authority Several people have not had the benefit of going to a regular registered or recognised educational institution, but yet they have studied They know how to keep accounts, they also know how to read and write, and there is no likelihood of these people relapsing into illiteracy I wish my friend had given us the assurance that steps will be taken to see that these people will also be given these electoral qualifications

Sir Girja Shankar Gajpai: Sir, I do not think it is necessary for me to make a long speech I may say at once that I propose to accept the amendment moved by my friend, Mr Santhanam

As regards what fell from Prof Ranga, I do not think he is altogether consistent. If people who have not passed any examination have attained a higher standard than people who have passed an examination, then the action which is now suggested to be taken is not going to help The practical question is whether there are any such people I shall have to make inquiries on that point from the local administrations and see whether the difficulties are practical and what action is called for

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

"That in clause 2 of the Bill, to the proposed sub-clause (i) the following be added at the end :

'that he possesses such lower educational qualification as may be so prescribed, or' "

The motion was adopted

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

"That clause 2, as amended, stand part of the Bill"

The motion was adopted

Clause 2, as amended, was added to the Bill

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

"That clause 1 stand part of the Bill"

Mr G. H. Spence (Secretary, Legislative Department) Sir, I move

"That in clause 1 of the Bill, for the figures '1938' the figures '1939' be substituted"

I may explain that the Council of State will not have an opportunity of passing this Bill before 1939

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

"That in clause 1 of the Bill, for the figures '1938' the figures '1939' be substituted"

The motion was adopted

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

"That clause 1, as amended, stand part of the Bill"

The motion was adopted

Clause 1, as amended, was added to the Bill

The Title and the Preamble were added to the Bill

Sir Girja Shankar Bajpai: Sir, I beg to move

"That the Bill, as amended, be passed"

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

"That the Bill, as amended, be passed"

The motion was adopted

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

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

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THE INDIAN PATENTS AND DESIGNS (AMENDMENT) BILL

Mr. Deputy President (Mr Akhil Chandra Datta) The House will now resume consideration of the following motion moved by the Honourable Sir Muhammad Zafrullah Khan on Tuesday, the 20th September, 1938, namely:

"That the Bill further to amend the law relating to the protection of Inventions and Designs be referred to a Select Committee, consisting of Mr Y. N. Sukthankar, Mr M Ananthasayanam Ayyangar, Mr. Sri Prakasa, Sardar Sant Singh, Mr. T. Chapman-Mortimer, Dr Sir Ziauddin Ahmad and the Mover and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five"

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour) Sir, this Bill was circulated for the purpose of eliciting opinions thereon on the 7th October, 1937 Opinions have been received and these and a precis thereof have now been in the hands of Honourable Members for some time The principal object of this Bill is to put a stop to the import of goods bearing designs which are infringements of designs registered under the Act This matter is dealt with in clauses 13 and 22 of the Bill. Advantage has also been taken to improve the law in certain other respects. So far as these other amendments are concerned, the more important ones are contained in clauses 3, 7 and 9 of the Bill which propose to amend sections 5, 26 and 38 of the Act with a view to improve the examination by the Controller of Patents of original applications for the grant of patents as well as for the application of uniform criteria in respect of novelty of an invention by the Controller and by the High Court The opinions that have been received have also put forward detailed suggestions with regard to the Bill, and these will no doubt be examined by the Select Committee It is not my purpose at this stage to enter into any discussion of these detailed proposals

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot Non-Muhammadan Rural) Sir, this Bill has been generally welcomed I would like to draw the attention of the House to two points which, in my opinion, are very important One is clause 3 Clause 3 of the Bill seeks to amend section 5 of the Act which refers to proceedings upon application The Controller shall examine every application and various conditions are prescribed under this Act which any applicant has to satisfy before getting a patent One of the conditions which this Bill freshly introduces is rather dangerous It is this Clause 3 (*a*) (*ii*) (*g*) says:

"the invention as described and claimed is of no utility"

It would be a difficult matter indeed if the Controller is to decide whether a particular invention is going to be of utility or not As the Secretary of the Merchants' Chamber of the United Provinces, Cawnpore, points out, and as has been endorsed by the Government of the United Provinces, this will be rather dangerous I now read from page 7 of the opinions:

"The new clause (*g*) proposed to be inserted to Section 5 (*1*) of the Act should also, in the opinion of the Chamber, be deleted An invention which is supposedly of no utilitarian value is not likely to be offered for patent In the rare cases, however, even when inventive skill is assiduously used over objects of little or no utility, no attempt should be made to turn down the application for patents of such invention. Seemingly worthless invention may, at a later stage, appear to have some utilitarian value"

This is endorsed by the Government of the United Provinces in their para. 2:

"This Government are of the opinion that the provisions of the Bill are suitable except that proposed clause (*g*) of section 5 (*1*) may be deleted, for, as pointed out by the Merchants' Chamber of the United Provinces, inventions which may appear to be worthless may at a later stage be found to be of value"

The next thing which I would like to refer to is clause 13 As has been pointed out by the Honourable the Mover of this motion, that is admittedly one of the most important clauses of this Bill The purpose of that clause is this I am reading from the Statement of Objects and Reasons.

"To deal with the piracy of designs abroad it is essential that the owner should have a remedy against the importer of pirated designs without being required to prove that the importer was aware that the design was pirated"

[Mr. T. S Avinashilingam Chettiar.]

In the opinions received doubts have been thrown whether this will really be effective I would refer to page 11, the opinion of the Solicitor to the Government of Bombay, and that gentleman claims that he has had a long experience of this law. This is what he says:

"The amendment so far as it goes affords some additional protection to the registered proprietor of Copyright but in my opinion it does not go far enough. I have had considerable experience of cases under Section 53 extending over a number of years and I have never yet come across a case in which it could fairly be said that the dealer or importer of the spurious article was not the original culprit As such he is primarily liable; but as already indicated, with the law as it is, it is sometimes impossible to fix him with liability"

He goes on making suggestions as to how the law can be amended to make it more effective I do not share his views completely but I do think that the amendment which is sought to be introduced in the present Bill by itself will be insufficient to meet the case. I do not like to refer to other clauses, these being in my opinion the most important which require proper attention in the Select Committee With these few observations I support the motion

Mr. C. C. Miller (Bengal European) Sir, on behalf of this Group I have pleasure in supporting the motion to refer this Bill to Select Committee It is a measure which is quite due, if not overdue, and we believe it to be part of a Government programme for the consideration of other aspects of commercial legislation which are somewhat akin to this and which require consideration

At the same time this Bill is of a very highly technical nature, and whilst I do not wish at this stage to go into great detail, I would observe that in some points the Bill as it stands appears to us to be defective.

For instance, in clause 2 of the Bill it is proposed to eliminate the words "manner of" from Clause 8 of Section 2 of the Act as being redundant Expert opinion, headed by the Calcutta Bar Library, maintain that these words, so far from being redundant, are of the very greatest importance in the proper interpretation of the Act The words "manner of new manufacture" are those used in the Statute of Monopolies, on which are based the Patent laws both in the United Kingdom and in India, and from numerous and important legal decisions in the former country, and more recently in India, these words have now become settled in a legal sense, and may be said to form the basis of what is, and what is not, a patentable invention Since the matter is so technical we hope that the Select Committee will give very careful attention indeed to the volume of expert and influential opinion offered, and will recommend to this House the deletion of Clause 2 of the amending Bill

Clause 3 deals with the all important question of the procedure to be adopted in the initial stages of an application for a patent It is, however, questionable, if it succeeds entirely in eliminating the unsatisfactory features of Section 5 of the Act and this Group's representative on the Select Committee will have a number of representations to make in the matter Legal decisions over a number of years support the view that it is not desirable that the Controller of Patents should be permitted to oppose the grant of a patent on issues of prior user of the invention in British India, and of want of utility It is quite obvious that however

large and able a staff the Controller may have at his disposal such questions can only be settled satisfactorily by means of examination of witnesses and technical experts and such methods And here I may appropriately quote a decision of the Court of Appeal of the United Kingdom delivered as recently as November, 1937:

"Questions of utility, prior user, and subject matter as a rule depend for their solution upon the proper conclusions to be drawn from the conflicting oral evidence of experts in the relevant art, and such evidence would be wholly out of place in proceedings before the Controller"

It is also very important that definite provision should be made in the Act for the Controller to make a search from Indian Patent Specifications published prior to the date of an application for a patent, and it should be made mandatory for the Patent Office to do this This will require the insertion of an additional sub-section after sub-section 1 of Section 5 of the Act.

Again we feel that sub-section B of Clause 3 of the Bill, as framed, is open to considerable objection from the point of view of the person applying for a patent, and requires alteration, or perhaps the substitution of another clause

Lastly, we should like to see the opportunity taken to improve the protection at present afforded by the Act to heirs and successors of patentees.

These, Sir, are very brief and very general criticisms of a highly technical measure which includes many other points more properly dealt with in Select Committee than on the floor of the House Sir, I support the motion

Prof. N. G. Ranga (Guntur *cum* Nellore Non-Muhammadan Rural): Sir, I am opposed to the very principle underlying this Bill I am not at all in favour of conferring all these monopolies upon any one who claims to have invented or designed a new thing or a new process of manufacture, because by this kind of monopoly we give them an opportunity to exploit the general public and particularly the consumers of those commodities and services which are produced by these designs or inventions. What is the particular advantage for any society, especially as it is constituted in the modern world, to give this monopoly? Is it because they are afraid that if such a monopoly is not given, those who invent or design will not go on inventing or designing new things? Such a claim could have been made a century ago when there were very few people keen on discovering new things and improving the technique of the various processes of industry but today the fact is that there are too many people in the world who are all the time busy inventing new processes and designs for manufacturing various commodities In some countries such as Sweden, Holland and Denmark legislation had to be passed to prevent new and improved machinery from being introduced into various processes of industry lest it might result in greater and greater unemployment Under these circumstances, where is the need for us to go out of our way to confer this monopoly upon these people? And, secondly, Sir, who is really going to be benefited as a result of this monopoly?

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural) Cheats.

Prof. N. G. Ranga: Exactly. Not the people who actually invent these new designs, but those who finance them, those who help them In fact, Sir, it is a well-known fact that most of these poor people who are inventing these designs are poor and they do become poor in the process of time Then they are obliged to run from one manufacturer to another, from one capitalist to another, and after having been cast about by one man and then by another for a long time and being impoverished they go at last to somebody to whom they would be prepared to hand over the whole of their designs or inventions provided he gives them some pittance to maintain themselves, and that man then proceeds to apply for the patent He gets it and then he goes on enjoying all the good profits and goes on appropriating for himself as much of the consumers' money as possible not only while he is alive but also after he is dead, for the benefit of his heirs and successors Are we here called upon to agree to this kind of system in which not even the original designers and inventors but these manufacturers and others who are interested only in profiteering in this business should be given this particular monopoly? And why? Especially, Sir, is it the case in this country that we are dying for these people who are interested in discovering all these things? Think of all those great scientists in our own country, Sir Jagadish Bose, Sir Prafulla Ray, Sir C V Raman and several others who have invented and discovered so many things How many patents have they asked for, and even if they have asked for any, are they really in need of these patents in order to maintain themselves? Is it not a fact that these inventions are being discovered and these designs are being made especially in this country mostly by scientists who are already employed in various Indian universities or by some other people who are employed in various colleges, and why is it that we should go out of our way to confer upon them this particular monopolistic power in order that they may be enabled or their employers or capitalists may be enabled to make profits?

Mr. K. Ahmed: What about the registration of trade marks and patterns of the Bengal Chemical and Pharmaceutical Works of Dr Sir Prafulla Ray?

Prof. N G. Ranga: That is a company, not designs The company will be registered under your Companies Act Therefore I am not at all in favour of having any such Act on our Statute-Book and that is why I am not at all in favour of even this amending Bill. I oppose the Bill as a whole and in doing so I wish simply to say that the genius of every scientist and contribution of every scientific student should be placed at the disposal of the whole of India and it should not be exploited for the advantage and benefit of only a few people including even themselves.

Mr. K. Ahmed: Sir, Prof Ranga's object in standing up to oppose this piece of legislation is to help all the cheats and false persons who imitate the good name and patterns of this country and of other countries, so that those people who have really discovered these things, and which have not yet up till now been discovered even in India, should not get the credit and benefit of these things, but that anybody who uses the name of Dr. Sir Prafulla Ray is going to get the credit for, say the products of the Bengal Chemical Workshops of a certain branch,—for instance, any Marwari or Bania who puts imitations up on the streets of Burra Bazaar and elsewhere. Sir, Prof Ranga seems to have lost all his common sense He says: "the heirs will benefit and they will inherit whatever capital their

forefathers have left in the country ' Sir, I ask, if a Ranga has written out something and if he has discovered something and if his pattern is registered and then his sons and grandsons inherit something, and then if the lawyers were to come and to tell them that "while your forefathers made such a beautiful discovery, we will not give the credit to Ranga, so that his sons and grandsons may not benefit out of this", how would he like that? Sir, otherwise the masses will suffer, and the masses will be cheated They will say, "we have purchased a beautiful thing of that name" but when one of them would go to the village, the villagers would say, "*eh to nakh hai*,' —"it is not the real thing that he has purchased ' Sir, I ask Prof Ranga not to oppose the Bill but to withdraw his opposition to the Bill

The Honourable Sir Muhammad Zafrullah Khan: Sir, Mr Chettiar and Mr Miller have pointed out that the Bill is capable of improvement in some respects, and I have no doubt that their suggestions as well as any others that may be put forward will be carefully considered in Select Committee. So far as Prof Ranga's opposition is concerned he is really against the whole principle upon which the law of patents and designs is based and it is scarcely relevant to the consideration of this Bill In any case he has been more than fully answered by Mr K Ahmed

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

"That the Bill further to amend the law relating to the protection of Inventions and Designs be referred to a Select Committee, consisting of Mr Y N Sukthankar, Mr M Ananthasayanam Ayyangar, Mr Sri Prakasa, Sardar Sant Singh, Mr T Chapman-Mortimer, Dr Sir Ziauddin Ahmad and the Mover and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five"

The motion was adopted.

THE RAILWAYS (LOCAL AUTHORITIES' TAXATION) BILL

The Honourable Sir Thomas Stewart (Member for Railways and Communications) Sir, I move

3 P.M

"That the Bill to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province be circulated for the purpose of eliciting opinion thereon"

Sir, the Objects and Reasons for this Bill have been fully set out in the Statement attached to the Bill and it is unnecessary for me, on a motion for circulation, to embark on any very considerable exposition of the provisions of the measure The Bill deals with taxation on railway property by local authorities in the Provinces This subject has hitherto, or at least until 18 months ago, been governed by the provisions of section 135 of the Railways Act This section provided that no local taxation could be imposed on railway property, unless the Governor General in Council had by notification in the official Gazette declared that such taxation was permissible. The Governor General in Council had also the power to annul any such notification or to vary its terms The position was entirely changed by the coming into operation of the Government of India Act, 1935, because section 154 provided that federal property should not be subject to local

[Sir Thomas Stewart]

taxation save in accordance with the provisions of a Federal Act It also provided as a safeguard that the existing taxation should remain in force with the result that in the absence of any Federal Act, we are faced with the situation that not only can no local body impose taxation on State Railway property but also the Railways can in no way get rid of taxation which has proved to be inequitable That, Sir, is not entirely an academic position because in the past 18 months or so we have had a considerable number of applications from Provincial Governments on behalf of local bodies asking that approval might be given to the levy of taxes upon railway property Though in many cases we have regarded these taxes as eminently reasonable, we have been unable to give permission for their imposition It is for that reason that this Bill has been brought forward It is a matter of a certain amount of urgency, more particularly for those local bodies who are seeking extra revenue, but I do not think that this Bill, which is of such intimate concern to the Provincial Governments, should be brought before this House with a motion for immediate consideration It is because of its particular concern to Provincial Administrations that I now move that the Bill be circulated

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

"That the Bill to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province be circulated for the purpose of eliciting opinion thereon"

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor Non-Muhammadan Rural) Sir, I rise to a point of order The point is this that it is a measure which requires the previous sanction of the Governor General I will request you to refer to section 141 of the Government of India Act which runs thus

'No Bill or amendment which imposes or varies any tax or duty in which Provinces are interested, or which varies the meaning of the expression 'agricultural income' shall be introduced or moved in either Chamber of the Federal Legislature except with the previous sanction of the Governor General in his discretion"

Sir, the matter relating to the taxation on lands is a provincial subject and comes under Item 42 in the Provincial List, Schedule VII Entry 42 refers to taxes on lands and buildings, hearths and windows, and Entry 49 refers to cesses on the entry of goods into a local area for consumption, use or sale therein Sir, by this measure it is intended that the Central Government should be clothed with authority to issue notifications regarding the imposition or the levy of taxes and cesses by local authorities on railway property within a local area Under section 154 of the Government of India Act power is given to the Federal Legislature to modify any taxes imposed by a Provincial Government on a railway authority Until then, the existing taxes will continue Section 154 runs thus

"Property vested in His Majesty for purposes of the government of the Federation shall save in so far as any Federal law may otherwise provide, be exempt from all taxes imposed by, or by any authority within, a Province or Federated State"

It is exactly on account of this provision that this Bill has been introduced to clothe the Central Government by means of a federal law, that is, the law passed by this Legislature with power to issue the notification that the railway property may be liable to certain taxes and

imposed by the local authority. If this Bill is not passed, the Central Government will not be entitled to issue any notification to impose any fresh taxation or modify the existing taxes imposed by local authorities It is for that reason that this Bill has been introduced But it also affects those taxes which have been assigned to the provinces and which are to be found in the Provincial List I have already referred to Item 42 of the Provincial List Inasmuch as this Bill affects taxes which have been assigned to Provinces, section 141 requires that such measures ought to have the previous sanction of the Governor General You will see, Sir, that no such previous sanction has been obtained and, therefore, this Bill is out of order

The Honourable Sir Nripendra Sircar (Law Member) Sir, I beg to submit to the House and to you that my friend's submission based on section 141 of the Government of India Act is not right because the language of that section is

"No Bill or amendment which imposes or varies any tax or duty in which Provinces are interested, etc , etc "

This Bill does not impose or vary any tax or duty in which the provinces are interested In fact, this Bill is not imposing or varying any tax at all and, therefore, I submit, with confidence, that section 141 is not in answer to the validity of the Bill Then, as regards Entry No 42 Here, the dominating factor is railway legislation and, therefore, it ought to come under the Central subjects Lastly, there is a point of much greater importance than a ruling on this occasion and that is this When a question like this arises as to whether a particular Bill comes under the Provincial List or under the Concurrent List or under the other List, whether that is a point on which the Chair is going to rule I know something happened at Simla but we contend that really in a matter of this kind there should be no ruling by the Chair, and that is the practice which is followed in other parts of the world where there is federal system of Government Of course, that is a point which can be taken by the Opposition in opposing the Bill They may oppose it because they think it is *ultra vires* That is quite permissible If the Bill is passed and then there is any question of *ultra vires*, it ought really to go up before a proper tribunal I do not think it would conduce either to convenience or it will appeal to the Chair to give a ruling of this kind We know that on a similar question the Federal Court was engaged for four days with the help of five learned Advocates General On a question of that kind, I submit no ruling ought to be given by the Chair and those Honourable Members who feel that this is *ultra vires* or that this is not to be passed by this House, they will bear that in mind in opposing the Bill on its merits

Mr. Bhulabhai J. Desai (Bombay Northern Division Non-Muhammadan Rural) Sir, I feel that I can usefully say a few words with reference to the points which have been raised My Honourable friend, the Leader of the House, referred to section 141 In fact, the only material sections are sections 141 and 154 of the Government of India Act and section 135 of the Railways Act I will presently point out that, within the meaning of the first three lines of section 141 of the Government of India Act, this Bill must fall. Section 141 of the Government of India Act enacts:

"No Bill or amendment which imposes or varies any tax or duty in which the Provinces are interested"

[Mr Bhulabhai J Desai]

—and the argument of my Honourable friend shortly stated is that this Bill does not purport either to impose or vary any tax or duty in which the Provinces are interested That is the whole of his argument Now, let us look at section 154 of the Government of India Act

"Property vested in His Majesty for purposes of the Government of the Federation shall, save in so far as any federal law may otherwise provide, be exempt from all taxes imposed by, or by any authority within, a province or Federated State"

That only partly applies to such portion of the Railways as have now become the property of the State Section 154 proceeds further

"Provided that, until any Federal law otherwise provides, any property so vested which was immediately before the commencement of Part III of this Act liable, or treated as liable, to any such tax shall so long as that tax continues, continue to be liable, or to be treated as liable thereto'

These are the important words Now, Sir, let us see what the Bill proposes to do By clause 4 of the Bill, which is the material clause for this purpose, it is provided

"The Central Government may, by notification in the official Gazette, revoke or vary any notification issued under clause (*1*) of section 135 of the Indian Railways Act, 1890"

Now, turning to section 135 of the Railways Act, let us see what the revocation or variation of that notification is meant to convey Section 135 of the Railways Act says

"Notwithstanding anything to the contrary in any enactment or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities"

Therefore, it is a tax in which in the language of section 141 of the Government of India Act the provinces are interested Section 135 of the Railways Act goes on to say

"(*1*) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax"

Now, Sir, the power that is sought by clause 4 of the Bill is the revocation or the variation of any such notification. I do not think it can be seriously argued that the revocation or the variation of a notification will not affect—it is bound to affect—adversely the tax or duty in which the province is interested Take the worst case. It is unneceesary to ask you anything more The power that is taken is to revoke a notification Now, sub-section (*1*) of section 135 of the Railways Act says

"A Railway Administration shall not be liable to pay any tax in aid of funds of any local authority unless the Governor General in Council has by notification in the official Gazette declared the railway administration to be liable to pay the tax."

Now, Sir, notifications exist rendering them liable. The question is whether this Bill which purports to take the power to revoke any such notification is or is not one which affects the tax or duty in which a province is interested A province is very much interested in getting the duty which it now gets by reason of the notification As soon as power under this section is exercised, that is to say, the notification is revoked,

the result would be that the tax in which the province is interested is gone Section 135 (2) of the Railways Act says·

"While a notification of the Governor General in Council under clause (1) of this section is in force the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor General in Council, may having regard to all the circumstances of the case from time to time determine to be fair and reasonable"

I may submit that I am quite familiar with section 135 (1) of the Railways Act in view of a recent dispute that arose between the B , B and C I and the Municipal Corporation of Bombay It happened in the end that both the parties finding that the Officer appointed—I do not wish to name him—did not understand the points raised agreed, though I was the Counsel for the Municipality, that in the interest of both the parties I should arbitrate between them The point is merely this If there is a power of revocation as it would be conferred by clause 4 of the Bill after it is passed into law, the result would be a revocation of the right to tax and therefore we submit that without the sanction of the Governor General this Bill cannot be introduced into this House and cannot be carried through any further

The Honourable Sir Nripendra Sircar: Sir, will you allow me to point out a matter which was really my omission I did not take the point earlier and my Honourable friend might reply again My attention has been drawn to a ruling given by the Honourable Sir Abdur Rahim If you turn to section 141(2) of the Government of India Act, it says

"The Governor General shall not give his sanction to the introduction of any Bill or the moving of any amendment imposing in any year, etc , etc ,"

The point taken was that if there was valid objection based on the ground of want of sanction, that ought to be taken at the time of the introduction Once a Bill has been introduced, that stage is gone I had not had time to consider it but my attention has been drawn to a ruling which will be found in the Legislative Assembly Debates, Volume VII, page 3133 (6th October, 1937) It goes up to page 3134 I read only the relevant portion

"I assume for the present, for the sake of argument, that this is a Bill which modifies rights of ownership in land for the purpose of military manœuvres, but the point that I have now to consider is whether, at this stage when the motion is made for consideration of the Bill as reported by the Select Committee, it comes within the meaning of the words 'introduced' or 'moved' So far as my experience of this practice of the House and my reading of the Rules and Standing Orders goes it would hardly be appropriate for any legislature, to say, at any rate, so far as our procedure is concerned, that a Bill is moved. It certainly has to be introduced and that stage has now passed."

Sir, without reading the whole of that long ruling, which I am sure you will consider, the short point which I wish to make is that the stage at which this objection could have been taken—not that I admit that the objection is valid—is passed I do once more ask you to consider my other point that is whether you are going to turn yourself into a Federal Court and give rulings

Mr. Bhulabhai J. Desai: I have to give a very short answer I think my Honourable friend's motion now is that the Bill be circulated for inviting opinion. I recollect the ruling referred to by the Honourable the Leader of the House. There the Select Committee had reported and the report came up for consideration. The stage here is "introduced or

[Mr Bhulabhai J Desai]

moved' So far as the present Bill is concerned, we are still in the stage of making a motion either for purposes of introduction or for circulation We are still at a stage where, without previous sanction of the Governor General in his discretion, this motion cannot be made

Mr. Deputy President (Mr Akhil Chandra Datta) The point of order raised is that this Bill cannot be proceeded with as there was no sanct on of the Governor General under section 141 of the Government of India Act On an examination of the terms of section 141 it appears to me that 'his Bill does not strictly come within the purview of that section Section 141 says

"No Bill or amendment which imposes or varies any tax or duty in which Provinces are interested, etc,'

The whole question is, "Can it be said that this Bill by itself imposes or varies any particular tax?" I should think it does not No particular tax is imposed and no particular tax is sought to be varied by the provisions of this Bill I think that in that view of the matter it is hardly necessary to consider the other points raised But it certainly appears to me—I shall be very frank—that on a technical point like this, it is extremely difficult—I do not know what other people in the Chair would have thought, but at all events I feel that it is extremely difficult—off hand and with a summary argument as we have had on the present occasion to make up one's mind very clearly on a point of order like this We have our experience in a court of law where arguments are advanced on both sides and then the Judge retires and in his cooler moments looks up the case law and takes time to come to a decision The view has been taken on previous occasions that it is not for the Chair to give a ruling throwing out a Bill on such grounds I know there was a previous occasion on which it occurred to me at all events that the result would be far reaching. Supposing the Chair's ruling is wrong, what will happen?

Mr. Bhulabhai J. Desai: Get the Governor General's sanction

Mr Deputy President (Mr Akhil Chandra Datta) That is another matter

The question is whether in a matter like this the Federal Court should decide or whether it is a fit matter for decision by the Chair I do feel that this is not a matter for the Chair to decide There is also the other point raised by the Honourable the Leader of the House, namely, that objection should have been taken at an earlier stage On all these grounds, the point of order must be over-ruled

Mr. K. Santhanam (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) Sir, I move:

"That at the end of the motion, the words by 1st October, 1939' be added "

Sir, Standing Order 39 (3) says

"Where a motion that a Bill be circulated for the purpose of eliciting opinions thereon is carried, and the Bill is circulated in accordance with that direction and opinions are received thereon, the member in charge, if he wishes to proceed with his Bill thereafter, must move that the Bill be referred to a Select Committee "

Sir, here in the motion itself there is no date fixed and unless you fix a date we could not have the opinion of every person to whom it is circulated, when the Bill is brought before us subsequently We know from the Income-tax Bill that Provincial Governments take a long time to send their opinions The motion for circulation of that Bill was made in April, and when the bulk of the opinions was circulated to us, many Provincial Governments had not reported by that time It is only now, after the Select Committee has reported, that we are getting some of the Provincial opinions So, there should be plenty of time given It may be said that this Bill is quite simple, but it is not so Every Provincial Government will have to collect information from every municipality and district board how much tax is paid now by the Railway Administrations. They must get statistics After that, the Provincial Governments will have to ascertain from the Government of India in what way they are likely to use their powers when once this Bill is passed. If Provincial Governments have any reason to fear that the tax received by their local bodies will be affected by the way in which the Government of India will use the power under this Bill, then they will have to make a strong protest and to record it in their opinion Today the local bodies get a definite tax which they are likely to lose under this Bill When we transfer power from a responsible Government to an irresponsible Central Government, we must take jolly good care that we do not do it in a hurry The Central Government is now irresponsible It may become responsible at some future time Today we are asked to transfer power from responsible provinces to the irresponsible Central Government We may be told that the Central Government are likely to do nothing to affect the revenues of the provinces or of the local bodies But we cannot be sure of that No assurance from this Government can persuade us to give statutory power to them to take any money from the provinces This matter requires serious and intensive study by all the provinces concerned The Mover, either now or in the previous Session, has not said how much tax is being paid by the railways to the Municipalities and other local bodies If he had given us statistics as to how many lakhs are being got by the Municipalities and District Boards from the Railways then we would be able to understand in what way the present notifications bear hardly or inequitably, and we might be in a position to discuss the question on the merits Government refuse to supply such information They want to keep us in the dark, whether in the matter of the statutory railway authority or in other matters concerning the railways They want to bring in legislation into the purport of which the Assembly is not permitted to enter in full They want to take powers and we have to give them in the hope that they are not likely to use them wrongly I want to give ample time to Provincial Governments and the District Boards and Municipalities concerned to send their opinions Between now and the 1st October, 1939, it is not too long a period I hope the House will unanimously support my amendment There is no hurry, because Government are not able to say today that any serious consequences will follow unless the Bill is taken up immediately The present tax is there The Railways are paying and the Local Boards are getting it By taking this up on the 1st October, 1939 no serious consequences either to the Central Government or to the Railways or to the local bodies concerned are likely to happen Therefore, I suggest that time should be given to provinces till the 1st October, 1939 to consider the matter and send us their views I move the amendment, Sir

Mr. Deputy President (Mr Akhil Chandra Datta) Amendment moved

'That at the end of the motion, the words 'by 1st October, 1939' be added".

Mr. K. Ahmed (Rajshahi Division Muhammadan Rural) Sir, I rise to oppose the motion of my friend, Mr. Santhanam, because when he is himself irresponsible, when his power is nothing but zero, when his life will be extinguished, he is going to make a gift of his responsibility to people who will succeed him, to people who will come to take his place after his life is extinguished Therefore, Sir, I consider that my friend is a very unreasonable man He has forgotten his responsibility, he has taken a vow to the masses of his country, to the people whom he represents here, by whose vote he is returned here, to do some good to them, but by his present action he is telling them that he is doing nothing but opposing certain measures People ask us to show by action what we have done for them Well, here is a man like a Chinaman in the theatre playing the role of an imitator, because he asked his constituency to return him here promising them to do many things, but he does nothing here Sir, my friend, Mr Santhanam, able and experienced as he is, has forgotten himself today Instead of suggesting a later date if he had suggested an earlier date in March, it would have been more sensible, because, in his own lifetime, he could have discharged his share of the responsibility by considering and discussing this question on the floor of the House himself, but now it does not lie in his mouth, being a responsible man, being a man of action, to suggest a date after the 31st of October What is the reason for suggesting a date after the 31st of October?

An Honourable Member: Because he is afraid of you

Mr. K. Ahmed: Oh, he is afraid of me? He is afraid of the constituency and the voters who voted for him to discharge his duties here

An Honourab'e Member: He is shifting

Mr. K. Ahmed: This is not a place for shifting responsibility from one shoulder to another He has to undertake the responsibility and find a solution I think he has forgotten the famous lines of the poet Without repeating those lines, I may say that people who are returned here to do their work should not shift their responsibility to the next generation or to somebody else whom he does not know Therefore, in an important measure like this, you should either support or oppose it or throw it out if you like, but you must give convincing and cogent reasons for your action, or modify the Bill and bring it back on the floor of the House Let that occasion come and let us see what happens I suppose that will be the most sensible thing for my friend to do Under these circumstances, Sir, I oppose the motion of my friend if he is not prepared to withdraw it

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban) Sir, I rise to oppose the motion of the Honourable Member in charge of this Bill After all, my friend Mr Santhanam's motion is really to the same effect, and I want to give reasons which, I trust, will appeal to every section of the House and also to the Government

First of all, Sir, I want to raise the point that the non-specification of a date in the motion for circulation shows that the Government have not themselves made up their mind, as to when they want to receive these opinions, and when they want to introduce the Bill. They have not made up their mind on these points, and I suggest that they must wait till every possible opinion has been received from all relevant interests. That is the first point. The second point is, you have given a ruling,—of course, you were good enough to say it was very tentative,—but tentative or otherwise, whatever falls from that Chair is binding on this House. The Honourable the Law Member was good enough to admit that it is open to **Honourable Members of this House to argue that this Bill is *ultra vires***. On that matter, Sir, you also referred to the argument put forward by the Honourable the Law Member that it is not for the Chair to decide whether the Bill is *ultra vires* or *intra vires*. Sir, I happened to be there for a few minutes during the Simla Session, and I took a very different view. I feel it is a waste of public time, money, and energy for the occupant of the Chair not to decide such questions but leave it to the unfortunate persons or parties affected, and to compel them to go to the Federal Court to spend money and take a decision. On the other hand, Mr. Deputy President, nothing is easier than for the Government to take advantage of section 213 of the Government of India Act which says:

"If at any time it appears to the Governor General that a question of law has arisen or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Federal Court upon it, he may in his discretion refer the question to that Court for consideration, and the court may, after such hearing as they think fit, report to the Governor General thereon."

We have already had two or three examples. These lists, Federal, Concurrent, or Provincial are not so scientifically worded that they do not or may not give rise to difficulties, and I suggest that, in the first few years of the working of the constitution the Government will be consulting their own interests and the interests of the taxpayers of this country, if they make more frequent use of this section, especially as the Federal Court is just now not overworked. I suggest that they must take advantage of that, and not throw at us Bills and simply say 'You shall not decide, we shall not go to the Federal Court to get a decision on it', and the unfortunate victims of *ultra vires* laws are compelled to go to the Federal Court. I submit, Sir, that no section of the House ought to agree to it. After all, the machinery of the Government is resourceful enough for them to go and obtain sound legal opinion, and come before us and ask us to vote upon Bills, about which there is doubt, and in respect of which the Federal Court has ruled that it is *intra vires* of the powers of the Federal Legislature.

But, Sir, so far as the actual Bill before the House is concerned, I want the House to remember just one or two things. Section 135 of the Indian Railway Act, 1890, is still in force. Let the House clearly understand it, and that Act says:

"Notwithstanding anything to the contrary in any enactment or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of Railways and from railway administrations in aid of the funds of local authorities, namely:

'The Railway Administration shall not be liable to pay any tax in aid of funds of any local authority unless the general controlling authority',—*that is the Governor General in Council*,—'has by notification in the official Gazette declared the railway administration to be liable to pay the tax'."

[Mr S Satyamurti]

And—

"while a notification under this section is in force, the Railway Administration shall be liable to pay to the local authority either the tax mentioned in the notification or in lieu thereof such sum, if any, as an officer appointed in this behalf by the Governor General",—*to which my Leader referred*—"may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable"

If this Bill does not become law, the heavens will not fall Section 135 is in force; the notifications under it are also in force, notifications have been issued, and local authorities are now collecting taxes from Railways in the various provinces No doubt, section 135 of that Act gives power to the Governor General, at any time, either to revoke or vary a notification under clause 1 of this section, but so far as the variation is concerned, section 154 of the Government of India Act which has come into force, modifies it, to a limited extent, but the main section 154 says

"Property vested in His Majesty for purposes of the government of the Federation shall, save in so far as any federal law may otherwise provide, be exempt from all taxes imposed by or by any authority within a Province or Federated State" *But there is also a proviso which says*

"Provided that, until any Federal law otherwise provides any property so vested which was immediately before the commencement of Part III of this Act liable or treated as liable, to any such tax, shall so long as that tax continues, continue to be liable, or to be treated as liable thereto"

Therefore, the position is, that all these Railways will continue to pay the taxes which they were paying before the 1st of April to the various local authorities concerned The only point is, the Central Government, in view of the terms of section 154 which talks of a federal law, cannot change the existing position, thanks to the elusiveness of the astrologer of whom the Honourable the Law Member is very fond,—they do not know when the Federation will come, or whether it will come at all Therefore, they want to bring in, bit by bit, the powers which Federal laws will confer upon them, by means of these short Bills This Bill now says

"In respect of property vested in His Majesty for the purpose of the Central Government by virtue of sections 172 and 173 of the Government of India Act, 1935,— (*They are long sections but so far as the purpose of this Bill is concerned, it vests railway property in the Federal Government*)—being property of a federal railway, a railway administration shall be liable to pay any tax in aid of the funds of any local authority, if and to such extent as the Central Government, by notification in the Official Gazette, declare it to be so liable"

That is to say hereafter, the Central Government will start on a clean slate and may either exempt all railway property from local taxes, or vary them, or add to them or subtract from them. I want to ask all my Honourable friends in this House whether they are agreeable to vest this extraordinary power in the hands of the Central Government, for the words are

"a railway administration shall be liable to pay any tax in aid of the funds of any local authority, if and to such extent as the Central Government, declares it to be so liable"

On this point,—and this covers later points also, I want to say one thing to the House if I may Federal law contemplates a law enacted by the Federal Legislature All of us have our opinions about the proposed Federation, and I do not want to indulge in them or refer to them.

But, there is one fact. Even so far as the Federal Legislature contemplated by the Government of India Act is concerned, the provinces will be represented much more strongly and much more intensively; they will be elected to the lower House through the Provincial Legislatures, and by means of direct election to the Upper House Therefore, the provincial representatives will have a far greater voice in the making of the federal law, than we have The Government of India Act contemplated that until a federal law so enacted by the Federal Legislature alters the position, the present position ought to continue My Honourable friends in the Central Government who are neither here nor there want to get all the advantages which a federal law may confer, while they refer us to the astrologer when we ask them when the Federation will come I suggest to the House that it is not right, it is not fair to ask this House to confer upon this Central Government, which we hope is vanishing, all these powers which will be conferred upon the Federal Government only by a federal law

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

Sub-clause (*2*) of clause 3 says

"A notification issued under sub-section (*1*) may modify any tax in its application to any railway administration and in particular and without prejudice to the generality of the foregoing power may reduce the rate of the tax in respect of all or any part of the property of the railway administration—(*the House will mark these words The power they now seek and the power they now want to have is to reduce the rate of the tax in respect of all or any of the property of the railway administration*)—or may define the manner in which the tax shall be assessed on any such property—(*and mark these words*)—or may exempt any particular property or class of property or any specified area from the whole or any portion of the tax"

I submit to the House with some confidence that these extraordinary powers of upsetting the whole scheme of taxation of railway property by local authorities ought not to be vested by this House in this Government, while the Government of India Act contemplated that the present system should continue until a federal law directs otherwise Then clause 4 is

"The Central Government may, by notification in the Official Gazette, revoke or vary any notification issued under clause (*1*) of section 135 of the Indian Railways Act, 1890"

The Government of India Act says that those notifications shall not be varied except by the federal law My Honourable friend says, give me power to revoke or to modify them just now It does seem to me, apart from any other thing, this power ought not to be conferred except when there is a proper Federal Legislature here—I am not talking of any particular school of politics or of anybody, but merely speaking generally.—that is—a proper Federal Legislature in which provincial opinion will be amply represented.

The argument of the Leader of the Opposition on the point of order was that these are revenues in which the provinces are vitally interested Let me remind the House that in every province, certainly in mine and I believe in all provinces, the Provincial Governments make large or small grants to all local self-governing bodies for various services The finances of local self-governing bodies are a matter of vital concern to the Provincial Governments If their finances are crippled, the Provincial Governments will have to make increased grants or starve their services There-

[Mr S Satyamurti]

fore, I submit to all those who want to preserve the real nature of the rights of Provincial Governments in respect of the finances of local bodies that we ought not to allow this Bill even to be circulated They themselves admit that there is really no urgency about it and the dilatory motion they have made—it is a dilatory motion in the words of our Rules and Standing Orders—that it be circulated for opinion without specifying any date shows that they are not dreadfully keen on this But even though they may say later—they are dreadfully keen I ask the House not to take them at their word because, after all, the motion is that it should be circulated without any date being specified The existing notifications will continue, the railway properties will be liable to tax by local bodies, railway authorities will pay their taxes, and the present position will continue, whereas if this Bill becomes law without any further reference to this House or without waiting for any federal law to come, whenever that may come, this Central Government may exempt railway property from taxation altogether or revoke the tax altogether or reduce it, cripple the finances of local self-governing bodies, and thereby cripple the finances of the provinces. I do hope that the House will not take any smiling assurances from my Honourable friend, but will look at the Bill as it stands, and say that this Bill does not deserve any consideration at the hands of this House, and, therefore, ought to be rejected summarily, and ought not to be circulated

Mr. M. S. Aney (Berar Non-Muhammadan) The motion before the House raises a question of very great importance So far as the legal aspect of the question is concerned, I will not say anything at all in view of the ruling that has been given by the Deputy President a few minutes ago before you occupied the Chair this afternoon But one thing is quite clear from the discussion that took place on the floor of the House, namely, that the legality of the Government s right to introduce a Bill of this kind without the sanction of the Governor General is not free from legal difficulties at any rate The other point which the Leader of the House tried to make out was this, that it would not be proper for the Chair to give any decision on a question like that on a point of order being raised I am not quite sure whether that is the correct position to take also, but anyhow I have already stated that in view of the ruling that has already been given it would not be proper for me to reopen that question and argue the matter over again The point, therefore, which I wish the House to consider carefully is this Have the Government really made out any case at all for a measure of this kind, because one thing is clear. Under the Government of India Act as it is, under section 154 the Central Government is not entitled to make any rules or pass any legislation with regard to property which is federal property without a law of the Federal Legislature

Now, Sir, if that is the position, Government must make out a very clear case as to what emergent reasons require them to come forward with a measure like this and claim the right which is intended really for the Federal Legislature by the Government of India Act The Federal Legislature can certainly make a law It is true that this House claims the right of the Federal Legislature also We know it But this House should be reluctant to exercise the right of the Federal Legislature unless a very strong case is made out that an emergency has arisen The two

grounds that have been urged by the Honourable Member-in-charge of the Bill are that iniquitous duties have been imposed and that they cannot be removed unless some power is taken by the Central Government today What are those iniquities and how are they working to the detriment of the interests of the people? These are matters of fact on which a mere statement of the Honourable Member in charge ought not to be regarded as sufficient Somehow or other we know that the net result of this measure will be to affect the financial position of the Provincial Governments in one way or other It may be that the powers that will be ultimately got by the Central Government may not be used against the Provincial Governments but that is not a matter on which we could take a chance today Certain duties now exist of which the Provincial Governments take advantage but if we pass this Bill we give power to the Central Government the unfettered right to revoke a notification or vary it or add to it Before the Government comes up with a Bill like this, it ought to show that the existing duties are not proper and that some disadvantage is accruing to somebody and that somebody has got a grievance of which urgent notice must be taken

The second thing is, it was urged that there are local bodies which want some new duties to be imposed We do not know what is the nature of those duties What are the local bodies which have wanted these new duties? These are matters on which detailed information ought to have been given and that would have enabled us to come to a decision as to whether those duties were just and proper but, in the absence of such information, this House should not arm the Government of India with this new power at all Unless a case of emergency is made out, it would not be proper for this House to arm the Government of India with these powers which are of an autocratic nature Once you give this power, the Central Government will not have to come to you at all You are giving a kind of blank card They are the sole arbiters to decide this matter Whatever reasons have been adduced have not convinced me that there are any grounds of emergency which require the Government of India to claim these powers immediately As a matter of fact, I am not inclined in favour of the motion moved by my friend, Mr Santhanam, at all I should rather like to oppose the motion for circulation altogether, because we are not convinced that there is a case on which the public should be asked to express their opinion Then why should we allow the Bill to go into circulation at all? What are the points on which they will give opinions? The Honourable the Leader of the House said that this House is not competent to express an opinion on the question of law He said that even the Chair could not exercise that right If the Government had supplied us with the necessary data as to why they wanted these powers, then that would have been useful but this data is not forthcoming If it comes now by way of reply at the eleventh hour, there is not sufficient time to enable us to consider it and come to a proper decision If the Statement of Objects and Reasons had been made more comprehensive and lucid, that would have enabled us to know what are the facts on which the Government wanted a change in the law In the absence of this information, I am inclined to ask the House to oppose this motion for circulation moved by the Honourable Member

Mr. M. Ananthasayanam Ayyangar: There is one other ground on which this Bill should be opposed Under this Bill the Central Government is

[Mr M Ananthasayanam Ayyangar]

sought to be clothed with authority to issue a notification After the Federal Railway Authority is brought into existence, the right to issue a notification automatically passes to the Federal Railway Authority I would ask the House to refer to section 181 of the Government of India Act under which the executive authority of the Federation in respect of the regulation and the construction, maintenance and operation of railways automatically passes to the Federal Railway Authority The executive authority of the Federal Government will be split into two portions One is vested in the ministers and another in the Federal Railway Authority in so far as railway matters are concerned So, once the Federal Railway Authority comes into being, it will step into the shoes of the Central Government so far as railway administration is concerned The Federal Railway Authority will have the power to issue notification as to what property should be taxed It will be the judge of its own cause There is the Federal Railway Authority on one side and there is the Provincial Government on the other As between these two, really a third party ought to decide as to whether railway property should be taxed or not for the purpose of local administration Instead of doing so, you are arming the Central Government with this power which is liable to be abused The Central Government ought not to be clothed with authority which will later on pass to the Federal Railway Authority That is the construction which I would put on section 181 of the Government of India Act.

Then, there is another objection to supporting this Bill I would ask the Honurable Member in charge of the Bill as to why he has not already obtained the opinion of the various Provincial Governments Very often the opinion of the Provincial Governments are obtained in advance and their opinion ought to have been obtained as to whether the Bill is likely to affect their interests I know of a particular case which came to my notice It relates to Guntakal which is a railway junction in my presidency of Madras That was a small village before it became a junction station For a long time notifications were issued by the Central Government whereby the buildings and lands which were the property of the Railways were taxed and Rs 20,000 had been brought year to year to the coffers of the Local Governments By another notification recently issued these Rs 20,000 have been taken away If this Bill is passed over the heads of the Provincial Governments who are interested in this matter, then the local authorities who are interested in maintaining the health and the safety of the people will go to the wall At present they have to manage their own affairs by raising funds from the general population and to provide amenities for the passengers that come; and that is the case of one local authority, Guntakal that would not have developed into a union but for this railway station Now persons who go to that town might bring in infection and epidemics and so the Union authorities have to maintain it in a healthy condition Is the burden to be borne only by a few handful of villagers, who would not have developed it into a town or union, but for the railway administration? Why should the railway administration refuse to contribute a portion? That is a standing grievance I do not know how many other places have got such a grievance, but it is necessary that these people should be taken into confidence by the Government They may come forward with a suggestion that there should be an independ-

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ent tribunal to which the railway administration would be a party and which tribuna. would have a judge who would be absolutely disinterested and who will be able to decide as to whether the railway ought or ought not to pay. Even in regard to the existing section 135 of the Railways Act many grievances have arisen There are many matters in which the Governor General in Council has not acted properly towards several local administrations Under these circumstances my respectful submission is that this Bill is premature Let us wait until a time when there will be a Federal Government, otherwise let the existing state of affairs continue Sir, as regards my friend, Mr K Ahmed, I think his quarrel should be during the interpellation hours He has now evidently sought a change and turned a new chapter in his life and has thought of giving advice to my friend, Mr Santhanam, but my friend never thought of bestowing a moment's thought over this Bill Sir, you were not here when my Honourable friend took some ten or fifteen minutes to show as to what our business is (Interruption by Mr K Ahmed) I am not giving way Mr K Ahmed did not notice that there is no date fixed at all in the motion moved Certainly it is up to everyone of us if we are interested in passing this Bill to give a date, but does my friend expect that between now and the date when we are going to meet in January, many opinions can be collected? Sir, the Assembly is not going to get extinguished, whether the lives of its individual members during a term are extinguished or not, so far as this Assembly is concerned, I assure my friend that the Assembly's life will continue, and I suggest that a larger and fuller Assembly might be allowed to consider the matter Under these circumstances I would appeal to the House to reject this measure, and if it is the general desire, then my friend Mr Santhanam may not have any objection to withdrawing his amendment

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions Muhammadan Rural) Sir, I would first like to refer to a minor point raised by an Honourable Member about not fixing the date of circulation Here I notice that it is not necessary in the original motion to fix the date of circulation because when a Bill is introduced, then the following motion in regard to this motion may be moved under clause 80 (1) of the Manual, "that it be circulated for the purpose of eliciting opinion thereon" and nothing is mentioned about the date to be specified Therefore, as far as this formality is concerned, it was not necessary for the original mover to mention the date by which opinions should be obtained Coming now to the second point, the difficulty mentioned in the Statement of Objects and Reasons attached to this particular Bill, I admit that difficulties are genuine, and I say that these difficulties could be got over by an Order in Council The Order in Council could have modified the existing Act in order to meet the circumstances But the difficulty I feel very strongly about this particular Bill is that we are legislating for a certain thing which does not exist and we do not know when it will come into existence and whether it will come into existence at all The "Federal Railway Authority" is defined in Chapter VIII of the Government of India Act but that particular chapter is not in force When the Government of India have notified that Chapter VIII of the Government of India Act, 1935 was in operation, the Government would be justified to come before the Legislature and say "Now the Federal Railways are in existence and now you legislate in order to smoothen the work of the railway authority" Now, if we legislate anything in con-

[Dr Sir Ziauddin Ahmad]

nection with the Federal Railways, it would mean that Federal Railways have come into existence, and the difficulty will immediately arise, 'under whom will the Federal Railways be?' Will the Federal Railways be worked by the Central Government in the absence of a Federal Authority? This will be an anomalous position, and for this there is no provision in the Government of India Act Therefore that is really my difficulty, *viz* , that the moment we legislate anything whatsoever about Federal Railways here, then we assume that the Federal Railways have come into existence, and, at the same time, Chapter VIII is not in force I think my Honourable friend will understand that Chapter VIII can be brought into force even before the Federation It could come into operation at the same time as the Provincial Autonomy, but the Government of India decided not to bring this into force for the present We are asked to legislate on a commodity which does not exist I quite understand that it exists in the Government of India Act, 1935, but I do say that it does exist on paper, but not in practice

I would, therefore, say that the difficulties which they are contemplating in their mind can be got over by an Order in Council in which they can modify the existing Act so as to make it understood and read in a particular manner It is not necessary in order to meet that difficulty to ask us to legislate on a particular subject about which we do not know whether it will come into existence at all So far as the Federation itself is concerned, I do not think anybody is very keen about it My Honourable friends on the right (Congress Benches) have clearly expressed their position They are not enamoured of it and they will oppose it, as they say, tooth and nail We know that the Muslim League is very much in the same position and there is no demand from the Indian States So, there is no demand for the Federation from any quarter When there is no demand for the Federation, why should any one be so much enamoured of it and introduce it in India? Demand must come at best from some quarter So, I maintain that this legislation is premature and the difficulties can be met by an Order in Council

The Honourable Sir Thomas Stewart: Sir, I am unaware whether the suggestion of one of the Honourable speakers for the Opposition has been accepted The suggestion was that the amendment should be withdrawn I do not know whether that suggestion has been accepted

Mr. K. Santhanam: Sir, I request the permission of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn

The Honourable Sir Thomas Stewart: I am, therefore, saved the easiest part of my task, namely, dealing with the dilatory motion of my Honourable friend, Mr Santhanam Those who followed him in opposition to this measure concentrated on attacking the Bill on its merits. My Honourable friend, Mr Satyamurti, reproved me for being half-hearted in this matter myself as evidenced by the fact that I had not proposed the return of opi

nions before any specified date. I hardly think he was in earnest because as an older parliamentarian than I am he knows that the usual practice in a matter of this sort is not to specify any particular date I do not propose to follow him through the very considerable portion of his speech which he devoted to the desirability of giving rulings from the Chair on the legal propriety of any measure that is before the House I will proceed to take the first point that he endeavoured to make which was really a point of substance He pointed out to the House that section 135 of the Indian Railways Act was still in force and that thereunder the Railways could still carry on as they carried on in the past That is a perfectly true proposition except in regard to Government-owned railways The effect of section 154 of the Constitution Act is that section 135 is, so far as the State railways are concerned, entirely nugatory until such time as a federal law comes into existence, and I would remind my Honourable friend that a federal law is not necessarily a law which will be passed by the Federal Legislature in the future but that any law passed by this Legislature after the 1st of April, 1937, is a federal law If by mistake he misled the House into thinking that there was any difference between a federal law and a law passed by this Legislature, I am sure he will be happy to be corrected

Mr. S. Satyamurti: I know it is a legal fiction it is not a federal law

The Honourable Sir Thomas Stewart: He also pointed out to the House that there was no emergency about this measure and that, after all, the only effect of section 154 was that the railways would continue to pay exactly what they have been paying before Well, if that were the only justification for this Bill, I do not think I should have brought it before the House Mr Satyamurti did not mention what I myself had already said, that there had been several cases of applications since the 1st of April, 1937, on behalf of minor municipalities to which we could not give effect because of the present law which has crystallised things as they were on the 1st of April, 1937 In actual fact there are a considerable number of these applications which we consider quite justifiable and which we are perfectly prepared to accept but we cannot legally do so Mr Satyamurti went on to hold up his metaphorical hands in horror at the new power which was being taken to themselves by the Government of India He did not mention that in practically all its features this is a power which was enjoyed by the Government of India until the 1st of April, 1937 By legislative accident that power became frozen and all we ask now is that we be put in a position to revive that power I would have this House believe that this is no new power It was also suggested that I was at fault in not having given the House an idea of what the Local Governments thought of this power and what had been out exercise of it in the past Well, by moving for circulation, I have made it perfectly possible for any Provincial Government to make its views fully known to all Members of this Legislature

Dr. Sir Ziauddin Ahmad: May I ask one question? Can it not be met by an Order in Council? Can we not legislate without mentioning the word "Federal" before "Railway"?

The Honourable Sir Thomas Stewart, I do not think these words occur in this Bill There is no reference to the Federal Railway Authority in this Bill.

Dr. Sir Ziauddin Ahmad: But the words 'federal railway' are there. At present there is no such thing as the federal railway

Mr. President (The Honourable Sir Abdur Rahim) This expression also occurs in the preamble

The Honourable Sir Thomas Stewart: But there is no reference to the Federal Railway Authority

My Honourable friend, Mr Aney has cast a certain amount of doubt on the existence of any inequities under which the railway administrations may suffer For his information, I may describe one very common one and that is when a municipality or a local body imposes, let us say, a scavenging tax This may become applicable to a railway in spite of the fact that no services are rendered by the municipality or the local body to the railway, the railway itself performing all necessary services on its own account It is in such case that it is considered that it is inequitable to levy from the railway a rate for duties performed by the railways themselves Finally, it has been argued that when Part VIII of the Constitution Act of 1935 comes into being the powers that we have given to the Central Government will automatically devolve on the Federal Railway Authority by virtue of section 181 of the Government of India Act To that deduction I cannot in any way subscribe It may be that by reason of the institution of Part VIII of the Constitution Act the power conveyed by this Bill to the Central Government will become of no avail It will disappear But it does not follow for a minute that that power will be automatically transferred to the Railway Authority

Mr. M. Ananthasayanam Ayyangar: May I know who will exercise this power then?

The Honourable Sir Thomas Stewart: There will be no such power in existence, and if any such power is sought to be created it will have to be in virtue of fresh legislation I fear that in some quarters at least the opposition to this Bill has arisen from the fact that in certain places, the word "federal" occurs I can assure all sections of the House that there is nothing sinister in the word 'federal'. At the very most what you can accuse us of is trying to keep our draftsmanship up to date

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

"That the Bill to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province be circulated for the purpose of eliciting opinion thereon."

The Assembly divided

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir
Aikman, Mr A
Ayyar, Mr N. M
Bajpai, Sir Girja Shankar
Bewoor, Mr G. V.
Boyle, Mr J D
Chambers, Mr S P.
Dalal, Dr R D
Dalpat Singh, Sardar Bahadur Captain
Dutt, Mr S
Gorwala, Mr A D
Green, Mr B R T
Griffiths, Mr P J
Grigg, The Honourable Sir James
Higbet, Mr J C
James, Mr F E
Jawahar Singh, Sardar Bahadur Sardar Sir
Kamaluddin Ahmed, Shams-ul-Ulema
Mackeown, Mr J A
Maxwell, the Honourable Mr. R. M.
Menon, Mr P. A
Menon, Mr P M
Metcalfe, Sir Aubrey
Miller, Mr C C
Mukerji, Mr Basanta Kumar
Nur Muhammad, Khan Bahadur Shaikh
Rahman, Lieut.-Col M A.
Row, Mr K Sanjiva
Scott, Mr J. Ramsay
Sheehy, Mr J F.
Sher Muhammad Khan, Captain Sardar Sir
Sircar, The Honourable Sir Nripendra
Sivaraj, Rao Sahib N
Spence, Mr G H
Stewart, The Honourable Sir Thomas
Sukthankar, Mr Y N
Sundaram, Mr V. S
Talukdar, Mr J N
Town Mr H S
Zafrullah Khan, The Honourable Sir Muhammad

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Abdoola Haroon, Seth Haji Sir
Abdul Ghani, Maulvi Muhammad
Abdul Qaiyum, Mr
Abdul Wajid, Maulvi.
Abdullah, Mr H M
Abdur Rasheed Chaudhury, Maulvi
Aney, Mr M. S
Ayyangar, Mr M Ananthasayanam
Azhar Ali, Mr. Muhammad
Bajoria, Babu Baijnath
Basu, Mr. R N
Chaliha, Mr Kuladhar
Chaudhury, Mr Brojendra Narayan
Chettiar, Mr T S Avinashilingam
Chetty, Mr Sami Vencatachelam
Das, Mr B
Das, Pandit Nilakantha
Datta, Mr Akhil Chandra
Desai, Mr Bhulabhai J
Deshmukh, Dr G V
Deshmukh, Mr Govind V
Essak Sait, Mr H A Sathar H
Gadgil, Mr N V
Ghiasuddin, Mr M.
Ghulam Bhik Nairang, Syed
Gupta, Mr K S
Hans Raj, Raizada
Hegde, Sri K B Jmaraja
Hosmani, Mr. S K.
Jedhe, Mr K M
Jehangir, Sir Cowasji
Jogendra Singh, Sardar
Kailash Behari Lal, Babu.
Lahiri Chaudhury, Mr D K
Lalchand Navalrai, Mr
Malaviya, Pandit Krishna Kant
Mangal Singh, Sardar
Mudaliar, Mr C N Muthuranga
Murtuza Sahib Bahadur, Maulvi Syed
Nauman, Mr Muhammad
Paliwal, Pandit Sri Krishna Dutta.
Pande, Mr Badri Dutt
Parma Nand, Bhai
Raghubir Narayan Singh, Choudhuri
Ramayan Prasad, Mr
Ranga, Prof N G
Rao, Mr M Thirumala
Saksena, Mr Mohan Lal
Sant Singh, Sardar
Santhanam, Mr K
Satyamurti, Mr S
Sham Lal, Mr
Shaukat Ali, Maulana
Siddique Ali Khan, Khan Bahadur Nawab
Singh, Mr Gauri Shankar
Singh, Mr Ram Narayan.
Sinha, Mr Satya Narayan
Sri Prakasa, Mr
Subbarayan, Shrimati K Radha Bai
Subedar, Mr Manu
Varma, Mr. B B
Yamin Khan, Sir Muhammad
Ziauddin Ahmad, Dr Sir.

The motion was negatived.

THE INDIAN COTTON CESS (AMENDMENT) BILL

Sir Girja Shankar Bajpai (Secretary, Department of Education, Health and Lands) Sir, I move

"That the Bill further to amend the Indian Cotton Cess Act, 1923, be taken into

This measure, as Honourable Members will have observed from the Statement of Objects and Reasons, is designed to rectify two minor defects. The first arises from the Adaptation Order in Council which says that any Act passed before 1935, if in such an Act the expression "British India" occurs should not be interpreted to include Berar as well The purpose of the amendment on that point is to extend the operation of this Act also to Berar I may inform the House that the Government of the Central Provinces and Berar have been consulted on this point, and are agreeable to the change.

The second defect was this. When the Act was adapted, we put in one representative for Bombay for the cotton growing industry and one for Sind, on the basis that before the adaptation the two representatives of Bombay had been divided between Bombay at one each But actually the cotton area in Bombay would justify the representation of that province by two representatives and that is what we propose to do by the second change proposed in the Bill

Sir, I move.

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

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

Prof. N. G. Ranga (Guntur *cum* Nellore Non-Muhammadan Rural). Sir, I am glad that at last we are given an opportunity of discussing this quasi-public organisation set up by the Government of India known as the Indian Central Cotton Committee This came into existence as the result of the recommendations made by the Indian Cotton Committee and afterwards, from time to time, the Committee has been publishing annual reports of its work We find that in actual practice its work has been directed till now more for the benefit of the big land owners interested in cotton growing, those interested in pressing, ginning and cleaning cotton and also cotton manufacturers

Sir Girja Shankar Bajpai: Sir, on a point of order May I submit that we are actually considering the question of the extension of this Bill to Berar and the question of representation or the activities of the Central Cotton Committee as a whole are, I submit, rather irrelevant to the present discussion

Prof. N. G. Ranga: I submit that in the Statement of Objects and Reasons, paragraph 2, it is stated "It is also proposed to amend section 4 (*vii*) of the Act. Section 4 (*vii*) runs:

"10 members nominated by the Central Government to represent the cotton growing industry, of whom 2 shall be nominated to represent the industry of Madras and so on"

Therefore, I think it is perfectly relevant for me to say a few words about the work of this Indian Cotton Committee the constitution of which we are now to discuss We are here to settle whether there should be a separate member for Sind or not, and if there is one member for Sind, then whether there should be 2 members for Bombay or one member, and also whether we should make particular mention of Berar and so on Naturally I consider it is perfectly relevant for me to say a few words about the working of this particular Committee itself as a whole If, for instance, the Committee has been absolutely useless, which I consider is not the case, then certainly there is no reason why we should busy ourselves about the manner in which its members should be appointed or elected and so on

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member considers that the Committee has been doing useful work?

Prof. N. G. Ranga: Not as useful as it should have been because of a defective constitution I consider that up till now it has paid more attention to those interested in cotton ginning, cleaning and pressing factories and cotton mills and also those big holders interested in cotton growing but not to the small holders

Mr. President (The Honourable Sir Abdur Rahim). Is there any provision for representation of the small holders?

Prof. N. G. Ranga: Of the cotton growing industry, there is It comprises both small holders and the big holders as well as others . .

Mr. President (The Honourable Sir Abdur Rahim). The Cotton growing industry.

Prof. N. G. Ranga: Yes If Honourable Members look into the annual reports of this particular Committee, it will be found that first of all the members who had been nominated by the Central Government hail from the big Jagirdar group of the peasant community in this country and also that the work has so far been concentrated upon the manner in which their group can be benefited This Committee has to concern itself with the growing, marketing and manufacture of cotton, but when we come to the question of marketing we find that whatever this Committee has done has not been very fruitful, and to the extent it has been fruitful it has benefited only the bigger people and not the smaller people Sir, it has conducted certain inquiries into the marketing of cotton in various provinces And even there particular stress has been laid by those investigators upon the manner in which these big people are being benefited or their cotton is being financed and also marketed, and they do not pay any attention to the needs or the conditions of the poor people Till now the erroneous view has been abroad that we are to grow cotton in this country not so much for the benefit of the cotton grower as for the benefit of the cotton manufacturer It may be remembered that that particular Indian Cotton Committee was appointed by the Government of India at that time in order to find ways and means by which the production of long staple cotton could be stimulated in this country, and as a result of that Committee's recommendations, the Indian Cotton Committee was brought into existence. Most of its work was directed to the possibilities of growing

[Prof N G Ranga]

more and more long staple cotton in different parts of India so that Lancashire may depend upon our production as its reserves in case there was a shortage of the supply of cotton either from Egypt or from America I also submit that our own Indian mill owners are interested in having as much of this long staple cotton as is possible to produce in this country so that they may be able to choose, according to their convenience and needs, between the Indian long staple cotton, the Egyptian cotton and the American cotton As far as the small holders are concerned, and as far as the Indian cotton growers as a whole are concerned, the work of the Committee has not been as great and useful to them as it should have been It would have been more useful to the small growers if only the members of that Committee had been recruited from the ordinary small cotton growers themselves No effort has been made till now to get any representation of these people on this Committee and although it is stated here that the Central Government has to make these nominations, yet in actual practice the Central Government has continued the earlier practice of depending upon or asking the Local Governments to send them nominations, and then accept the nominations as their own with the result that the Local Governments have always nominated these *Bada Kisans*

Sir Cowasji Jehangir (Bombay City Non-Muhammadan Urban): Who are the Local Governments just now?

Prof. N. G. Ranga: I am coming to that We all know that the Ministry has been changed, but not the Civil Service, not the District Magistrates or District Collectors If my friend refreshes his memory, when he himself acted as one of the Executive Councillors to the Bombay Government, he would be able to testify to the fact that most of the recommendations commence from District Magistrates, and these things are cooked up for the benefit of the Executive Councillors by the Board of Revenue or by the various heads of departments, and it is at that stage the Ministers make their nominations And how long is it since the Congress Ministries have been in power? Even after the Congress Ministries have been in power, is my friend quite sure that these officials will not be able to make their own recommendations as they used to do till now with the other Ministries? It is a fact, and we cannot deny it, that big people, wherever they are, in whatever party they may be, are more powerful and more influential, and that is why the Congress itself wishes to safeguard its own smaller people as against the big people even within its own organization That is why the Congress is trying to become more and more democratic Under these circumstances, it does not lie in the mouth of my friend to say "because these people are becoming more and more democratic, we should leave everything to them". This House itself was a party to a clause in the Motor Vehicle Bill in which it was stated that any particular rule which was made under that Act should be placed before the Legislature for its approval Now, the House was fully aware of the fact that the constitution of these Ministries has changed, yet it has found it necessary in the interests of the public to make such a stipulation, and such control should be placed on the unlimited powers of the local Ministries and Legislatures which will be functioning under the advice of the Ministers That is why I suggest that unless the Government of India are prepared to give due consideration to the claims of small cotton growers, this particular committee cannot really become more useful than it has been or it cannot

become as useful as it should have been Secondly, there will be this particular difficulty,—how are you going to distinguish these small people from the big people?

Sir Cowasji Jehangir: You can distinguish them,

Prof. N. G. Ranga: I do distinguish my friend who sits there all by himself Unfortunately the problems of life cannot be settled by a mere rule of thumb, but some distinction has got to be made That is why I want these *Kisan Sabhas* to be consulted by the Government before they make nominations It may be contended with some justification by some people that these big Zamindars and Jagirdars also somehow or other have managed to get the ear of all parties in this country, and, therefore, they are able to call themselves agriculturists It may be possible for them to say "Oh, we are not members of these *Kisan Sabhas*" That is why I don't propose to ask the Government that it should consult these *Kisan Sabhas* in making their nominations In regard to these nominations, I propose to leave things as they are today Therefore, it will be open to the Central Government, if it so chooses, to continue the present process of nominating some of these big people also, but in addition to that, I suggest that they should make provision for the nomination of a few more people to be suggested by the *Kisan Sabhas* which represent mostly small people, and also a few middle class people and thus try to make this committee a more and more representative and democratic body of the cotton growers in our country With these suggestions, Sir, I support this motion for consideration

Sir Girja Shankar Bajpai: Sir, I do not think that I am called upon to make a very long reply I take it that my friend does not take exception to the proposal that this Bill should extend to Berar He has made certain suggestions as regards the representation of what he called the small cotton grower Now, Sir, he has himself conceded that under sub-section (*viii*) of section 3, the nominations made by the Central Government are made in consultation with the provincial ministries It is, I submit, for the provincial ministries to adjust the balance between the small grower and the big grower It is not a thing that we here sitting in Delhi or Simla can adjust without any knowledge of the local conditions or of the representative capacity of the different organisations, be they peasant organisations or Zemindar organisations All that I can say for the satisfaction of my friend is that I shall bring his suggestions to the notice of the Provincial Governments, and in the light of their replies, see whether any action can be taken by us under a power which we possess already, in this connection I would invite the attention of the House to sub-section (*xi*) of section 3 which says "such additional persons as the Governor General in Council may by notification in the Gazette of India appoint"

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

"That the Bill further to amend the Indian Cotton Cess Act, 1923, be taken into consideration"

The motion was adopted

Clause 2 was added to the Bill

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

"That clause 3 stand part of the Bill."

Prof. N. G. Ranga: Sir, I move . .

Sir Girja Shankar Bajpai: I would like to raise a point of order There should have been two days' notice for the amendment* This amendment was circulated only last night

Mr. President (The Honourable Sir Abdur Rahim). If that is so, I cannot allow the amendment to be moved.

Mr. S. Satyamurti: Every Honourable Member has got a copy of the amendment.

Mr. President (The Honourable Sir Abdur Rahim) As there is objection, I cannot allow the amendment to be moved The question is

"That clause 3 stand part of the Bill"

The motion was adopted

Clause 3 was added to the Bill

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

"That clause 1 stand part of the Bill"

Mr. G. H. Spence (Secretary, Legislative Department) Sir, I beg to move

'That in clause 1 of the Bill for the figures '1938' the figures '1939' be substituted"

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

"That in clause 1 of the Bill for the figures '1938' the figures '1939' be substituted"

The motion was adopted

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

"That clause 1, as amended, stand part of the Bill"

The motion was adopted

Clause 1, as amended, was added to the Bill

The Title and the Preamble were added to the Bill

Sir Girja Shankar Bajpai: I beg to move.

"That the Bill, as amended be passed"

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

"That the Bill, as amended, be passed"

The motion was adopted.

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*"That for clause 3 of the Bill the following be substituted, namely

'3 In clause (viii) of section 4 of the said Act

(a) for the words 'ten persons' the words 'fifteen persons' shall be substituted;

(b) for the words 'one to represent the industry in Bombay', the words 'two to represent the industry in Bombay' shall be substituted; and

(c) the words 'one person to represent the small cotton growers of each of these five concerned provinces and selected in consultation with the local Peasants Associations (*Kisan Sabhas*), shall be added at the end'"

THE DESTRUCTIVE INSECTS AND PESTS (SECOND AMENDMENT) BILL.

Sir Girja Shankar Bajpai: (Secretary, Department of Education, Health and Lands): Sir, I beg to move

"That the Bill further to amend the Destructive Insects and Pests Act, 1914, be taken into consideration."

Sir, I had occasion when dealing with the Indian Cotton Cess (Amendment) Bill to explain that the necessity for part of it arose from a defect in the Adaptation Order in Council The same applies to the present Bill We cannot apply the Destructive Insects and Pests Act, 1914, to the Province of Berar without the amendment that we have submitted for the consideration of the House. Sir, I move.

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

"That the Bill further to amend the Destructive Insects and Pests Act, 1914, be taken into consideration"

Mr. K. Santhanam (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) I would like to know if it is the policy of the Government of India to legitimise things which happened before 1937, by bringing in Bills in bits like this Why cannot they bring in a general amendment to the General Clauses Act so that the difficulty of bringing in little Bills like this may be obviated? I want to draw the attention of the House to this aspect of the matter

Sir Girja Shankar Bajpai: This is a very valid point and we shall certainly take it into consideration

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

"That the Bill further to amend the Destructive Insects and Pests Act, 1914, be taken into consideration"

The motion was adopted

Clause 2 was added to the Bill

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

"That clause 1 stand part of the Bill"

Mr. G. H. Spence (Secretary, Legislative Department): Sir, I beg to move:

"That in clause 1 of the Bill, for the brackets, words and figures '(Second Amendment) Act, 1938' the brackets, words and figures '(Amendment) Act, 1939' be substituted"

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

"That in clause 1 of the Bill, for the brackets, words and figures '(Second Amendment) Act, 1938' the brackets, words and figures '(Amendment) Act, 1939' be substituted."

The motion was adopted.

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

"That clause 1, as amended, stand part of the Bill"

The motion was adopted.

[Mr. President]

Clause 1, as amended, was added to the Bill

The Title and the Preamble were added to the Bill.

Sir Girja Shankar Bajpai: Sir, I beg to move.

"That the Bill, as amended, be passed."

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

"That the Bill, as amended, be passed"

The motion was adopted

THE REPEALING AND AMENDING BILL

The Honourable Sir Nripendra Sircar (Law Member): Sir, I move

"That the Bill to amend certain enactments and to repeal certain other enactments be taken into consideration"

This Bill is similar to other Bills of this kind which have come before this House before The object of this Bill is not to make any change in the law or to make any law, but really to cut off dead branches of Bills which have become obsolete by reason of subsequent events I should have thought that a Select Committee was not really necessary, but having talked informally with some of the Honourable Members opposite, I find that they really desire to have a Select Committee on this Bill If that is so, I do not want to contest that position and I shall agree to a Select Committee Sir, I move

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

"That the Bill to amend certain enactments and to repeal certain other enactments be taken into consideration'

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural) I do think that a Select Committee is necessary, for I see some mistakes, but I find that the gentleman in whose name the Select Committee motion stands is not present now

The Honourable Sir Nripendra Sircar: In that case may I make a suggestion? It is only two minutes more for five The matter may stand over for another day.

Mr President (The Honourable Sir Abdur Rahim): Very well Sir Muhammad Zafrullah Khan No. 18

The Honourable Sir Muhammad Zafrullah Khan: That is not likely to finish in two minutes, Sir.

Dr. G. V. Deshmukh (Bombay City: Non-Muhammadan Urban). With your permission, may I move No. 15, my motion?

The Honourable Sir Muhammad Zafrullah Khan: I am not giving way to anybody else I am prepared to make my motion. As it was only two minutes to five, I said that I might not be able to finish it

Mr. President (The Honourable Sir Abdur Rahim): Very well, Sir Muhammad Zafrullah Khan.

THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour). Sir, I beg to move

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

Under section 62 of the Indian Merchant Shipping Act, no seaman is at liberty to contract to assign his pay which has not yet accrued to him. The difficulty that is being experienced is this Some of the shipping companies have started schemes, provident fund schemes and other schemes, for the benefit of seamen which are based on contributions by seamen as well as contributions by the companies, and the companies want to amend the contracts of the seamen to that effect in order to enable them to recover seamen's contributions from them. They cannot do that without the sanction of the Government of India But in view of the provisions of section 62 of the Merchant Shipping Act the Government have no power to authorise these changes in the agreements inasmuch as any such assignment would be illegal under section 62. The object of this Bill is to enable the Government to authorise such changes in seamen's contracts

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

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

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 16th November, 1938

LEGISLATIVE ASSEMBLY.

Wednesday, 16th November, 1938.

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

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS.

VISIT OF THE SECRETARY OF THE EXTERNAL AFFAIRS DEPARTMENT TO KABUL

1274. *Mr. Abdul Qaiyum: Will the Foreign Secretary please state.

(a) whether he recently visited Kabul as the guest of the Afghan Government,

(b) whether any questions of public importance were discussed between him and the Afghan authorities during his visit, and

(c) the nature of the questions discussed and the decisions arrived at?

Sir Aubrey Metcalfe: The Honourable Member's attention is invited to the reply given to question No 1210A, asked by Mr Satyamurti in the present Session.

Mr. Abdul Qaiyum: Is the Foreign Secretary aware that there were a number of articles published in the semi-official paper *Islaf* of Kabul sharply criticising Government policy in the tribal area? That was before his visit.

Sir Aubrey Metcalfe: I hardly see how that arises out of this question

Mr. Abdul Qaiyum: When decisions, if any, are arrived at between the Afghan Government and the Government of India, will those decisions be communicated to the House?

Sir Aubrey Metcalfe: I have already made a statement on the subject saying that it would not be in the public interest to communicate more than what has already been communicated.

Mr. Abdul Qaiyum: I want to know if, and when any decisions are arrived at, those decisions will be officially communicated to this Honourable House?

Sir Aubrey Metcalfe: That appears to be hypothetical

Mr. S. Satyamurti: Has the attention of the Government been drawn to the communiqué issued by the Afghan Government about the interview which took place between my Honourable friend and the representatives of the Afghan Government?

Sir Aubrey Metcalfe: Certainly I said that on the last occasion, and I laid a copy of that communiqué on the table of the House

Mr. S. Satyamurti: I am asking whether the attention of the Government has been particularly drawn to the passages of the communiqué in the course of which the Afghan Government say that, as a result of these talks, they expect peace and prosperity in tribal areas. May I know whether Government can throw any light on that subject?

Sir Aubrey Metcalfe: The Honourable Member has already put down a question on the paper regarding that, and it will be answered in due course

RECRUITMENT AND PROMOTION OF ASSISTANT WAY INSPECTORS ON STATE RAILWAYS.

1275. *Mr. Lalchand Navalrai: (a) Will the Honourable the Railway Member be pleased to state how Assistant Way Inspectors are recruited on State Railways? Are they drawn from the departments, or recruited directly? If the latter, by selection or how?

(b) Are Way Inspectors recruited directly or from among the Assistant Way Inspectors?

(c) Is there any ratio fixed for direct recruitment?

(d) Is it a fact that Assistant Way Inspectors on the North Western Railway are not promoted to grade II? If so, for how long?

(e) Do orders exist for their promotion? If so, why have they not been put into force?

(f) Do Government propose to give them promotion?

The Honourable Sir Thomas Stewart: (a) and (b) I lay on the table a statement showing the method of recruitment of Assistant Way Inspectors and Way Inspectors on each of the four State-managed Railways It will be observed from the statement that this method is not uniform

(c) In view of the position explained in the statement referred to in the reply to parts (a) and (b) above, this does not arise

(d) There is no promotion from grade I to grade II

(e) and (f) Do not arise.

Railways	Recruitment of Assistant Way Inspectors	Recruitment of Way Inspectors.
Eastern Bengal	Vacancies in the category of Assistant Permanent Way Inspectors are ordinarily filled from the ranks of apprentices or ex-apprentices who are initially recruited through Selection Boards in accordance with the procedure laid down by the Railway Administration under the rules contained in the rules for the recruitment and training of non-gazetted staff on State-managed Railways, copy of which is in the Library of the House.	Permanent Way Inspectors are not ordinarily appointed from outside, but promoted from the grade of Assistant Permanent Way Inspector: Direct recruitment to this rank would be resorted to only in

Railways.	Recruitment of Assistant Way Inspectors.	Recruitment of Way Inspectors.
Eastern Bengal—	The apprentices must have completed their full time, and must have passed the final examination Head Mates may be considered for promotion to this rank, provided they have passed the Apprentice Assistant Permanent Way Inspector final examination, and are considered fit for promotion. If no suitable and qualified men are available within the Railway, or ex-apprentices on the waiting list, vacancies are advertised, and a selection is made from among the applicants by the Headquarters Selection Committee Applicants are expected to have undergone at least 3 years' training in the duties of Permanent Way Inspector on Class I railways	exceptional circumstances and if no qualified men in service were considered suitable for promotion to the post.
	Normally appointments in the Permanent Way Inspectors group are made initially as apprentices selection in accordance with the rules for the recruitment and training of non gazetted staff on State-managed Railways copy of which is in the Library of the House Qualified mistries are also occasionally promoted as Assistant Permanent Way Inspectors It has also been necessary to recruit some trained Assistant Permanent Way Inspectors direct	Permanent Way Inspectors are obtained by the promotion of suitably qualified Assistant Permanent Way Inspectors. There is no direct recruitment
Great Indian Peninsula	Recruitment to the posts of Assistant Way Inspectors (designated Sub-Permanent Way Inspectors on this Railway) is made from Trained Apprentice Platelayers on their passing the prescribed test, and from selected Time-Keepers who have previously worked as Sub-Permanent Way Inspectors	Promotion to the posts of Permanent Way Inspectors is made from Sub-Permanent Way Inspectors who have qualified themselves for such posts by passing the prescribed departmental examination
North Western	Assistant Way Inspectors are recruited from the following two sources :— (i) Assistant Way Inspectors grade I— $\frac{60—2—90—2\frac{1}{2}—110}{65—5/2—85}$ from staff already in service such as Mates, Keymen, Gangmen, etc., possessing sufficient standard of literacy to follow a training course at the Walton Training School and able to pass a Divisional Selection Board. (ii) Assistant Way Inrpectors grade II— $\frac{125—10—165}{100—10/2—120}$ from candidates recruited as Apprentice Permanent Way Inspectors by a Headquarters Selection Board on the successful completion of their training.	33-1/3 per cent Permanent Way Inspectors are recruited from Assistant Way Inspectors, grade I, and 66-2/3 per cent. from Assistant Way Inspectors, grade II.

Mr. Lalchand Navalrai: I understand from the Honourable Member's statement that there is no direct recruitment Is there any ratio fixed for direct recruitment?

The Honourable Sir Thomas Stewart: I have laid on the table a very elaborate statement, and I should like the Honourable Member to read that statement

Mr. M. S. Aney: We do not want details We only want to know whether any ratio is fixed at all for direct recruitment

The Honourable Sir Thomas Stewart: From a rapid glance at the statement, I should say that there was no such ratio fixed

Mr. Lalchand Navalrai: Does the Honourable Member know that in other branches of the railways there is a ratio fixed for direct recruitment also? Will the Honourable Member find out and let us know

The Honourable Sir Thomas Stewart: I have laid all the available information on the table

SPECIAL TICKET EXAMINERS SENT TO THE KARACHI SECTION OF THE NORTH WESTERN RAILWAY

1276. *Mr Lalchand Navalrai: (a) Will the Honourable the Railway Member be pleased to state if a large group of Special Ticket Examiners was sent to the Karachi Section of the North Western Railway from other Divisions in place of local Special Ticket Examiners as an experimental measure for a period of about six months? If so, the reason therefor?

(b) Will the Honourable Member be pleased to state how much this measure cost the Railway and how much the Railway has profited by their detection duty?

(c) How much more was earned by the Railway in comparison to the detection earning during the six months prior to the deputation of these Special Ticket Examiners from other Divisions?

(d) Was the same method tried on the other Divisions of the North Western Railway? If so, when and what benefit did the Railway get in those Divisions respectively?

The Honourable Sir Thomas Stewart: (a) A group of 70 special ticket examiners was transferred from the Rawalpindi to the Karachi Division to augment the permanent ticket checking staff of the latter Division This was done in order to permit of a cent per cent check of all trains and thereby to obtain an adequate appreciation of the volume of irregular travel

(b) The cost of the special group was approximately Rs 42,000. The amount collected on the Division, during the period of six months, from passengers found travelling without proper tickets, etc , was a little more than Rs 50,000

(c) Approximately Rs 23,000 more than during the corresponding period of the previous year The figures for the preceding six months are not readily available

(d) Yes on the Lahore, Delhi and Rawalpindi Divisions No figures as to the results obtained are now available.

Mr. Lalchand Navalrai: If there is a profit by that system, why is not every train being supplied with a ticket examiner?

The Honourable Sir Thomas Stewart: I am afraid we must regard this as being still an experimental measure

Mr. Lalchand Navalrai: May I know if such experiments are going on in other branches of the North Western Railway?

The Honourable Sir Thomas Stewart: I must ask for notice of that

MEDICAL EXAMINATION OF SWEEPERS EMPLOYED BY RAILWAYS

1277. *Mr. P. R. Damzen: Will the Honourable Member for Railways state:

(a) whether until quite lately the Carriage Department, Delhi, East Indian Railway, were employing a sweeper who appeared to be suffering from anthrax and that this man was on duty at Delhi station and was used for attending to the bathrooms of first and second class passengers,

(b) has the sweeper been put off duty since a complaint was made to the Carriage Staff on the 27th August, 1938,

(c) what steps do the Railway authorities intend taking to avoid a recrudescence of the danger to the travelling public, and

(d) is it a fact that these sweepers are not subjected to periodical medical examination by the Medical Officer of the Station? If not, is the Honourable Member in the interest of public health, prepared to consider the advisability of periodical medical examination of those employees who have direct dealings with the public and specially sweepers?

The Honourable Sir Thomas Stewart: (a) and (b) A sweeper attending to the lavatories of first and second class carriages at Delhi station was, on a complaint being made by a passenger on the 27th August, 1938, sent up for medical examination to the Divisional Medical Officer, North Western Railway, but was not put off duty as it was found that the man was suffering not from anthrax but from urethritis He was admitted to the hospital as an out-door patient but was subsequently admitted as an indoor patient from the 8th September, 1938, to the 26th September, 1938, when he was discharged fit for duty

(c) Does not arise

(d) The reply to the first part is in the affirmative As regards the latter part, it may be explained that employees of the subordinate and inferior grades are sent for special medical examination when it is considered necessary.

Mr. Sri Prakasa: Is it not a fact that this sweeper contracted this disease by cleaning the stools of first class passengers and will the Honourable Member take steps to protect these poor unfortunate sweepers from such serious contamination from first class passengers?

The Honourable Sir Thomas Stewart: It is not within my knowledge that the disease was contracted in the way suggested.

ACCIDENT TO THE PUNJAB EXPRESS.

1278. *Mr. Lalchand Navalrai: (a) Will the Honourable the Railway Member be pleased to make a full statement in regard to the accident to the 18 Down Punjab Express caused on the 16th October, 1938?

(b) What are the reasons for the allegation that this was a case of sabotage?

(c) Did any Railway officer or Railway man inspect or see the line at the point of the accident immediately before or some time before the actual accident took place? If so, when and what was the condition of the line then?

(d) Did any other train pass by the line that night before the accident? If so, when?

(e) Was any watchman on duty on the line that night? If so, from what time to what time?

(f) Were any gangmen on that line? If so, how far were their quarters from the place of the accident?

(g) Was the same engine or a similar one attached to this 18 Down Punjab Express train as was attached to the train which crashed near Bihta in July last year?

(h) Are engines of Bihta accident type still working on the East Indian Railway? If so, why?

(i) How much loss of life and damage to persons and property was caused by the accident to the 18 Down Punjab Express?

(j) Will the Honourable Member please state how many railway accidents happened on the East Indian Railway during the years 1937 and 1938, and what steps the Railway have taken to obviate such accidents?

The Honourable Sir Thomas Stewart: (a) At about 4 o'clock on the morning of the 16th October, 1938, between Dildarnagar and Bhadaura stations, the trailing bogie wheels and leading tender wheels of the engine of 18 Down Express were derailed The eighth vehicle (the brake-van) was also completely derailed and the ninth vehicle, the last on the train, was totally wrecked All the casualties were among the passengers travelling in this last vehicle A crew of eight ticket checkers on the train and a hospital compounder at once set to work extricating the passengers from the debris of the last coach A relief train arrived at the scene of the accident about 2½ hours later and all the injured were taken into Buxar by 9 o'clock Before midday, they left for Arrah where they were admitted to the Civil Hospital

(b) The fastenings of the rail, *viz*, fish plates, bolts, cotters and inner jaws, with the exception of a few items, were found lying either on the side of the bank or in the borrowpits Every piece was intact and unmarked In two cases, the nuts had even been rethreaded on to the bolts.

(c) to (f). Information on these points is not available at present. To the extent to which they are relevant to the cause of the accident, they will presumably be dealt with in the report of the Senior Government Inspector which is awaited.

(g) No

(h) Yes: as the engines are quite suitable for the services on which they are running.

(i) One person was killed on the spot and four died after admission to hospital, and 36 were injured. Particulars regarding damage to property are not available.

(j) Statistics relating to accidents on railways during 1936-37 are given in Appendix D of the Railway Board's report on Indian Railways, Volume II, for that year Similar figures for 1937-38 will appear in the corresponding publication now in the press The question of what steps should be taken to obviate accidents is considered in each case as it arises

Mr. M. S. Aney: On a point of order, Sir Is it proper for any Honourable Member to make a reference, in reply, to a document that has yet to come into existence, saying that it will be found there, when it will be published?

Mr. President (The Honourable Sir Abdur Rahim): What is the document referred to?

Mr. M. S. Aney: The Honourable Member said that the figures for this year will be available to the Members when the report will be published, which is under print at present.

Mr. President (The Honourable Sir Abdur Rahim) Can the Honourable Member give the figures now?

The Honourable Sir Thomas Stewart: I am not in a position to give the figures.

Mr. Lalchand Navalrai: May I know if the Honourable Member is not in possession of how many accidents took place—only that much I have asked?

The Honourable Sir Thomas Stewart: Sir, it is quite obvious I cannot give the number of accidents over a period which has not yet concluded.

Mr. Sri Prakasa: May I know the reply to part (g) of the question? I did not hear it

The Honourable Sir Thomas Stewart: My answer was "no"

Mr. Lalchand Navalrai: With regard to the answer to clause (d), may I know who was responsible for this sabotage? Have any inquiries been made?

The Honourable Sir Thomas Stewart: Certainly, Sir, I understand inquiries were made by the police in the district concerned.

Mr. T. S. Avinashilingam Chettiar: In answer to clause (j), the Honourable Member gave figures for the two years May I know whether the figures mentioned are on the increase?

Mr. President (The Honourable Sir Abdur Rahim). 1938 has not come to an end yet.

Mr. T. S. Avinashilingam Chettiar: The Honourable Member said that the report for the year ending on the 31st March, 1938, is in the press and he referred to a document which is in the press, to which Mr. Aney raised an objection He is, however, in possession of the figures, or his Department is in possession of such figures?

The Honourable Sir Thomas Stewart: Is it for the period ending on 31st March, 1938?

Mr. T. S. Avinashilingam Chettiar: Yes

The Honourable Sir Thomas Stewart: The Honourable Member asks whether accidents are on the increase I must ask for notice of that question.

Mr. S. Satyamurti: With reference to the answer to clause (h) of the question, may I know how many engines of the Bihta accident type are still working on the East Indian Railway, and whether any steps have been taken, for example, by way of fixing speedometers to these engines as recommended by the Enquiry Committee?

The Honourable Sir Thomas Stewart: Sir, as regards the first part of the question, I must ask for notice,—*i e*, as regards the numbers that are now operating I do not understand the reference to the recommendations of the Committee

Mr. S. Satyamurti: In the course of the Enquiry Committee's Report, it was recommended to Government that these engines could be run safely on the East Indian Railway provided the maximum is fixed at forty to forty-five miles an hour At the same time, the Committee said that it is impossible for the driver, without the aid of a speedometer, to know whether the train is running at not more than forty to forty-five miles, because he has no means of knowing the actual speed of running I want to know whether those recommendations have been accepted,—whether any steps have been taken to fix speedometers to these engines, so as to minimise the chances of accidents

The Honourable Sir Thomas Stewart: Am I to take it by the reference to the report of the Committee that the Honourable Member is referring to the report of Sir John Thom?

Mr. S. Satyamurti: Yes.

The Honourable Sir Thomas Stewart: Well, I may remind the Honourable Member that in consequence of the recommendations of Sir John Thom, a special committee was appointed to investigate this matter of XB engines The recommendations of that technical Committee have not yet been received

Mr. S. Satyamurti: May I take it, therefore, that till committees after committees report, Government are not going even to accept the recommendations which the Chief Justice made very definitely, on the evidence before him, that the running of these engines beyond 45 miles an hour was a constant danger to human life, and that therefore they should

regulate the speeds of these engines, and that in order to enable drivers to know the speeds they must put up speedometers?

The Honourable Sir Thomas Stewart: Sir, I have already informed this House that the running of these engines was now subject to certain conditions so as not to constitute a danger to the public.

Mr. S. Satyamurti: May I know what are the conditions which the Government have imposed on the railways or the conditions which the railways have themselves imposed upon the running of these railways so as to minimise these accidents?

The Honourable Sir Thomas Stewart: I cannot, at a moment's notice, give the actual speed limits imposed, but I do know, as I have informed the House before, that these engines have been put on to the slower trains.

Mr. Lalchand Navalrai: With reference to the answer to part (h) of the question,—at the time of the inquiry by the Bihta Enquiry Committee, there were certain defects found in these engines May I know if those defects have been removed before they are worked?

The Honourable Sir Thomas Stewart: I believe the Mechanical Departments of the railways have been engaged in an investigation with a view to rectifying any defects that may be found and I understand that they have to a very great extent proved successful

Dr. Sir Ziauddin Ahmad: Are they being used without any modification?

Mr. Lalchand Navalrai: Before the engines are rectified, and while they are being inquired into and investigated, why are the same engines being worked in the meantime?

The Honourable Sir Thomas Stewart: Because they are being worked under conditions which do not constitute a danger to the travelling public.

Mr. Abdul Qaiyum: Is it a fact that the XB engines are still indulging in violent hunting?

The Honourable Sir Thomas Stewart: So far as I am aware, no.

Mr. K. Ahmed: May I know what are the steps which Government have taken to relieve the situation, so that our lives are in fact safe while travelling from Calcutta to Delhi? What are the actual steps taken to secure the safety of the passengers travelling by this line?

The Honourable Sir Thomas Stewart: I am afraid I could not undertake, in the course of an answer to a supplementary question, to expound the safety regulations which are in force on the Indian railways

Mr. S. Satyamurti: May I know whether Government or the Railway Board are keeping a close watch on the running of these XB engines now, since the last unfortunate accident, and do they get periodical reports of their behaviour on the line?

The Honourable Sir Thomas Stewart: I should require notice of that.

EXPENDITURE INCURRED ABROAD FROM INDIAN REVENUES

1279. *Mr. T. S. Avinashilingam Chettiar: Will the Secretary for External Affairs state

(a) what were the items of expenditure incurred abroad from Indian Revenues in the last financial year,

(b) on what matters they were incurred, and

(c) whether the negotiations with His Majesty's Government that they should be met from the British Treasury have concluded; if so, with what results?

Sir Aubrey Metcalfe: (a) and (b) The expenditure incurred by this Department was on account of the pay and allowances of Diplomatic and Consular Officers and their staff, office contingencies and works in Iran and the Persian Gulf, Kabul, Nepal, Kashgar, Jeddah, Addis Ababa and Baghdad There were also certain payments made under agreements of long standing to the Governments of Nepal and Muscat

(c) The revision of the present allocation of Diplomatic and Consular expenditure in Iran and the Persian Gulf between the Government of India and His Majesty's Government so as to relieve the Indian Exchequer to some extent is under discussion with His Majesty's Government. No other expenditure of this nature is at present under discussion, *vide* my answer to starred question No 992, dated the 18th September, 1938

Mr. T. S. Avinashilingam Chettiar: In the Public Accounts Committee report which has been given to us, it is recommended that the matter of the expense of the Persian Gulf should be tacked on to the expenditure of His Majesty's Government and the Government have said that the solution is in sight That report was published nearly a year and half ago and I want to know where the matter stands now?

Sir Aubrey Metcalfe: I have already explained that the matter is under discussion I have never said that the solution is in sight As I explained once before, the solution of this question is a matter for two parties It cannot be an entirely unilateral decision

Mr. S. Satyamurti: Are Government aware that this discussion has been going on, to my knowledge, for the last 13 to 15 years? Ever since the Public Accounts Committee of this House was formed, it made a recommendation, and it has gone on all these years. May I know the reasons for this delay?

Sir Aubrey Metcalfe: Mainly the difficulty of arriving at a fresh agreement with His Majesty's Government.

Mr. S. Satyamurti: Are they so intractable?

Mr. President (The Honourable Sir Abdur Rahim): That is not a question

Mr. S. Satyamurti: Then, why have they taken 15 years? May I ask, then, with regard to other matters? Excepting Iran and the Persian Gulf, which have been under discussion for so many years, may I know what are the Indian interests involved in respect of the various other places which my Honourable friend has mentioned (except Jeddah), on which we are spending Indian revenues?

Sir Aubrey Metcalfe: I shall require notice of that question

Mr. Manu Subedar: Have Government considered the desirability of representing to His Majesty's Government the question of other expenses incurred from Indian revenues abroad which the Honourable Member recounted in order to relieve the Indian treasury of these charges?

Sir Aubrey Metcalfe: Government have felt, that on the whole, it is better to arrive at a decision on one question before taking up the others

Mr. T. S. Avinashilingam Chettiar: May I know the amount of money that is involved in this expenditure?

Sir Aubrey Metcalfe: I have some figures with me which were contained in a statement which I laid on the table in reply to question No 992 on the 13th September Roughly, the figures in 1936 and 1937 were about Rs 30 lakhs

Mr. K. Santhanam: May I ask whether the expenditure with reference to the Residency in Nepal is also under discussion with His Majesty's Government

Sir Aubrey Metcalfe: No I have already explained that the only matter under discussion is expenditure in Iran and the Persian Gulf

Mr. Manu Subedar: May I ask why the other items cannot be taken up with His Majesty's Government?

Sir Aubrey Metcalfe: I have already explained that it is better to arrive at a decision on this question first

Mr. Abdul Qaiyum: Why should the Government of India pay this money when the policy is laid down by Whitehall?

Sir Aubrey Metcalfe: That, again, is a question of which I shall require notice.

OPENING OF RURAL POST OFFICES.

1280. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member for Communications state:

(a) how many rural post offices were opened in the last financial year, with guarantee and without guarantee;

(b) of these, how many have worked at a profit or loss, in each

(c) of the amount set apart for the opening of rural post offices, how much has been spent; and

(d) in how many cases guarantors were asked to make good the loss?

The Honourable Sir Thomas Stewart: (a) and (d) In the year 1937-38, 218 rural post offices were opened with non-returnable contributions and 1,018 without any contributions Contributions in respect of post offices required solely to serve the interests of a small section of the public and unlikely to pay their way are realised in advance

(b) 128 of the former and 690 of the latter class worked at a profit and the remainder worked at loss

(c) Of a sum of Rs 3,62,400 set apart last year for extension of postal facilities in rural areas, Rs 3,51,000 was spent

Mr. K. Ahmed: In view of the fact that there are not sufficient number of sub-post offices in the rural areas for the villagers to receive letters distributed by the postal peons, do Government propose, for the benefit of the country and the masses who live in the villages, to take steps to start immediately sub-post offices equipped with peons, who will be able to distribute letters to the addressees, otherwise it is against the public policy that the letters addressed by the senders are not delivered to the addressees, and thus their money is wasted in the Department of my Honourable friend?

The Honourable Sir Thomas Stewart: If the Honurable Member will refer to the answer I gave to part (c) of the question, he will realise that a fairly substantial sum is being devoted each year to the development of rural post offices

Mr. K. Ahmed: But are Government aware that there are no peons to make delivery of these letters? What is the use of wasting the money by buying postcards and envelopes, if the addressees do not receive those letters? What steps do Government propose to take to guarantee that the addressees do receive their letters and the necessary number of peons is kept in the sub-post offices in the rural areas, so that the masses in the villages, who live in the interior of the country, do get their letters?

Mr. President (The Honourable Sir Abdur Rahim) It is not a question it is a speech

Mr. T. S. Avinashilingam Chettiar: May I know what is the distinction that the Honourable Member drew between the "non-returnable" and "without contribution" basis?

The Honourable Sir Thomas Stewart: I said, some offices were opened with non-returnable contributions

Mr. T. S. Avinashilingam Chettiar: What does it mean?

The Honourable Sir Thomas Stewart: The meaning is that the contribution is not returnable.

Mr. T. S. Avinashilingam Chettiar: May I know what is the answer to part (d)? I could not catch it.

The Honourable Sir Thomas Stewart: In answer to parts (a) and (d) I said that "contributions in respect of post offices required solely to serve the interests of a small section of the public and unlikely to pay their way are realised in advance".

Prof. N. G. Ranga: Are these annual contributions or lump sum contributions?

The Honourable Sir Thomas Stewart: There is one contribution levied to begin with The necessity for further contributions depends on the success or non-success of the experiment

Prof. N. G. Ranga: How much contribution is asked for from each post office?

The Honourable Sir Thomas Stewart: That depends entirely on the circumstances of each particular case An estimate is made of what will be the probable loss and that is the amount of the contribution levied

Mr. M. Thirumala Rao: Will Government consider the desirability of giving distributing peons also to sub-post offices wherever they are started so that they may become more useful and bring in more revenue?

The Honourable Sir Thomas Stewart: It is part of the establishment of the post offices that there should be peons attached in order to deliver the letters.

INADEQUATE REPRESENTATION OF INDIANS IN PORT TRUSTS.

1281. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member for Communications state

(a) whether Government have received representations from relevant interests that the representation provided for Indian interests in Port Trusts are inadequate,

(b) if so, with reference to which ports; and

(c) whether any action has been taken by Government in the matter, and if so, what?

The Honourable Sir Thomas Stewart: (a) and (b) Representations have been received from time to time from Indian commercial interests for larger Indian representation on all Port Trusts, either generally or in connection with specific issues, such as the filling of a post or the giving of a contract in a particular Port In recent months such representations have been received in connection with the Port Trusts of Madras, Karachi and Calcutta

(c) I would invite the attention of the Honourable Member to the answer given to parts (b) to (d) of starred question No. 953 asked by Mr. Satyamurti on the 13th September, 1938.

Mr. T. S. Avinashilingam Chettiar: May I know whether these claims have been met in any case?

The Honourable Sir Thomas Stewart: If by meeting all claims the Honourable Member means has there been any recent re-distribution of seats on the Port Trust, the answer is in the negative

Mr. S. Satyamurti: In view of the *non-possumus* attitude assumed by Government in the answer to my last question, may I know whether Government have re-examined or propose to re-examine the question of giving adequate representation for Indians on these Port Trusts, in view of the fact that Indian commercial interests have grown in size and number and importance, since the Acts were last enacted?

The Honourable Sir Thomas Stewart: I do not accept the Honourable Member's description of the attitude of the Government as *non-possumus*. In the answer to the question which he asked in the last Simla Session, an indication was given that action was being taken

Mr. S. Satyamurti: May I know whether Government intend to introduce within the next budget session any legislation, with a view to amend the constitution of at least of some of the major Port Trusts, so as to give more adequate representation to Indian interests?

The Honourable Sir Thomas Stewart: No, Sir As at present advised the Government have no such intention.

Mr. S. Satyamurti: May I know the reasons why Government do not propose, in view of the number of Indian merchants using these ports, in view of the increase of the Indian share of the trade which passes through these ports, and in view of the well-known policy of Indianisation which this House constantly presses on the Government, may I know the reasons why Government have no intention of bringing in an amending legislation, to give more adequate representation to Indians?

The Honourable Sir Thomas Stewart: The Honourable Member's question was answered at some length by Mr Clow in the last Session

Mr. S. Satyamurti: I want to know why Government do not propose to re-examine that question

The Honourable Sir Thomas Stewart: That was not the Honourable Member's first question.

Mr. T. S. Avinashilingam Chettiar: May I know why Government do not propose to re-examine the question now?

The Honourable Sir Thomas Stewart: Because, with one exception, they are satisfied that the existing representation is proper and appropriate to the importance of the different trading interests in the various ports

Mr. T. S. Avinashilingam Chettiar: What is the exception referred to by the Honourable Member and what steps have been taken in that case?

The Honourable Sir Thomas Stewart: If the Honourable Member will refer to the answer given to Mr Satyamurti's question, he will find that enquiries have been made from the Government of Madras asking for their views regarding representation of various interests on the Madras Port Trust?

Mr. Manu Subedar: May I enquire how many years have elapsed since these Acts governing the constitution of these Port Trusts were passed last and which made a redistribution of the seats?

The Honourable Sir Thomas Stewart: I cannot give the date of the latest reconsideration, but very considerable changes have been carried out within the past ten years

ENROLMENT OF SPECIAL CONSTABLES DURING FLOODS ON THE EASTERN BENGAL RAILWAY.

1282. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state

(a) whether several persons of village Bagat, Dhopghat and Behrampur have been enlisted as special constables consequent on the cutting of the Eastern Bengal Railway lines near Behrampur during the extraordinary heavy floods, threatening crops and house property in August last,

(b) whether the Railway authorities made any complaint to the District authorities, written or verbal, regarding interference with Railway embankment, if so, what,

(c) whether Railway authorities suggested the above measures;

(d) whether he is aware of the public view that the enrolment of special constables is a punishment and disgrace; and

(e) whether any instructions are being issued to railways generally that in similar instances where villagers are threatened with grave peril to person and property by floods, no complaints should be made in similar cases?

The Honourable Sir Thomas Stewart: Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course.

SHIFTING OF THE OVERBRIDGE OVER THE CHANDRAKONA ROAD STATION ON THE BENGAL NAGPUR RAILWAY.

1283. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state

(a) if any complaint has been made to the Railway authorities about the inconvenience and danger to safety of the overbridge over the Chandrakona Road station, Bengal Nagpur Railway, being located in the eastern side of the station;

(b) whether the direction of traffic across the station is on the west of the station from where the main metalled road runs and where the shops and restaurants are situated;

(c) whether it is a fact that owing to the above reasons people generally cross the lines on the west side and run the risk; and

(d) whether shifting of the overbridge has been considered to meet public convenience and to avert danger to public?

The Honourable Sir Thomas Stewart: Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course

REVENUE RETURNS AND EXPENDITURE OF THE POSTS AND TELEGRAPHS DEPARTMENT.

1284. ***Mr. S. Satyamurti:** Will the Honourable Member for Communications please state

(a) the latest revenue returns for the Posts and Telegraphs Department as compared with those of last year;

(b) the expenditure in that department during that period as compared with the expenditure of last year, and

(c) whether there are any proposals for retrenchment which have been, or are proposed to be, given effect to?

The Honourable Sir Thomas Stewart: (a) and (b) A statement based on approximate figures is laid on the table

(c) Certain items of expenditure have been postponed and cuts have been imposed on expenditure under travelling allowance, contingencies and repairs The general instructions regarding economy in expenditure applicable to other Civil Departments are also applicable with modifications to suit special needs of the Department No proposals regarding retrenchment of staff are, however, under consideration

Statement of Revenue and Expenditure of the Posts and Telegraphs Department

	Revenue.	Expenditure.
Approximate up to October, 1938 . .	6 18 lakhs.	6 32 lakhs.
Approximate for corresponding period 1937	6 23 lakhs.	6 13 lakhs.

Mr. S. Satyamurti: May I know what, according to the information of my Honourable friend, is the net saving which is expected as a result of the economies which he mentioned in the Posts and Telegraphs Department?

The Honourable Sir Thomas Stewart: I am afraid I can give no estimate.

Mr. S. Satyamurti: May I know if the economies expected bear any proportion to the fall in revenues in the Posts and Telegraphs Department?

The Honourable Sir Thomas Stewart: Sir, I would be reluctant to say that there was any arithmetical relation between the two, but the end towards which we are working is that our budget should be balanced at the end of the year

Mr. S. Satyamurti: Are the Government paying special attention to the Telegraphs Department which is always a losing concern, and are they applying any special measures of economy to that part of the Posts and Telegraphs Department, so as to produce a balanced budget at least?

The Honourable Sir Thomas Stewart: Sir, before the present need for economy arose, the Government of India were fully seized of the necessity for carrying out every possible economy in the Telegraphs Department

Dr. Sir Ziauddin Ahmad: May I know whether the Government of India have satisfied themselves that the retrenchment does not affect the efficient working of the department?

The Honourable Sir Thomas Stewart: We trust that no steps will be taken which will impair the efficiency of the department

Mr. Abdul Qaiyum: May I know if economies will be effected by reducing the pay of the higher staff? That is a direction in which Government ought to economise

Mr. President (The Honourable Sir Abdur Rahim) That question does not arise It is a suggestion that has been made

ACQUISITION OF THE TELEPHONE SYSTEM IN MADRAS BY GOVERNMENT

1285. *Mr. S. Satyamurti: Will the Honourable Member for Communications please state

(a) whether the Government of India have been addressed by the Madras Telephone Company about the intentions of Government in respect of the acquisition of that line by Government,

(b) whether Government have considered the question of acquiring the paying lines as and when contracts fall due, or even earlier if possible, if so, what are the decisions they have come to thereon, and

(c) if not, when they propose to take up the consideration of the question?

The Honourable Sir Thomas Stewart: (a) Yes

(b) and (c). The question is under consideration.

Mr. S. Satyamurti: May I know if the communication from the Madras Telephone Company to the Government of India will be made available to the House?

The Honourable Sir Thomas Stewart: I am afraid that I am not in a position to lay on the table of the House the communication of a private party

Mr. S. Satyamurti: May I know whether, in considering and deciding this question, Government will take into consideration the fact that the comparatively non-paying lines are being worked by Government and the comparatively paying lines are being worked by these private companies?

The Honourable Sir Thomas Stewart: That is a very obvious consideration which will be before Government

Mr. S. Satyamurti: May I know if Government will also take into consideration the feeling of several sections of the House that these public utility services ought to be taken over by the Government as early as possible?

The Honourable Sir Thomas Stewart: Certainly

RECOMMENDATIONS OF THE WEDGWOOD COMMITTEE

1286. *Mr. S. Satyamurti: Will the Honourable Member for Railways please state

(a) what are the recommendations of the Wedgwood Committee on which Government have passed orders since the issue of the last blue book on the subject,

(b) the recommendations on which they have passed the order and the orders passed thereon, and

(c) whether Government propose to consult the House in respect of the major recommendations of the Wedgwood Committee, before they pass orders thereon, if not, why not?

The Honourable Sir Thomas Stewart: (a), (b) and (c) I would refer the Honourable Member to the replies given to starred question No. 637, asked by him on 31st August, 1938, and starred question No 836 asked by him on 8th September, 1938, in this House and to supplementaries asked in connection with those questions It is expected that the revised statement showing further decisions arrived at on certain recommendations of the Railway Enquiry Committee will be ready soon and will be made available to the House

Mr. S. Satyamurti: With reference to my previous question, I was told that they have passed certain orders on certain other recommendations, which they were not in a position to tell the House; today, again, I am told that they have passed certain other orders which will be made available to us later on What happens to the House then? I submit they should not pass orders on certain recommendations before the House had an opportunity of considering them We are not told *ex post facto*, that is, till the matter becomes too late I should like to know from the Honourable Member when the Government propose to place on the table of the House a further report on the recommendations of the Wedgwood report on which they have passed orders, that is to say, whether it will be placed on the table of the House before we rise for this session?

The Honourable Sir Thomas Stewart: I should be very happy if we were in a position to do so I shall make every endeavour that it should be placed on the table of the House

Mr. S. Satyamurti: What is the specific answer to part (c)? That is, I am talking of the major recommendations of the committee, involving policy, finance, federal railway authority, future management, future acquisition of company-managed railways on which they have made far reaching recommendations May I have an assurance from Government that, in respect of these major recommendations involving policy or finance, no orders will be passed by Government without consulting this House?

The Honourable Sir Thomas Stewart. I am not in a position to say anything more than what was stated by my predecessor, Sir Sultan Ahmad, in the course of the general debate on the Wedgwood report

Mr. S. Satyamurti: Have Government since examined these recommendations? The Honourable Sir Sultan Ahmad gave a general assurance that, except in regard to matters to which he referred, further action would be postponed I am asking specifically with regard to several major recommendations of the Wedgwood Committee involving, I repeat important questions, *e g*, the question of the future management of company-managed railways, extending their contracts not terminating them, the position of the State railways with regard to the raising of loans in the open market, apart from Government, and many other important matters,—I have mentioned only one or two of them for my Honourable friend's recollection,—I am asking whether, in respect of these matters, the House will be given an opportunity to express its opinion before Government pass orders thereon

The Honourable Sir Thomas Stewart: The answer to that question, Sir, is that whether any particular matter should be referred to this House depends on the merits of the particular matter in question

Mr. S. Satyamurti: I have asked a specific question in clause (c), whether Government propose to consult the House in respect of the major recommendations of the Wedgwood Committee before they pass orders thereon, if not, why not? The phrase "major recommendations", I submit, is a well understood English phrase, and I have also given my Honourable friend some indication of what is in my mind I want to know whether Government have considered this question, and come to any conclusion as to consulting the House or not before they pass final orders

The Honourable Sir Thomas Stewart: So far as I am aware no decisions on recommendations of a major character have been taken

Dr. Sir Ziauddin Ahmad: The Honourable gentleman is aware of the recommendations of the Public Accounts Committee on the Wedgwood Committee as embodied in the report I want to ask whether Government have taken any action on any matter contrary to the recommendations of the Public Accounts Committee?

The Honourable Sir Thomas Stewart: Sir, I cannot see that the recommendations of the Public Accounts Committee arise out of this question

Dr. Sir Ziauddin Ahmad: The Public Accounts Committee made a specific recommendation on the Wedgwood Committee's report.

Mr. President (The Honourable Sir Abdur Rahim) No 1288

†1287*.

TELEPHONE CALLS BETWEEN SHILLONG AND SYLHET

1288. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state

(a) the number of telephone calls between Shillong and Sylhet in the three months August, September and October, 1938, as also the figure for the previous three months;

(b) the revenue for those calls earned in the first and second periods of three months,

(c) what the increase or decrease is due to, and

(d) whether it is proposed to increase the rates charged for the calls, if not, why not?

The Honourable Sir Thomas Stewart: (a), (b) and (c) I regret that the information required by the Honourable Member is not available

(d) The reply to the first part is in the negative The rates are fixed according to a standard adopted for the whole of India on the basis of radial distances and there is no reason why calls between Shillong and Sylhet should be charged for on a different and higher basis

Mr. Brojendra Narayan Chaudhury: May I know why the number of calls are not available?

The Honourable Sir Thomas Stewart: Because the figures in question are not recorded

Mr. Brojendra Narayan Chaudhury: If the number of calls are not recorded, how do they charge the customers?

The Honourable Sir Thomas Stewart: The Honourable Member is asking the rate at which we charge?

Mr. Brojendra Narayan Chaudhury: No, Sir The Honourable Member has replied that these figures are not available If the number of calls are not recorded how are customers charged?

The Honourable Sir Thomas Stewart: Each call is recorded on a separate ticket which is sent in to the central accounting office and the charges are made on each individual ticket

Mr. Brojendra Narayan Chaudhury: Could not the figures be obtained from the accounting office?

†This question was withdrawn by the questioner

The Honourable Sir Thomas Stewart: No, Sir

Mr. Brojendra Narayan Chaudhury: Why not, Sir?

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

DETENTION OF MAIL BETWEEN SURMA VALLEY AND CHITTAGONG AT LAKSAM.

1289. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state

(a) whether the mail between Surma Valley and Chittagong is detained at Laksam, or at another station in its journey by rail, if so, for how long,

(b) whether there has been any correspondence between the Postal Department and the Railway regarding the detentions or any undue delay by halting of the train, if so, why it has not been found possible to prevent detention and delay, and

(c) if the reply to part (b) be in the negative, whether the Postal Department propose to start correspondence, if not, why not?

The Honourable Sir Thomas Stewart: (a) Mails between the Surma Valley and Chittagong District with the exception of uninsured articles of the letter mail for and from Chittagong town are detained at Laksam for about twenty-two hours

(b) and (c) No correspondence with the Railway has, I am informed, taken place recently, but the Postmaster General, Bengal and Assam Circle, is being asked to examine the existing arrangements with a view to see whether the detention cannot be avoided or materially reduced

Mr. Brojendra Narayan Chaudhury: Will the Honourable Member suggest to the postal authorities that the down mail from Surma Valley be carried by 6 Down which leaves Laksam about three hours after the mail reaches Laksam by 2 Down?

The Honourable Sir Thomas Stewart: Certainly we shall consider the suggestion made by the Honourable Member

DISCRIMINATION IN THE SUPPLY OF WATER IN THE RAILWAY COLONIES OF PAHARTALI AND CHITTAGONG

1290. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state if it is a fact that water supply arrangement in the Railway colonies of Paharatali and Chittagong is discriminatory, *i.e.*, Europeans being served with continuous supply for twenty-four hours, and Indians with an intermittent supply? Is the discrimination strictly based on grades of pay? If not, on what other consideration?

The Honourable Sir Thomas Stewart: Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course.

Mr. S. Satyamurti: May I know the reason for the delay in the answer to this question, which involves a matter of racial distinction on which the House feels strongly?

The Honourable Sir Thomas Stewart: The geographical dimensions of India

Mr. S. Satyamurti: Are there no telegraph lines and telephones? My submission is that, in a matter of racial discrimination, an answer like this means no supplementary questions can be raised I submit that unless they can give some reasonable reason as to why they cannot give the answer. . .

Mr. President (The Honourable Sir Abdur Rahim) I do not know whether it would be easy to get answers by telegram

Mr. S. Satyamurti: Is it difficult?

Mr. President (*The Honourable Sir Abdur Rahim*) *It may not be difficult, it may be unsatisfactory*

Mr. S. Satyamurti: *Have they made any effort to get any answer to this question by telegram, and can they say there were special difficulties?*

The Honourable Sir Thomas Stewart. The difficulty I explained is the extent and size of India

Prof. N. G. Ranga: What about the telegraph, Sir?

The Honourable Sir Thomas Stewart: I think the telegraph is an inconvenient method of getting information at considerable length

Mr. S. Satyamurti: May I draw the Honourable Member's attention to the fact that, in the House of Commons, His Majesty's Government answer questions relating to the "far-flung British Empire" and they do not go on asking for notice again and again? Why do not the Government of India employ the same means, the telegraph?

The Honourable Sir Thomas Stewart: Is the Honourable Member referring particularly to this question or to all questions?

Mr. S. Satyamurti: I am asking about this question

The Honourable Sir Thomas Stewart: I see no reason why this question should be treated differently to any other

Mr. S. Satyamurti: The reason is this In this country, we are constantly humiliated by our European masters And here is a case of Europeans getting water over 24 hours, while Indians get an intermittent supply I am asking why he did not get a telegraphic answer?

The Honourable Sir Thomas Stewart: If it is the suggestion of the Honourable Member that I have deliberately delayed in getting the answer to this particular question because of the issues involved, I would repudiate that suggestion very strongly

Mr. Sri Prakasa: Is it not that, because of their personal habits, Europeans in India require less water than Indians?

Mr. President (The Honourable Sir Abdur Rahim): Order, order! No 1291

INDIANS IN PALESTINE.

1291. *Mr. Badri Dutt Pande: (a) Will the Secretary for External Affairs be pleased to state how many Indians there are in Palestine?

(b) Have any of them been killed, or have suffered any injury or monetary loss, in the communal tension that is going on there? If so, will the Secretary be pleased to state details?

Sir Aubrey Metcalfe: The attention of the Honourable Member is invited to my answer to parts (a) and (b) of Mr Santhanam's question No 1198 on the 10th November, 1938

With regard to the monetary loss incurred by Indians in Palestine, the Government of India have no information

Mr. Badri Dutt Pande: Will they call for information on the subject?

Sir Aubrey Metcalfe: No, they have received no complaints

1291A. *Mr. T. S. Avinashilingam Chettiar: Sir, I do not wish to put this question as I do not think it is any use putting it

ABOLITION OF SLAVERY IN THE PANGSHA TRIBAL AREA

1291B *Mr. Badri Dutt Pande: With reference to the expedition of the Assam Rifles headed by the Deputy Commissioner, Naga Hills, for the abolition of slavery in the Pangsha tribal area, will the Secretary for External Affairs be pleased to state

(a) the number of the slaves rescued,

(b) the methods employed for rescue of the slaves, and

(c) whether it is said in the press *communiqué* "By the punishment of the Pangsha tribe a reign of terror over a wide area was ended at any rate for some time," and what was the nature of the punishment inflicted on the tribes?

Sir Aubrey Metcalfe: (a) Seven

(b) The expedition secured the release of the slaves by punishing the tribe who declined to surrender them.

(c) Yes. Two of the offending villages were burnt and fines were inflicted on two others.

Mr. Badri Dutt Pande: Were any fines levied from those tribal areas?

Sir Aubrey Metcalfe: Not from the areas I have stated that fines were inflicted on two offending villages.

Mr. Badri Dutt Pande: Were any tribal people imprisoned?

Sir Aubrey Metcalfe: Not so far as I know.

Mr. Badri Dutt Pande: Were any houses burnt?

Sir Aubrey Metcalfe: Yes, two villages were burnt

ARTICLE ENTITLED "PLIGHT OF FRONTIER HINDUS" PUBLISHED IN THE *LEADER*.

1291C. ***Mr. Badri Dutt Pande:** (a) Will the Secretary for External Affairs be pleased to state if he has seen a suggestive article by Rai Mehr Chand Khanna Bahadur, M L A , published in the *Leader* of the 23rd October, 1938, on page 8, under the caption "Plight of Frontier Hindus"?

(b) What is the amount of the frontier allowance which is paid annually to the inhabitants of the unsettled areas? Is it the intention of Government to stop this payment, especially to those people who harbour outlaws?

(c) What steps have Government taken, or propose to take, to regulate the influx of the people from the tribal areas into the settled districts?

(d) Are there any Sikhs or Hindus in the Frontier Constabulary or Khassadar Force?

Sir Aubrey Metcalfe: (a) Yes

(b) The average annual expenditure on tribal allowances during the last three years is Rs 7,02,798 The stoppage of allowances is one of the methods commonly used in applying pressure to persons who harbour outlaws It is impossible, however, to say that this method will be used in every case

(c) Those tribesmen whose tribes or sections are acting in an unfriendly manner towards residents of British territory have been totally debarred from access to settled districts

(d) There are three Hindus in the Frontier Constabulary, and no Sikhs or Hindus in the Khassadar Forces

Mr. Abdul Qaiyum: With reference to part (c) of the question, is it a fact that these allowances are only paid to those people who favour the forward policy which is being pursued by the Government?

Sir Aubrey Metcalfe: No

Pandit Krishna Kant Malaviya: Is it due to these allowances that all these troubles in the Frontier Province are happening?

Sir Aubrey Metcalfe: No

Mr. Abdul Qaiyum: In how many instances last year were these tribal allowances stopped in the case of tribes who harboured outlaws?

Sir Aubrey Metcalfe: I should have to have notice

Mr. Abdul Qaiyum: Is it not a fact that a large number of outlaws from the settled districts are harboured in the tribal belt to the knowledge of the political authorities, and yet Government are going on paying them for the pleasure of harbouring these outlaws?

Sir Aubrey Metcalfe: No I have explained that the stoppage of allowances is one of the methods used to bring pressure on tribesmen who do harbour outlaws

Mr. Abdul Qaiyum: May I know if it has ever been so used? To my knowledge these allowances have never been stopped for the offence of harbouring outlaws

Sir Aubrey Metcalfe: To my knowledge they have

Mr. S. Satyamurti: What are the principles on which these allowances are paid to the inhabitants of the unsettled areas? Or, is it merely a question of patronage?

Sir Aubrey Metcalfe: They are usually paid as a result of agreements made with the tribes many years ago

Mr. Abdul Qaiyum: May I know if Government will consider the desirability of spending these Rs 7 lakhs on education and for starting industries, rather on payments to these maliks and tribes?

Sir Aubrey Metcalfe: That is a suggestion for action and not a request for information

Mr. Abdul Qaiyum: What are the results which Government have obtained for India and the Indian taxpayer as a result of spending these amounts for many years on these allowances?

Sir Aubrey Metcalfe: That again is a question of which I should require notice

Mr. T. S. Avinashilingam Chettiar: May I know if Government have ever considered the desirability of spending some of this money on education in this tribal area?

Sir Aubrey Metcalfe: They are always considering the desirability of any methods which may lead to further pacification

INDIANS IN TANGANYIKA

1291D. *Mr. Badri Dutt Pande: Will the Secretary for External Affairs be pleased to state how many Indians there are in the Tanganyika Colony and what are their assets?

Sir Aubrey Metcalfe: The question should have been addressed to the Secretary, Department of Education, Health and Lands

UNSTARRED QUESTIONS AND ANSWERS

NEW GOODS LINK SERVICE INTRODUCED ON THE BENGAL NAGPUR RAILWAY.

91. Mr. P. R. Damzen: Will the Honourable Member for Railways please state whether under the New Goods Link Service introduced on the Bengal Nagpur Railway the Loco staff maintained for goods service are

being booked as passengers to balance power, or are being returned to headquarters as passengers when there are no goods trains available to be worked back and that they are not being paid for the time spent on their journeys to or from their headquarter stations?

The Honourable Sir Thomas Stewart: This is a matter of detailed administration on which Government have no information I am, however, sending a copy of the question to the Agent and General Manager for such action as he may consider necessary

RESTORATION OF OLD PASS RULES TO RAILWAY EMPLOYEES

92. Mr. P. R. Damzen: (a) Will the Honourable Member for Railways be pleased to state whether any decision has been reached in regard to the Railway employees' demand for restoration of the old pass rules?

(b) If the reply to part (a) be in the affirmative, will the Honourable Member be pleased to lay on the table a statement showing detailed conclusions reached on the subject?

(c) If the reply to part (a) above be in the negative, will the Honourable Member be pleased to state when a decision is likely to be reached? In view of the assurance given on the floor of this House on the 26th August, 1938, in reply to a question by Mr Lalchand Navalrai to the effect that a decision on this question would be given after the Motor Vehicles Bill had been dealt with, do Government propose to expedite the matter?

The Honourable Sir Thomas Stewart: (a) Yes

(b) The conclusions arrived at are

(i) that the number of passes admissible per annum to officers recruited hereafter will be six sets, instead of twelve sets as at present

(ii) that subordinate employees on the old scales of pay, with not less than 25 years' service, will be given annually four sets of passes, instead of three sets as at present

(c) Does not arise

PUTTING OF MUSLIMS ON UNIMPORTANT WORKS ON THE EASTERN BENGAL RAILWAY

93. Mr. Muhammad Nauman: Is the Honourable Member for Railways aware of the fact that mostly Muslims in subordinate services on the Eastern Bengal Railway are permanently put to work in unimportant works of sections in all departments and these arrangements debar them from showing their merits and render them inefficient in sectional work to compete for higher grades, which always depend on the nature of work they have performed?

The Honourable Sir Thomas Stewart: Government are informed that the facts are not as stated by the Honourable Member

DENIAL OF LEAVE TO MUSLIMS FOR SAYING THEIR FRIDAY PRAYERS ON THE EASTERN BENGAL RAILWAY

94. Mr. Muhammad Nauman: Is the Honourable Member for Railways aware of the fact that Muslim employees on the Eastern Bengal Railway are not allowed leave for saying their Friday prayers, and they have got no prayer rooms within their reach to say even their daily regular prayer?

The Honourable Sir Thomas Stewart: It is not practicable to permit a large number of Muslim employees to stop work for a long period on Fridays, nor do Government admit the liability of providing prayer rooms for members of any community

DENIAL OF HALF AN HOUR'S LEAVE TO MUSLIMS ON THE EASTERN BENGAL RAILWAY DURING *RAMZAN*.

95. Mr. Muhammad Nauman: Is the Honourable Member for Railways aware of the fact that the Eastern Bengal Railway Administration practically do not allow Muslim employees to leave offices at least half an hour before the breaking of fast in the sacred month of *Ramzan* without forcing them to come to office half an hour earlier in the morning?

The Honourable Sir Thomas Stewart: The normal working hours of clerks in the Headquarters Office of the Eastern Bengal Railway are

Monday to Friday—10-25 A M to 5 P M with no recess

Saturday—10-25 A M to 2 P M with no recess

During the month of *Ramzan*, however, Muslim clerks and draftsmen are permitted to leave office at 4-30 P M, *i e*, half an hour before the prescribed closing time provided they come to office everyday half an hour earlier than the prescribed opening time Any departure from this practice would result in Muslim employees working shorter hours than members of other communities

POST OF ASSISTANT LAW OFFICER ON THE EASTERN BENGAL RAILWAY

96. Mr. Muhammad Nauman: (a) Is the Honourable Member for Railways aware of the fact that the post of Assistant Law Officer on the Eastern Bengal Railway sanctioned by the Railway Board was given to the Law Officer's son approved by the General Manager?

(b) Will the Honourable Member state if this post was at all advertised to give a chance to the minor community, whose quota is low in every respect and, if not, why not?

The Honourable Sir Thomas Stewart: (a) The post of the Assistant Law Officer is not in the railway cadre He is appointed and paid for by the Law Officer out of the fees received by the latter from the railway for professional services rendered by him

(b) Does not arise.

MESSAGE FROM H E THE PRESIDENT OF THE TURKISH REPUBLIC.

Mr. President (The Honourable Sir Abdur Rahim). Before the House begins the business of the day, I may inform Honourable Members that in acknowledgment of the message of condolence which was passed by the House the other day and transmitted as desired to His Excellency the President of the Turkish Republic I have received this telegraphic message from him

"Very touched by the valued manifestation of sympathy with which the Legislative Assembly has been pleased to honour the memory of Ataturk I beg you to be so good as to accept my thanks and to convey them to the members* INONNU"

AMENDMENTS TO THE OTTAWA TRADE AGREEMENT RULES

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour) Sir, I lay on the table a copy of further amendments of the Ottawa Trade Agreement Rules, 1932

DEPARTMENT OF COMMERCE

NOTIFICATION

New Delhi the 2nd April, 1938

No 20-T (4)/38—In exercise of the powers conferred by sub-section (2) of section 3 of the Indian Tariff Act, 1934 (XXXII of 1934), the Central Government is pleased to direct that the following further amendment shall be made with effect from 1st June, 1938 in the Ottawa Trade Agreement Rules, 1932 namely —

After rule 5 of the said Rules, the following rule shall be inserted, namely—

"5A (1) No claim that goods are chargeable with a preferential rate of duty shall be considered by the Customs Collector in respect of goods imported by post unless—

(*a*) At the time of arrival in British India such goods bear on the covering a declaration as to the country of origin, or

(*b*) such claim is made by the owner at any time before delivery of the goods is taken

(2) If the owner of the goods is unable to satisfy the Customs Collector that the goods fulfil the conditions laid down in rule 4 or rule 4 read with rule 4A, the Customs Collector shall proceed in the manner laid down in rule 5"

M SLADE,

Joint Secretary to the Government of India

No 20-T (4)/38

A copy of the above notification is forwarded to all Provincial Governments, Chief Commissioners, the Political Officers and to all Departments of the Government of India except the Home and External Affairs Departments, to the Private Secretary to His Excellency the Viceroy and to the Military Secretary to His Excellency the Viceroy

*This is the translation of the original message in French which was as follows :—

"Tres touche de la precieuse manifestation de sympathie dont L Assemblee Legislative a bien voulu honorer la memoire D Ataturk je vous prie de bien vouloir recevoir mes remerciements et les transmettre a ses membres INONNU."

A copy is also forwarded to all Collectors of Customs, the Principal Collector of Customs, Colombo, the Collectors of Salt Revenue, Bombay and Madras, the Accountants General, Madras, Bombay, Bengal and Burma, the Comptroller, Sind, Karachi, the Accountant General, Central Revenues, New Delhi, the Chief Customs Officer, Port Okha (Kathiawar), the Director-General of Commercial Intelligence and Statistics, the Secretary, Tariff Board, the High Commissioner for India, London, the Indian Trade Commissioner, London, the Director, Federation of British Industries, London, the Indian Government Trade Commissioners, Hamburg, Germany, Milan, Italy, Osaka, Japan, and Mombassa, British East Africa, His Majesty's Trade Commissioner in India, all Chambers of Commerce and Associations, the Canadian Government Trade Commissioner in India, the American Trade Commissioner, Calcutta, the Chief Controller of Stores, Indian Stores, Department, and to the Central Board of Revenue

A copy, with fifteen spare copies, is also forwarded to the Government of Burma

By order, etc,

G CORLEY-SMITH,

Assistant Secretary to the Government of India

DEPARTMENT OF COMMERCE

NOTIFICATION

TARIFFS

Simla, the 10th September, 1938

No 20-T (29)/38—In exercise of the powers conferred by sub-section (2) of Section 3 of the Indian Tariff Act, 1934 (XXXII of 1934), the Central Government is pleased to direct that the following further amendment shall be made in the Ottawa Trade Agreement Rules, 1932, namely —

For clause (*a*) of sub-rule (1) of rule 5A of the said Rules, the following clause shall be substituted, namely —

"(*a*) At the time of arrival in British India such goods are covered by a declaration as to the country of origin entered in the customs declaration form or (in the absence of such a form) on the wrapper of the package"

N R PILLAI,

Joint Secretary to the Government of India

No 20-T (29)/38

A copy of the above notification is forwarded to all Provincial Governments, Chief Commissioners, the Political Department and the Political Officers to all Departments of the Government of India except the Home and External Affairs Departments, to the Private Secretary to His Excellency the Viceroy and to the Military Secretary to His Excellency the Viceroy

A copy is also forwarded to all Collectors of Customs, the Principal Collector of Customs, Colombo, the Collectors of Salt Revenue, Bombay and Madras, the Accountants General, Madras, Bombay, Bengal and Burma, the Comptroller, Sind, Karachi, the Accountant General, Central Revenues, New Delhi, the Chief Customs Officer, Fort Okha (Kathiawar), the Director-General of Commercial Intelligence and Statistics, the Secretary, Tariff Board, the High Commissioner for India, London, the Indian Trade Commissioner, London, the Director, Federation of British Industries, London, the Indian Government Trade Commissioners, Hamburg, Germany, Milan, Italy, Osaka, Japan, Mombassa, British East Africa and New York, United States of America, His Majesty's Trade Commissioner in India, all Chambers of Commerce and Associations, the Canadian Government Trade Commissioner in India, the American, Trade Commissioner, Calcutta, the Chief Controller of Stores, Indian Stores Department and to the Central Board of Revenue

A copy, with fifteen spare copies, is also forwarded to the Government of Burma

By order, etc,

G CORLEY-SMITH,

Assistant Secretary to the Government of India.

The Honourable Sir James Grigg (Finance Member) Sir, I move

"That the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee, be taken into consideration"

The Report of the Select Committee has been now in the hands of Members for six days I would like to begin this morning by expressing my gratitude to all the Members of the Committee The House may be interested, even perhaps surprised, given the character of the Finance Member and the quality of the subject, to be told that never at any time was there a jarring or ill-tempered note Controversies there were of course, and I am bound to confess that there were occasions when several persons were addressing the Committee at the same time But there were comparatively few occasions when these controversies had to be brought to the arbitrament of the vote, and for the rest, I think, we all of us worked to hammer out a Bill which would meet, or try to meet all the legitimate criticism which had been raised against the original draft Where everybody collaborated I think it might perhaps be regarded as invidious to single out anyone for special mention, but I would like to say how much the Leader of the Opposition contributed to the labours of the Committee It is true that to the consideration of some questions he unfortunately came with a closed mind,—but then so did I—so who am I to complain about that? Apart from these—and they were comparatively few—he certainly threw his immense knowledge, skill and energy into the common pool Whether in the end he will be proud of his work in the Committee or not, I cannot say, but I certainly think he ought to be, and it is certainly true that if the Bill is passed into law, in anything like its present form, it will bear the impress of his skill and knowledge My gratitude to him is of course tinged with a certain regret that my time in India has been so largely spent in public controversy with him, but I think I may say that in spite of the fact that our public relations have been of a somewhat unfriendly character, there is nothing of the sort in our private relations

The main report sets out in detail the changes which have been made, and I do not want to waste the time of the House by going over them again In general I think it may fairly be said that we made no fundamental alteration in the Bill, that it has been stiffened up against the tax-dodger and that we have tried to soften its rigours in the interests of the honest taxpayer wherever it has seemed safe to do so In this latter respect it will be obvious from the report that some Members of the Committee wanted to go further, but even at the risk of losing my novel and entirely agreeable reputation for sweet reasonableness I must, in honesty, say that I do not think that this process of relaxation can be carried appreciably further There are two very serious dangers to be guarded against The first is that in giving the honest taxpayer an umbrella you will make it big enough to shelter a number of artful dodgers, with the result that the artful dodgers will seize the umbrella and push the honest taxpayer out into the rain, with the result that the honest man has got to pay a higher rate of tax by reason of their dodging. The second is that by providing in advance against all possible forms of tyranny on the part of the income-

tax administration we shall so slow down the machine that a great deal of revenue is lost, and lost not in favour of the honest but tyrannically treated taxpayer, but lost in favour of the obstructive and dishonest I, therefore, ask Members, whenever they may be tempted to think that I am being unreasonable in resisting amendments, that they should bear in mind these considerations I do not for one moment mean to say that we intend to make the machine harsher for honest and dishonest alike We do intend quite definitely to make it much harsher against the dishonest, but we have every intention of so improving the administration that none but the evasive and dishonest have any reason to fear it The powers to deal with obstruction and dishonesty must be there, but in the long run decent administration and supervision must be relied upon to ensure they are not being used against the righteous There is one special topic I might mention in passing, namely, that of section 49 of the original Act relating to double income-tax relief Now that the Congress high command have publicly associated themselves with the Federation of Indian Chambers of Commerce and have ordered Provincial Governments to do the same, we are bound to hear a good deal about this I hope that we shall be able to discuss the matter in a non-controversial spirit, at any rate I do not propose to be the first to introduce controversy which would be entirely out of keeping with the spirit in which the Select Committee conducted its task

Mr. S. Satyamurti (Madras City Non-Muhammadan Urban) Then, please get the sanction for us!

12 NOON

The Honourable Sir James Grigg: You throw the first stone

I think it wiser, therefore, to reserve the main burden of my remarks on this subject until my final reply

Sardar Sant Singh (West Punjab Sikh) We would like to have the figures

The Honourable Sir James Grigg: The Honourable Member might at least let me finish my sentence

For the present I will content myself with giving three or four figures in order that Honourable Members, and especially the Honourable Member from the Punjab, may be able to view the question in a proper perspective I am not going in for any argumentation I am merely giving the basis of information on which the House may work, and I ask the House to bear in mind this succession of figures

An Indian company operating in India under the present law pays in all about 3⅛rd annas in the rupee

An English company operating in India under the existing law pays at present in all 4¼ annas in the rupee

If section 49 is repealed, the English company operating in India will pay more than 5¼ annas in the rupee, and if the United Kingdom also repeals its reciprocal relief, the English company operating in India will pay 7¼ annas in the rupee

That is the first set of figures.

The second fact is that for every lakh of relief that India gives in respect of these doubly-taxed companies as a whole, the United Kingdom

[Sir James Grigg]

gives two lakhs, in other words, the United Kingdom at present bears at least two-thirds and probably more of the cost of the relief

A third set of facts relates to the total amount at stake I see quoted in another place the figure of 130 lakhs a year, and, certainly, in some earlier years the total amount of relief reached that figure. The figure, according to latest statistics, is about 85 lakhs, of which 25 lakhs is company super-tax or corporation tax which accrues to the Centre, so that the amount available to augment provincial finances if this relief is repealed, is not 130 lakhs, but 60 lakhs, and that figure is not appreciably different from the amount we should hope to get if the present clause 4 is passed into law plus the concomitant repeal of the exemption of leave salaries from income-tax

I might now go on to say a few words about the three general points raised in the reservation signed by the five Congress Members of the Committee The first point related to the need for simplification, and I apologise for placing before the House the experience in Great Britain in this connection In England the tax has been in operation for 189 years, and for the whole of that time people have been saying that the income-tax is too complicated and that the complications are unnecessary And I take it that the first point raised in this reservation of the five Opposition Members is, that although the income-tax law is far simpler than the English law, it is still much too complicated Perhaps I might be allowed to read a few extracts, first from the Macmillan Codification Committee on this subject, and, secondly, from the American Review of the Macmillan Report

"Income-tax in this country was first imposed in 1799 by a Statute introduced by the younger Pitt to meet the cost of the Napoleonic Wars This Act contained no fewer than 124 lengthy sections and several schedules The Government of the day sought to allay the dismay which a measure of such formidable complexity might occasion by issuing as a separate publication 'A Plain Short, and Easy Description of the Different Clauses of the Income-tax, so as to render it familiar to the meanest capacity' It is to be feared that this well meant effort failed of its purpose, for it is best remembered now as the subject of a caricature by Gillray But it is not without interest to note that from the very outset the intricacy of our income-tax legislation was the subject of popular derision"

I will now quote a few extracts from paragraph 20 of the Report

"Probably no chapter of our legislation has incurred more condemnation from the judiciary for its drafting imperfections It would be easy to compile a lengthy anthology of judicial censure

No one could be more sympathetic with the difficulties which beset the draftsman's task than we are after our experience of them in the course of our own labours, and we discuss the matter more fully hereafter; for the present we are only concerned to exhibit the nature of the statutory material upon which we have had to work"

Again paragraph 24 says

"To state the simplest rule in terms which are proof against misinterpretation requires the highest skill The difficulty becomes immensely greater when it is necessary to legislate in general terms so as to cover every conceivable case which may arise in a region of infinite diversity.

Time and again, as a particular clause has been under discussion by the Committee, it has been found to afford scope for criticism which might well have proved interminable, had it not been recognised that our task was not to achieve logical perfection, but to produce an instrument for practical use

"*Paragraph 86*.—From what we have said above, it will be obvious that to expect from us a codification of the law of income-tax which the layman could easily read and understand was a vain hope, which only the uninstructed could cherish. Our instructions were to aim at 'making the law as intelligible to the tax-payer *as the nature of the legislation admits*', and the significance of these qualifying words will be manifest Income-tax legislation must, by its very nature, be abstract and technical, and can never be easy reading."

I think the Honourable the Leader of the Opposition will agree with this·

"It is concerned with principles and methods of calculation which it is difficult to express in words without an appearance of complication, as any one will realise who attempts to describe in writing even a simple mathematical process"

Now, here are a few extracts from an American Review of the Macmillan Committee's Report

"The intricacy of our own income-tax seems at least more unavoidable in the light of this result of years of effort by British experts", *I think this Committee took about seven years for its labours*—

"Certain it is that the draft of the Bill recommended in the present report is far from easy reading and presents not a few perplexities to an American reader

It is in the field of practice and administration that the English most excel, and we have most to learn Important lessons on these points can be learned from many places in the report In over a century, reported English income-tax cases number about 1,800, which the Committee rightly refers to as a 'vast body of judicial interpretation' But already our own case law on the subject bulks nearly ten times as large and shows no signs whatever of diminishing. In refusing to establish a practice of administrative finality we necessarily weaken the quality of administrative action There is in this an everwidening vicious circle The extent to which we can safely follow the British example in these matters is, of course, debatable That we should give more careful attention to such problems seems hardly open for dispute"

I take it that the intention of that American Review is to show that Americans have tried to have a comparatively simple income-tax law and have thrown upon the courts to a much greater extent the responsibility of interpreting it than in the case of the English law, and their attempt at simplification has in fact been a great mistake

Now, I think those extracts will show, as I started out to show, in dealing with the subject of income-tax, that complications are inevitable if the law is to be both comprehensive and equitable Take one difficulty. Economists are by no means agreed as to what does constitute income, and, therefore, for a practical measure we have to abandon theoretical considerations and specify piecemeal how we propose to charge different kinds of income I agree that it would be much simpler if we could have a simple provision and leave it at that—much simpler for the Legislature, but not for the taxpayer This particular reservation gives one example of the kind of simplification which the five Members think might be adopted They want a section which says categorically that incomes shall not be taxed twice in the same hands, and they think that if that principle were embodied in one place in the Bill, in a good many other places where it is now embodied it could be omitted This principle has already been recognised both in the United Kingdom and in India, and to the best of my knowledge, not even the most ardent and tyrannical income-tax officer has ever tried to tax the same income twice There are judicial rulings in the United Kingdom to the effect that even without an express provision in the Act it would be quite wrong to do this. Therefore, since this principle is already judicially recognised, I do not think it will save complication but rather add to it, to state it specifically as an over-all provision in the

[Sir James Grigg.]

Act The third point raised—I will come back to the second one on the slab system—the third point raised in this particular reservation is, I think, purely a matter of drafting. It is quite true that as a result of this reservation we have looked into the Bill and have found one duplication already which will be the subject of amendment when we come to the relevant clause, that is, the method of calculating tax as provided in section 15 and again in section 17 So far we have not noticed any other duplication or obscurity, but if Honourable Members think that they have discovered them and if they will point them out they will certainly be considered very carefully But I am afraid that these minor amendments are not going to simplify the Bill very much, as the authors of the Dissenting Minute hoped, and if they will forgive me, I would like to point out in their Minute a certain sentence which discloses the very type of absurdity which the authors condemn in the Bill The sentence is this

"This would very much simplify the provisions dealing with calculation of income-tax, if not render them wholly unnecessary"

Surely, the Honourable Members do not mean that you can so simplify the Act as to make no income-tax payable, and if there is some income-tax to be paid, it seems to me that you must make some provision for its calculation I use this example as an illustration, not in any spirit of superiority, but merely in order to point out that you have got to be on your guard against attempts to introduce in a complicated measure an appearance of simplicity which, in fact, does not achieve reality

Now, Sir, I come to the second point in their Note of Dissent which relates to the "slab" system The proposal is to change over from the "step" system to what is called the "slab" system, the "step" system being a system of charging income-tax at a single rate on the whole income of each taxpayer with certain marginal reliefs, and the "slab" system being a system of charging successive slices of income at progressively higher rates of tax, the first slice bearing no tax whatsoever The proposal to introduce this system has been very generally welcomed, and it has been suggested that, although this matter of rates is primarily a matter for the annual Finance Bill, some specific declaration on the "slab" system should be adopted in the Bill Of course, it is conceded that it would be quite improper to tie ourselves down or to provide in this present Bill the actual scale of rates, because that would preclude the discussion of it at the time of the budget, but I am afraid that without inserting the actual rates of the scale into the Bill it is not possible to provide more specifically for the "slab" system than we have done There are in various places in the Bill provisions which would not be there if it were not the intention to adopt the "slab" system and which would have to be altered if the "slab" system were omitted. Honourable Members will notice that one of the changes made by clause 3 of the Bill is to omit the words "applicable to the total income of an assessee" after the words "rate or rates". That is made solely with the idea of introducing the "slab" system Then again, in old section 17 of the Act there was a provision for marginal reliefs which becomes unnecessary under the "slab" system, and that provision has been omitted There are other indications too in other alterations For example, the addition of sub-section (4) to section 15 made by clause 16 of the Bill would be entirely meaningless but for the abolition of the "step" system, and so would the change made by

clause 70 in sub-section (3) of section 58-G So that I hope Honourable Members will now be satisfied that it is not possible to go further than we have done in providing in the Bill for the "slab" system I realise that that rather precludes the discussion of the Bill in relation to any specific scale But, nevertheless, I think I might remind Honourable Members of a few consequences of the "slab" system, taking as an illustration the specimen scale given in the Report of the Income-tax Committee Up to Rs. 8,000 a year everybody would pay less than they do now Between Rs 8,000 and 24,000 a year some would gain and some would lose This may seem an odd result, but it is due to the inequalities and absurdities of the present step system Above Rs 24,000 everybody will have to pay more In the first class I have mentioned, that is, up to Rs 8,000 a year, there are 240,000 taxpayers In the second class, there are 45,000 taxpayers, and under the third class, something under 10,000 At a modest computation, under the specimen scale adopted in the Report, something like 260.000 taxpayers out of 300,000 would actually pay less than they do under the existing law; in other words, more than five-sixths of the total number of taxpayers I ask Honourable Members opposite to bear this in mind when they are subjected to propaganda, whether scrupulous or unscrupulous, from outside

Mr. Manu Subedar (Indian Merchants' Chamber and Bureau Indian Commerce) What will be the exemption minimum?

The Honourable Sir James Grigg: Under the specimen scale? I have been reading the specimen scale I think it will in effect be Rs 2,000, as in the present law, but instead of a substantial tax being paid at the level just above Rs 2,000

Mr. K. Santhanam (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) Are we to understand that you are adopting the specimen scale?

The Honourable Sir James Grigg: You will understand nothing whatever Sir, I would like to conclude my remarks this morning by giving the House some insight into the propaganda that has been going on I will read a passage from a circular letter from the Central Income-tax Committee One might suppose that it was the Select Committee, but it is not The memorandum is signed by a number of rich and influential Bombay business men I shall read to you their concluding passage:

"You are aware that there is very little time at our disposal, as the Select Committee will be completing its deliberations in the course of the next few days and the special Sessions of the Central Assembly will meet on the 10th November, 1938, to consider the Bill in the light of the Report of the Select Committee We, therefore, feel confident that you will spare no time to move in the matter on the following amongst other lines

1 to call public meetings of protest and pass Resolutions similar to the one given below"

I need not read out the Resolution. It is the usual stuff

"2 to send telegrams conveying the said protest resolutions to the Honourable the Finance Member, to Government of India and the Party Leaders of the Central Legislative Assembly and to forward a copy of the same to us

3 to wait in deputation on the Honourable the Finance Member to the Government of India and the respective Party Leaders in the Central Assembly either jointly with this Committee or on your own as is feasible or expedient, and to bring home to them the inequities of the several clauses, specially those referred above.

[Sir James Grigg.]

We shall thank you to let us know the line of action you have hitherto pursued and now propose to pursue in this matter We need hardly add that this Committee is prepared to render all assistance you or your Association may desire in this behalf. A copy of the resolutions, telegrams, etc, passed and despatched by you may please be forwarded to us forthwith."

Sir Cowasji Jehangir (Bombay City. Non-Muhammadan Urban): What is wrong about that?

The Honourable Sir James Grigg: I will give you some of the Resolutions. This one comes from Cocanada.

"We the undersigned piecegoods merchants Cocanada strongly oppose new Income-tax Bill proposed by Government and appeal you to resist emphatically it is death blow to commerce cottage industry reducing every one to adversity"

That is pretty good, sending it to me? I have just pointed out that about five-sixths of the taxpayers under the Bill will get off with paying less The next one is from Rajahmundry

"My association regrets the Government's proposed new Income-tax Bill and strongly opposes specially clauses 4 and 22 as they totally endanger Indian trade cottage industry throwing lakhs people unemployed without bread"

There is another one from the Rajahmundry Muslim League

"Rajahmundry Muslim League oppose strongly new income-tax Bill proposed by Government It is ruinous to trade rural industry affecting thousands Muslims of these parts"

Now, we pass on to Vizagapatam This is from the Vizagapatam Muslim League

"Vizagapatam Muslim League appeals you to oppose persistently the new Income-tax Bill owing to its most harmful effect on Indian trade handmade industry specially of Muslims"

Then, again, this is from the Vizagapatam Cloth Merchants Association

"My association strongly protests against taxation of foreign incomes in new Income-tax Bill and appeals you to oppose successfully because it kills Indian commerce and drastic to cottage industry rendering lakhs without livelihood"

Now, I go on to Masulipatam This purports to come from one Q. V I Rao

"The Masulipatam Muslim League" (*or Q V I Rao as the case may be*) "appeals you strongly to oppose the Income-tax Amendment Bill as it is very disastrous to the trade generally leaving thousands of people unemployed"

I will read another one from Masulipatam

"We the undersigned Piecegoods Merchants of Masulipatam oppose strongly new Income-tax Amendment Bill and appeal you to *resist* Government's proposal as this leaves several lakhs destitute in streets running our Indian trade and industry and while hereby confirming the same" (*I think they are referring to the telegram*) "I request your good self to see that the Bill under reference is not passed to safeguard the interest of the merchant population as a whole"

Mr. Sri Prakasa (Allahabad and Jhansi Divisions Non-Muhammadan Rural): Have you had any telegram from the scheduled classes?

The Honourable Sir James Grigg: I have had a good many telegrams from the Honourable Member's class. It is quite easy to expose this kind of propaganda when it comes to one's notice. But there must be a

good deal of stuff going on more insidiously that one never hears of, but I hope that with these examples that I have given of the origin and character of this kind of propaganda Honourable Members will be able to consider the Bill on its merits and not on the desires of interested classes The Bill is not a Bill, as it has been called, to give favours to the British It is a Bill to give favours to the poorer Indians and also to provide money for the provinces. It is a Bill which will make the rich of all communities pay more and it will stop them dodging their proper contribution to the welfare of the country and no amount of unscrupulous propaganda can prevent this being recognised in the long run, certainly, and I hope in the short run

Mr. Bhulabhai J. Desai (Bombay Northern Division Non-Muhammadan Rural) After the way in which my Honourable friend succeeded in putting the House in good-mood, I cannot promise myself that I can maintain the same position during the course of a somewhat difficult discourse which I have undertaken this morning Notwithstanding the fact that it may appear to be an impossible task, I think every one of us ought to attempt to understand and those of us who have the responsibility ought to attempt to explain what may appear at first sight to be difficult either in its substance or in its form I, therefore, make no apology whatever for the somewhat apparently laboured address that I shall make as compared with others which I have had occasion to present before Nor can I follow the procedure laid down by my friend who, in the concluding portion of his speech, warned you against false agitators So far as I am concerned I stand before you as an honourable beggar in a decent cause That is all that I want you to understand to be my support to the Bill as reported to this House I cannot also, Sir, pass by the observations which he made with regard to the assistance we were able to render during the course of the deliberations of the Select Committee I am not immodest nor am I particularly modest and I am not prepared to accept all that he said without adding this that those who were with me perhaps said less but contributed as much to the help that we were able to afford to the Select Committee in its work I am, however, happy to understand, that, with a frank acknowledgment of public enmity, or unfriendliness as he called it, on this occasion those who were on the other side of the question found that there was something which we could contribute, and if ever—I believe it was quite sincere —if ever they feel that we, on our side, can leave some genuine deep impress on legislation and other-like matters, their responsiveness is either singled out for this occasion, or that they are in the process of beginning to understand that the unfriendliness should not continue too long So far as I am concerned, I admit that it is one of those subjects in which by accident or good luck I have had many advantages in the study of it and the exposition of it, sometimes even attempting to defeat the income-tax authorities when they wanted to get hold of a "rich capitalist"; I have sometimes succeeded and sometimes failed, but where I did succeed, the last Act bears witness to many amendments made merely because of the decisions which we wrung out of the Privy Council if not the High Courts of India. From that point of view there is no doubt that we had a certain amount of advantage, speaking for myself, in the approach to this Bill

The way in which I propose to deal with the salient features of the Bill as it is now before the House is to take, first, points on which we have been able to get modifications which we consider are sufficiently in favour of the assessee and are such as we can confidently and reasonably commend to this House. It is not a matter of any satisfaction of a personal nature that

[Mr. Bhulabhai J Desai.]

I state it, nor do I suggest that there was an evil motive in the Bill as it was drafted, because of the changes which have been made, I shall be able to show the position as regards some of the changes which we have succeeded in making, and I do not say the changes were agreed to unwillingly; after discussion it was plain that the matter must be carried to the extent to which it was proposed, if not wholly but partially, by making offers in which we had only a Hobson's choice But in some cases the Hobson's choice has been fortunate and it is to those parts of the Bill as now reported by the Select Committee to which I wish to call attention I do reciprocate the observation that, compared with the expectation or, shall I say, apprehension, we did work on much more smooth lines The fault was not entirely our own if we entertained any such apprehension, but even men, and even a Grigg might mellow with age, and with circumstances. As he himself has said very often in this House, he has found that the sharing of responsibility makes a man slightly different to when he sits solely as an irresponsible bureaucrat on the other side, and I believe that it was due to that desire to understand another's point of view that there has been this result of the extent to which we have been able to get, call it concessions if you like I do not like that word, because it is as much my business as his, coming before this Legislature, to present the correct point of view as far as it can be achieved It is not a question of any alliance, holy or unholy, of any kind I wish to warn the House against any such belief It may happen that you make a proposal which the other side accepts It then becomes an agreement; but none the less it should not be looked upon as if it was there behind it either an unholy cause or an improper motive. With this observation I propose to take those parts of the Bill which do require a fuller understanding than the mere reading of it is likely to give, and as I said, I make no apology for so doing because as a Member of the Select Committee and otherwise I owe a duty to the House that our colleagues should understand these provisions so that our ultimate judgment would be founded on an appreciation rather than bias I do not deny that this is a subject which is highly technical I do not deny that it cannot be expressed in a few words and sometimes, even the popular translation is not and cannot be an actual reproduction of what the legislative enactment is. To the extent to which a popular method of expression is adopted by me, I say this that if those were alone examined, that may not give exactly accurate language of those sections, and as for the latter purpose one would either have to read the section or re-write it oneself That is not the object with which I propose to occupy myself today. The object I have is to deal with the subject-matter of the sections and the extent to which the provisions as they now stand from the point of view of the State as levying the tax and the assessee as being liable to the same.

The first point which I wish to deal with, though it may not be quite in the order of either of the sections or of the clauses, is a point dealing with what I may call the redress which the assessee will get and the tribunal from which the assessee is likely to get it as compared with the present Act Honourable Members must have seen from the report of the Select Committee that a radical, and according to my humble judgment an important change has been made from the practice which has hitherto prevailed and against which there was agitation. Under the Act as it stands, all appeals were to what you may call the administrative superiors of the Departments and ultimately ending, so far as questions of law were concerned in specified matters, by a case stated to the High Court with a right

of appeal to the Privy Council on judgment of the High Court. We felt that so far as the present machinery was concerned, it was certainly lacking in one important respect, that apart from any question of law which may be referred to the High Court there was wanting an appeal to an independent tribunal without necessarily impugning the impartiality of those administrative members of the hierarchy who sat for the purpose of deciding appeals I am not meaning any offence or letting out any serious secret when I say that on some occasions either the First or the First appellate authority frankly told me at the end of the argument that whereas he probably agreed or sympathised with me, he had administrative or executive instructions not to allow the argument to prevail but to state the case and that was the utmost he could go I do not blame him because if he is an executive subordinate, he probably has no other alternative. He might attempt to be independent but that attempt besets him with difficulties from right and left, from above and from below Fortunately, therefore, now there are proposals which of course are not formulated by way of amendments made in the Select Committee's report but these are intended to be made and proposed by the Government when we come to the appropriate sections 30, 31, 32 and 33 so that it is provided that after the Assistant Appellate Commissioner has heard the appeal from the income-tax officer, an appeal will lie to what I may shortly call for a moment a tribunal That Tribunal will not be part of the administrative machinery of the Income-tax Department That Tribunal would be independently appointed by the Central Government like any other judicial or similar authority for the purpose of determining certain issues And it is further intended so to be provided that of the two members of the Tribunal (sometimes perhaps more,) one at least shall have judicial qualifications or what may be called legal qualification and the other will have accountancy qualification. To them an appeal will lie both on questions of law and of fact I emphasise the right of appeal on questions of fact because hitherto my experience has been that after you have reached the Income-tax Commissioner, when we go to the High Court, however badly he states the facts or however erroneously he may choose to record a finding upon them, we have had no redress It is on the basis of the facts as stated by him that the case has got to be decided by them. Therefore, with the intervention of such a Tribunal a substantial step has been gained from the point of view of the assessee, that so far as any injustice will be done to him either by a misapplication of the law or by a wrong finding of the facts by the official hierarchy, he will have now redress from an independent body with sufficient legal and accountancy qualification We have accepted this proposal because, I think, it is right so to accept that the findings of facts by this Tribunal should be final, and the rest of the machinery of the present Act by way of the case being taken to the High Court will still be in force. The substantial step, therefore, which I think has been gained by the assessee is in the shape of this Tribunal It is true, as you will find from the report, that for administrative reasons such a change of machinery could not be immediately made and we have, therefore, agreed, so far as that part of the report is concerned, that it will be brought into operation at the period immediately after two years from the commencement of the Act if passed into law We feel that so far as this particular matter is concerned, those who represented the Government have fairly met the demand of the public in so far as they desired that there should be an independent tribunal I suppose there will be women too because they might be easily equipped now for the bar I am, therefore, in a position to state that when these sections are presented to the House, apart from the details and apart from the manner of their working, they

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will receive the attention of the House and I submit and I hope that the House will be able to accept this change as a change which is admittedly in the right direction and which is a substantial step from the point of view of meeting grievances of the assessee which have hitherto existed for many years under the present provisions of the law. I single out this matter because in my judgment this is a particular piece of additional privilege, a privilege which is not granted merely because it was a favour but a privilege because it was a just thing that the tax-gatherer should not, in most instances, be the only judge as to how much he will take When these provisions are brought into force and when they come into operation, it cannot then be said, at all events, that in some way justice has not to a large extent tempered the enthusiasm of the tax-collector And in that way we hope that these proceedings would be carried out in the spirit in which we gave agreement to the principles during the course of the deliberations in the Select Committee

That brings me, Sir, to the amending Bill itself I shall refer next to matters on which we feel that we can commend to the House the conclusions reached by the Select Committee and I propose to take those in order The very first matter on which there was a considerable amount of controversy was what you may call the technical or the artificial definition of "dividends" I call it artificial because my Honourable friend himself pointed out that to a large extent what might be called dividend, according to the ordinary Company law, does not seem to satisfy his greed He feels that by processes known to tax dodgers, as he would call them, a certain amount of money which ought to pay tax has hitherto escaped, and he suggested a definition which we thought was a little too wide and it has now been modified in the light of the discussions The result of these discussions has been to differentiate in the artificial definition which he had proposed between what may be called a genuine addition to the capital of the company as distinguished from cash returns to the shareholders themselves from the accumulated undistributed profits. It does not matter whether the cash is in the form of actual cash or whether it takes the form of debentures to be redeemed in course of time The latter will be subject to a tax I commend to the House that the result of the deliberations has been a fair one in so far as the taxation on the distribution of accumulated dividends is concerned I must also remark lest there should be a wrong perspective for understanding this point that it has got to do with super-tax only for the simple reason that every company will pay initially the whole of the income-tax in so far as its net profits are concerned. Therefore, when you come to a provision like this it should not appear as if the alleged tax-dodger escaped from paying any tax whatsoever on those dividends which were not distributed I do not deny that in this case it is only the very rich who will be touched and even so far as they are concerned, we had an eye on what may be called the progress of the industry in general. The object in omitting the case of taxing accumulated dividends, in so far as a bonus was issued, was this that, if the company honestly desired, by means of applying a part of their accumulated dividends, to add to their producing capacity by increasing their capital, it would be an encouragement in the right direction As regards the rest of the cash, if it was taxed it would not be taxed improperly For these reasons and balancing all considerations, I am able to say that the present definition of the dividend, artificial though it must be, is acceptable from the point of view both of the State as taking the tax and the individual as having to bear it

The next point on which we had a considerable amount of controversy because of its adverse effect on the industries of this country was the subject of depreciation In this case, again, whether the Bill was intended to adversely affect the Indian industry or not, I do not know. The sponsors of the Bill may have thought that perhaps it was worth a try-on. The provision in the Bill at it stood was, shortly stated, that any depreciation for a particular year which could not be written off from the profits during the succeeding six years would have to go without being replaced at all The only argument that was presented in favour of it was that the Bill is more liberal than the original Act, that now it is possible—and this is allowed by the Act—to continue to carry over the loss of a particular year to a succeeding year for six years differing from the present provisions in the Act Under the present provisions of the Act, if you made a loss of a million this year and made a lakh of rupees next year, you paid on the lakh Of course even in the new provision there is said to be a grudging element which it is for others to examine. I, for one, have no opinion to offer either way. The alleged grudging qualification is this, that that loss would be allowed to be carried forward in the next year only to the extent of the source from which that loss accrued. That is to say if my Honourable friend, Mr Aikman, lost in cotton this year, he would be able for that year to set that loss off against all his other sources of income But when it comes to next year he will have to look to the profits of the cotton transaction alone to be able to set off that particular loss which has remained unwritten off during the previous year and so on he will be able to continue for a period of six years but confined to cotton business alone That is one of the provisions of the new Bill that remains practically untouched It was argued that because the loss is now allowed to be carried forward for a period of six years it was some sort of compensation which the Honourable the Finance Member intended to take by way of saying, Yes, the law was and it is so in England, that depreciation has no limit of time during which it should be provided for or written off, he says, having regard to this new provision, six years is a reasonable period. That is the best complexion I can give to the proposals as they are made. It is hardly necessary to say in view of this preface that we do not feel convinced by the plausible argument because we felt that while you might call an unwritten off or unprovided for depreciation as a loss in the very loose sense of the term, but it is not loss in the same sense in which the loss would accrue in the annual working of a particular business But the provision for depreciation is a provision to replace the very means of production and for that very reason it is impossible, except artificially, to call it a mere loss for the year and not be allowed to be carried forward or written off in any other way during any other period of time In fact from the study of the growth of the Indian industries, several principal industries, it was quite clear that it took a period much longer than six years for them to be put on their legs, and provide for the depreciation which had gone on unprovided for during the earlier periods of infant conditions when they do not make any profits at all The point really which I wish to stress and which I believe appeals to my Honourable friends (including the fact that that was the English law) was that to call unprovided for depreciation loss was a misnomer, should be allowed to continue to provide from his profits at whatever period of time it may be so that at least 100 per cent cost of the very means of production that is to say, factory, machinery and buildings, that he may be able to replace it at the time when they are no longer serviceable.

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Considering all the provisions the only thing, I think, which was wrung from us—and I am not disclosing anything except what appears in the face of this, because it is inappropriate to refer to the actual proceedings of the Select Committee—you will see from the face of the Bill as reported that there is one concession that is wrung from us, that is any depreciation which has not already been made from the past profits cannot be met by itself and fully from the subsequent profits except that it would be the starting point of a percentage for the future and that too on the written-down value Here again you will recognise the difficulty of expression But an illustration would make it quite clear Supposing 50 lakhs was the amount of depreciation as against which the company had made 25 lakhs profits Therefore, 25 lakhs depreciation still remains unprovided for The Bill provides that for the future 25 lakhs that is now existing unprovided for plus we shall say five lakhs next year amounting to 30 lakhs would be the basis on which the percentage would be granted and so on If you come to next year, to what is not provided plus five for the next year and so on, until you get 100 per cent of the funds representing the original cost to the assessee, of the means of production. I only want that you should not kill the goose that lays the golden eggs. From that point of view though as I said the concession has been wrung, I am in a position to say that I am by no means dissatisfied with the ultimate result of the discussions on the Bill as it has emerged in this respect I am in a position to say that the industry of the country, which might have been in a serious danger of being hit, (whether intended or not intended) because our industries do not grow so quickly and flourish so much and a part of the depreciation would, under the law as proposed, have gone unprovided for I confess under this provision which has been made, there has been a change on the old law to the extent last indicated and though I do not wish to repeat myself I wish to show that all that is lost is that 25 lakhs which is unprovided for today instead of being provided for next year, (if you made such an unprecedentedly good profit,) next year the assessee will have to content himself with a percentage on 25 lakhs plus 5 lakhs whereas if the old law has stood, if you made 25 lakhs, you might have provided for the whole of 25 lakhs Barring that one difference the rest of the provisions made are such that to the extent to which the industry might otherwise be affected, it would no longer be affected by the Bill as reported

The next set of provisions are those which affect really the poorer man. They deal with the question of what is now called compulsory return, that is to say if a notification is issued by the Government requiring returns from prospective assessees there is an obligation to do it. Of course the mere fact that you provide an obligation leads you nowhere It is really the penalty arising from the non-fulfillment of the obligation which is the gist of the matter and, so far as that is concerned, we have succeeded in mitigating what might appear to be a harsh requirement, that is to say that each man must make a return whether he has an assessable income or not Personally while in one sense I may sympathise with the complaint, I must confess that there is no reason why a subject of a State should not in response to a general requirement send a return if he has an assessable income and if he has none equally say so. But some of my friends regard it as a hardship Hitherto some have been accustomed to sit on our haunches and not to make a return even if they should have an income of a million; until after an

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informer or some other "infamous person" has gone to the Income-tax Officer and given them away. Whether that is commendable or not I am not here to argue. But what we have done is this, that in case there is no compliance with the general notice we have tried to prevent the rigour of the penalty in the case of a person whose income is less than Rs. 3,500 per annum. It was pointed out to us that there are over four lakhs of assessees in this country, nearly five lakhs I think, and by exempting those whose income is less than Rs 3,500 from a severe penalty—inflicting only a nominal penalty—nearly a half of the total number of assessees need not respond to the notice at all And when we attempted to raise the limit to Rs 5,000, we found that nearly two-thirds would be exempted from the obligation, and then of course the purpose of an obligatory return would be entirely defeated Then there is this to be said, that a person whose income is Rs. 3,500—and (taking my friend at his word that the two thousand minimum is going to remain), if that is the case a man cannot very well make such a mistake within a margin of another Rs 1,500 as to think he has no assessable income I quite agree that a man having Rs 2,500 income might commit a mistake, and it was for that reason that we tried our best to get to a limit beyond which any honest room for doubt could not exist; and hence, I submit, that the line which has been drawn is such as has taken away largely what might appear to be the harshness or rigour of the provision relating to obligatory return

In so far as the exemption of the rich man from taxation is concerned, I come to a subject which is abstruse and I do not know that even if I try I will succeed in making it clear by an illustration But inasmuch as a provision is intended to be made and has been reported upon it is my duty to touch upon it. There are transactions carried out in this country as well as abroad in many commodities which are called straddles and hedging, and when I first began to practice I was told confidently, that you cannot lift one leg of the straddle because they both always go together. One is intended to be a hedge by way of profit against a possible loss on the other I think I can only put it that way until after we come to the actual amendment If any further explanation is required I hope my Honourable friend will attempt it and I will supplement his efforts if I can. But the fact remains that in such class of transactions the Indian broker is not able to retain such sum of money on behalf of a known principal so that any possible profit to the foreigner could be taxed That is the whole object In these cases the broker would of course be taxed on his brokerage This takes me to a somewhat less difficult subject to explain, and that is provided for in section 42 and the following sections. That is the subject of catching the non-resident foreigner when he makes an income in this country. Now the effective words are that if any non-resident foreigner makes an income in British India, then every person through whom he makes that income by way of agency or what is called business connection becomes for the purposes of the law the assessee in place of the non-resident foreigner whom we cannot catch and so we are in a position to take the tax on that income It is only by way of exception to that section that this particular provision is intended to be made. And, of course, so far as section 42 is concerned, I think every one in this House will sympathise with it One of the most outstanding cases I knew of was a case where certain very rich persons formed a corporation in Hongkong, where there is no income-tax at all. And they lent money in India, some 18 crores, every year, on terms that the money would be

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advanced in Hongkong through their bank and the interest would be payable to them in Hongkong and the debt would be repayable to them in Hongkong Therefore, there was no means of catching them directly at all. The only way in which they could be caught is (and they nearly escaped, at least so far as the Indian courts were concerned), to make the debtor "the agent" of the creditor to pay the interest but it was argued—and I still maintain rightly—that a debtor is not the agent of the creditor for the purpose of paying the interest, the test was simple, could you say that if he did not pay the interest he was guilty of a breach of trust? If he was not then he remained a debtor and did not become an agent Any way the Crown tried on to the Privy Council and their Lordships thought that the words 'business connection' were sufficient; and that I believe was merely salving the conscience, in order to support the State so that a non-resident foreigner should not escape The law now is more or less clear, so far as the interpretation of that section is concerned, that every non-resident foreigner who makes an income in India is liable through the person through whom the business is carried on or the profit is made, and the only exception to that is this case of a broker dealing in straddles and hedges, and I am able to say from such understanding as I have of this class of business that the broker would have nothing from which he could deduct a tax payable by a foreigner in this particular class of transaction All that we could do was to tax the broker on behalf of somebody whom he did not and could not know and I am quite certain that nobody would wish to adopt such an alternative. It is for that reason, Sir, that this exception and exemption has been made.

There is one other matter which relates to a poor class of people A provision has been made in the Bill for exemption from tax premia paid for life policies and for the exemption of certain other incomes like incomes of Provident Funds As regards premia the provision relates to insurance on the life either of the individual or in the case of a group like a joint Hindu family The provision now made is Rs 6,000 for the individual and Rs 12,000 for the aggregate of the joint Hindu family But the more important provision deals with Provident Funds which are intended to support a man at a point of time when he is unable to make a livelihood on his retirement and therefore, rightly, the policy of law has been to exempt income arising from such funds The actual term 'Provident Fund' is more common in this country, but there is another type of fund which is more common in the United Kingdom and that is what is called a superannuation fund This is collected more or less on the same basis, but instead of being paid out in lump, a man on retirement gets an annuity or pension for his life It is different from the Provident Fund only in this sense, that whereas in the latter case a man gets immediately a lump sum, in the case of the annuity the fund continues to pay it annually throughout his lifetime. Undoubtedly in the latter case the burden is a little more uneven dependent on the longevity of the individual; but that is purely a matter of internal adjustment of a system of mutual internal arrangement between the employees *inter se* and also the employer to the extent of the latter's contribution. To the provisions by way of exemption in the case of Provident Funds it is intended now to add also a similar provision with reference to superannuation funds

The next item on which we have been able to come to an agreement—I will call it a hard bargain—is about the manner in which it is now intended to tax life insurance companies These companies were hitherto

taxed on what was called the surplus It is a matter with which my Honourable friend, Sir Nripendra Sircar, is very familiar, but I think most of us had actually forgotten its true application, and it became necessary to revive and refresh our memories. The tax now charged was on the surplus, that is to say, you took the assets and that year's income and set against it the actuarial valuation of the liabilities Supposing there are ten lives who were still under contract, what is likely to be the amount required for the purpose of meeting that obligation when the amount is likely to fall due, and the difference between the two is said to be the surplus and that was being taxed hitherto in India On a careful examination it was found—and I think it is no longer a matter in dispute that it could not be said to be income which was taxed—that the surplus does not by any means represent income It is common knowledge that a great deal of this surplus— in fact in most cases over 90 per cent of the surplus—is redistributed among the policyholders either in the shape of what is called bonus or other different forms of benefits and that arises by reason of the fact that whereas if one could be scientifically correct that so many lives would fall during a particular year and that so much income might be assured during a particular year so as to provide for the contingency of that year, the premium would, for instance, be Rs 30 actually not being certain that those two contingencies, one at least of which is of a difficult character, would arise, they generally put the premium at about Rs 35 But at the end of the year they find that events have not turned out as badly as apprehended, that is, the number of deaths have not been too many and the income realised was nearly as expected, the result of which is that out of the Rs 5—the difference between the Rs 30 required and the Rs 35 which had been taken or charged as premium —a large part is returned to the policyholders which is really their own money and in no sense an income It is for that reason that it was perfectly obvious that to tax the surplus was entirely a wrong basis, for it could not be maintained that the bulk of it was income You merely return to him what you took from him in the first instance A Royal Commission in England examined this matter some years ago and came to the conclusion which I have attempted to express in popular language They realised that that surplus could not be called income; but here the State has got away with it for a long time! Because under the rules which they made they said "Notwithstanding anything in the Income-tax Act the following shall be the method of taxation of life insurance companies." Who ever conferred upon the Government the power of saying "Notwithstanding anything in the Act an income which is not an income shall be taxed"? But it is curious that they got away with it all these years they had no power to do so because it was inconsistent with the Act, if it could be shown by scientific examination that it was not income Section 4 enabled them to tax income or profits arising or accruing, etc , etc Therefore, we have now agreed as a compromise, that we must try and find out some more accurate method. I do not like to occupy the time of the House on this somewhat technical matter, but we have come to this result that the State should have an alternative to choose from—either the income on the investment less expenditure [—but that expenditure we have attempted to define so that individual variations need not be taken notice of—85 per cent of the first year's premium and 8½ per cent. of the subsequent premia shall be treated as expenditure.]. The alternative basis is the surplus, but in England the surplus would be calculated after allowing the amounts which are payable

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or actually returned to the policyholders instead of that, with a view to preventing any sudden change and any sudden fall in our revenue we were obliged to agree to a bargain that instead of allowing the whole bonus, for the present half the bonus would be allowed to be deducted. Therefore, there is this other alternative method of taxation of insurance companies which is certainly just—not perhaps as just as it might be, but I believe all the interests concerned feel that having regard to the time during which they paid what they paid, the State could not suddenly be asked to content itself with one-third, and the result of the agreement is that they will get about two-thirds of what they are getting now There are some matters of agreement which I shall mention when the House re-assembles after lunch. In the afternoon I shall not be able to present such a happy picture as now for the simple reason that then I will have to deal with the points on which we have found ourselves in disagreement with my Honourable friend and those who voted with him

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

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The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair

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Mr. Bhulabhai J. Desai: There is one more matter on which I wish to say a word before I come to the points on which we have not been able to come to an agreement, and that has reference to section 60 Section 60 of the Act, as it stood, provided in substance that the Central Government could by notification exempt from the operation of the Act any classes of income or any classes of persons The result of it, as I was reading the remarks which I made at the time of the reference to Select Committee, was that notwithstanding a legislative enactment for taxing and laying down rules, the Central Government could at their pleasure practically drive a coach and four through the Act So far as the proceedings of the Select Committee are concerned, I am happy to be able to say that in the matter of that particular section for all practical purposes the controversy no longer exists. The section as now amended will show you that, so far as any future exercise of such a power is concerned, that has been abolished, and all the power that is retained, and which it is necessary to retain, is to be able to revoke or cancel any existing notifications which have been published in exercise of the power under that section. Further, there are some notifications in regard to which the Government have agreed that at or about the time when the Act comes into force or before, those notifications would all be withdrawn. Though apparently it looks like a small point, I confess, it appears to me that the omission of a section like this was a matter of very great importance,—for one good reason that it was surprising to me that in any House whatever such a section could have been allowed to be passed into law. There was no restriction on the power of the Central Government, in fact in substance, by notifications they could, if they so chose, practically abolish the Act altogether, because you can easily imagine that such notifications can cover the whole

field of assessees, for the section says,—'The Central Government may by notification exempt any classes of income or persons', and you can easily understand that, though that power may be exercised, as some of my friends would say, wisely and with restraint, they are not such free agents in the matter of their action, and they are so little amenable to our influence that it would be impossible to imagine that a section of this kind could find a place in the Act at all And I confess that the Bill, as it now stands, has to its credit at least this, that that section ceases to exist except to the extent to which its existence is necessary Of course, it would have been possible, if the Government were so amenable, to get rid of all the notifications once and for all, but for reasons, diplomatic or otherwise, it has not appeared to the Government possible to go the full length which at least those of us,—and I take it every one of us here with correct way of thinking, would have wished This exhausts the points on which we were able by means of negotiations, persuasion, argument, haggling or by whatever process the same might be called, to persuade the majority to side with us by means of arguments,—and I will say this here, and, Sir, you will allow me to say that,—that so far as the subject matter of the agreement was concerned, Sir James Grigg and his two colleagues candidly, assiduously and readily placed at our disposal all the information that they had either from their study and experience or from the records which they possessed.

Now, Sir, before I pass on to what may appear to be a more critical part of what I have got to say,—and I acknowledge the compliment which Sir James Grigg paid to any industry or assistance I was able to give,—I will say this, that it was a duty which I owed to the House, and undoubtedly it was a duty which I more intimately owed to the Select Committee where our relations were nearer and personally friendly, though politically unfriendly I am glad to say that the unfriendliness did not prevent at all events, a full and clear understanding of what each one side had to say or the grounds of its demands, and more often than not,—when they saw the justice of the grounds of our demand, they were unable to meet us for reasons which they did not or could not disclose

I come next, Sir, to the three points which find their place in our dissenting minute as to which observations were made by the Honourable the Finance Member It is not my desire to dilate on them, because as regards the Slab system, I am at one with my friend that the Act is inconsistent in some of its provisions with any other method of calculating taxation. That I fully accept, but as some of my colleagues desired that if it were possible to express it in more express terms in the Act, it would be more welcome. As regards simplicity on which my friend read out extracts from American and British journalists or even lawyers

The Honourable Sir James Grigg: Jurists.

Mr. Bhulabhai J. Desai: And jurists, I entirely agree with him to this extent that if what I am saying now is put into technical language, that would probably tire your patience and bore you. But, at the same time, it is necessary that, while expressing one's idea in informal language so as to express what you want to include in an Act, when you begin to clothe it in words and take care to see that you omit no unnecessary

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or intended illustration which you want to have within it, the difficulties begin. But I deny that a close study would fail to convince a person in the position of every one of us who owe a duty, to be able to comprehend what is intended. All that we intended by asking for simplicity was that, while it is possible to gather the actual method by which you arrive at the total income of an assessee by having credits on one side in Government's favour and certain debits by way of refunds or exemption in favour of the assessee on the other—I do not deny that the subject matter has necessarily in some instances to be spread out, and yet it is not inconceivable for my Honourable friend the Finance Member to be able to say, "I can either in a table or in a schedule give you an exact illustration of all the calculations on one side and exemptions on the other side." That would certainly be more helpful to an assessee After all, in many Acts we provide forms, we provide schedules of different types by which it is conveyed to the ordinary reader much more clearly as to what he has got to do and what he has got to omit I am attempting myself to produce a schedule, and I will see if it is possible to compile it within a reasonable period of time so as to present one concrete illustration of the calculations and exemptions for the purpose of arriving at the total income, omitting, of course, very exceptional cases That is a sort of thing that can be done, whether it should be attempted or not is another matter But that is all that we intended to say We do not expect that you can express in lesser or simpler words, except perhaps in a few instances, what, in fact, has got to be expressed As to the third point which was also in our Minute of Dissent, my Honourable friend referred to the pronouncements of Courts and also jurists to the effect that no income or portion of an income may be taxed twice in the same hands in the same year,—I am adding the words in the same year, because in some direct or indirect form it might become taxable in the following year, I am not going to deal with such very exceptional and very difficult cases But while the principle is accepted in what you may call construing an Act—I have known Judges, and I think they are quite right in so holding—while the principle is of general application, that is to say, wherever there is any doubt and one of the two meanings leads in favour of exempting a second tax on the same income—if there is such a thing as that it does not leave any option by way of ambiguity to the Judge—by mere application of that principle he cannot possibly decide against the plain meaning of the Act And what was intended by my Honourable friend, Mr Kazmi, who was responsible for pressing this matter on my attention was that there would be nothing lost if in some appropriate place we could make it clear that, throughout, the intention of the Act is what is admitted to be a rule of construction, and a rule to be applied in so far as the taxation of incomes is concerned—that the same income may not, in the same hands, be taxed twice over that is all that we meant, and so far as these parts of the Minute of Dissent were concerned, they were intended not so much as a dissent, though there is no other form of expression open to us—but as a guidance, as suggestions which if it were possible to carry out we should attempt to do so during the progress of the Bill. But they are not matters of such a nature as that on any of them in terms you could possibly have the vote of the House The only points which would be a matter for vote of the House by way of amendments to the Bill are those to which I now come.

It is rather extraordinary that as soon as the definition clause was over and when we came to clause 4 we found ourselves confronted against each other, only the acerbity of the opposition grew less and less as we went further and we managed to forget for the purpose of our work what we had failed to achieve in the earlier and in the commencing part. Clause 4 of the Bill is one on which there is bound to be a considerable amount of controversy But for the moment it is my desire only to point out the alternative grounds either of opposition or of modification of that clause which might possibly commend themselves to the House and in order that our friends here may be able ultimately to come to a decision In the Act as it stood, the basis of taxation was all income irrespective of the person to whom it accrues,—all income accruing or arising or received in British India—except that as regards receipt in British India I think it had to be to a resident in India That was the basis of taxation of the Act It is now sought to add a further class of income which is to be taxed in future if this particular clause is passed as a part of this Bill, and that is what may shortly be described as the foreign income of a resident In so far as the proposed clause is concerned, it seeks to draw a distinction between a non-domiciled resident and a domiciled resident. As regards a domiciled resident the whole of his foreign income would be part of the total income taxed As regards a non-domiciled resident, only that part of the income would be taken which arises from business, profession or vocation, and also that part of any other sources of income which is actually brought into British India By nature I am not violent and by creed I am still less But the fact remains that just as my Honourable friend stated to the House that you must not labour under the belief that this Bill is brought in for the purpose of favouring the Englishmen—speaking for myself, I am not so foolish as to say so, but I do say this, that, wherever I can find that there is one sort of treatment meted out to a United Kingdom citizen as I may call him, and another to a resident Indian, I begin to ask myself whether it is justified, and to that extent nobody can quarrel with me. If the Finance Member favours an Englishman and then says, that I must not for that reason say that he is anti-Indian,—my Honourable friend must reciprocate the feeling that if I stand for India it is not necessarily anti-British, at least that is the basis on which I propose to examine the rest of the Bill. So that my Honourable friends will remember that, while I acquit them of the charge of bringing in the Bill for the purpose of favouring what may shortly be described as Englishmen, they must also acquit me of the charge that when I begin to search into the provisions to see if I can legitimately claim more from an Englishman in this country, they ought not to think that it is any anti-British proposal For when I come to clause 49 of the Bill I shall examine the figures which my Honourable friend has given and place such conclusions before you as we suggest you should correctly draw from them. Therefore, as I said, the first point with which you are faced in clause 4 is that the broad distinction as regards taxing foreign income is between a domiciled resident and a non-domiciled resident. It is a question for consideration whether it is a distinction which is justifiable on any principle except, of course, the principle which underlies the provisions of the Government of India Act, sections 111 to 116 and perhaps section 108 (g). In my part of the country people say that those who have got the stick may keep the buffalo. That is a different matter but that is not the principle of legislation. We must approach this matter solely from the

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point of view of the Indian State of which my friends must remember they are loyal servants It is only in that spirit and in no spirit of hostility that I propose to examine points where we differ and particularly points on which we could perfectly legitimately make a claim. Of course a lurid picture could be drawn about this and when I come to those particular parts of the section I shall say more

Reverting to clause 4, it will be for the House to consider whether a case has been made out for taxing, what you might call, the whole of the foreign income of a resident Indian This is one of those matters where I have taken the course of suggesting and discussing many alternative steps, so that whichever commends itself to the House may be passed There are those who believe that section 4, extension of a new source of income, is not called for and it would be a question whether having regard to all the other considerations it is a thing which should be done The considerations which have been put forward are two-fold, one from countries where there are what are called exchange restrictions and I had put before the committee a letter showing that in a very large number of countries that state of affairs continues, that is to say, even though an Indian trader may earn money, say, in Japan or Germany, it is not possible for him to get the income back into his own country even if he so wishes and it is, therefore, a matter for consideration whether a distinct provision ought not to be made in the Act in favour of those who are so situated I do not recollect whether it is in the report or not but it was in fact agreed that by some administrative order the matter may be adjusted but since the report was signed and even during that period, this is a matter to which I have given some attention and I am still doubtful about it and I put it to the House to consider whether a mere administrative arrangement would do or whether a statutory provision is not necessary I do not pledge myself to the actual words of the amendment but the way in which it strikes me is this There ought to be a proviso (assuming the clause otherwise stood), saying that no assessee shall be required to pay tax on any part of income arising in a country from where he is unable to obtain by way of remittance or otherwise a certain proportion of that income but that free amount should not be merely just enough to enable him to pay the tax. It would not be right to say, as it is sometimes said 'Oh, so long as he is allowed to bring enough money to pay the tax, then he should be taxed'. That seems to me to be unjust The cases are many and in fact so far as I am aware excepting Ceylon, Burma and parts of Africa, in most of the other countries exchange restrictions exist today There is another difficulty about this and that is the difficulty of checking the income at all Business is carried on in a foreign country and necessarily there are attendant difficulties I must point out that there are countries, particularly the United Kingdom where foreign income is taxed on a very very large scale and, therefore, it cannot be said that means do not exist or cannot be devised by which without undue inconvenience or injustice the actual assessment cannot be made. For those matters some definite suggestions or proposals should be made, if they can be formulated.

Another instance was brought to our notice and I think I ought to mention it and that is the instance of Burma. Hitherto, until a short time ago Burma was a part of British India and necessarily now the taxing liability of resident Indians, who now find themselves, so to say,

as foreign traders in Burma, presents special difficulties. I am not one of those who suggest that assuming foreign income is to be taxed that they should be particularly exempt from it That is a matter for the House to consider but it is pointed out that among resident Indians, there are those who have, as the result of their banking operations, have had to take over a large amount of agricultural property. I do not know and do not pretend to know to what extent it was favourable or unfavourable transaction. I think it is difficult to probe into matters of this kind It is true to say that but for the separation of Burma this income might have escaped taxation until Burma chose to levy income-tax on agricultural income and the ground on which the matter has been put is that an adverse result should not follow from the separation of Burma from India It is a point on which opinions may easily differ but it is a point which I must leave at this stage because land which is an ancient possession in India may easily stand on a different footing from land acquired merely as a part of money lending business Therefore, considerations which may apply in one case, on account of the smallness of the holdings in India, may not necessarily be applicable to those who own land there I am credibly informed that 2½ millions of acres of agricultural land has been acquired in the course of business transactions This is a matter for the House to consider, assuming that it is decided to tax foreign income These are the three particular points that I wish to place before you for your anxious consideration First, whether the time has arrived to tax foreign income at all, secondly, if you do so, whether there should be a distinction between a domiciled resident and a non-domiciled resident and thirdly, whether in any case, assuming that these incomes are to be taxed, provisions ought not to be made by way of protection or exemption, for the type of cases and the class of business of the kind I have mentioned Those are matters of importance and they would be almost the first to come up before this House There is one more point that I wish to refer to before I pass on to the next point of controversy and that point relates to this matter The Honourable the Finance Member said towards the end of his speech that if the foreign incomes are taxed—taking his figures and without referring to the language in which he clothed them—he expected some sixty lakhs of income from that source

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The Honourable Sir James Grigg: On a small point of correction,—"from that, *plus* the repeal of the leave pay exemption", which is in itself sixteen lakhs or something of that sort

Mr. Bhulabhai J. Desai: I was not taking the Honourable Member at his word, but merely giving a concrete idea as to his expectation

Sir Cowasji Jehangir: 60 lakhs *minus* 16 lakhs—44 lakhs

Mr. Bhulabhai J. Desai: I stand corrected You will, however, bear in mind the income likely to be derived and remember against it the other considerations when you arrive at your conclusion I am not suggesting that any Indian resident who ought to contribute to the maintenance of the State or even by way of a balance to the nation-building purposes ought really to troop in with an amount of undue pressure. I may tell my Honourable friends that in understanding a case it is our duty and our obligation, and much more perhaps ours than his, in that we rely on the suffrage of the Indian people; but I may

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assure him that in coming to any conclusion we do, no undue pressure of any kind we are likely to yield to But I do not like to unduly make a scare out of people's desire to explain their case. I quite agree but the kind of telegrams which he read do not appeal to me either People can exaggerate their case and thereby ruin their case, but still it is our duty, however exaggerated the case, to sift what there is which merits the attention of those who have in them the power to make the law under which they will be the assessees and in that sense and for that purpose anybody and everybody who approaches us with considerations which ought to weigh with us will always have a little more perhaps from us than from my friend As I said, if we can find a formula where a proper contribution to the State's resources has got to be made by, Indians who are trading abroad, there is no reason why they should not be called upon to make that contribution in common with those who reside and trade in this country itself There is one other consideration which was pointed out to me how far it will appeal to the House is a matter entirely for them to decide. There is a large volume of opinion which suggested that as far as possible we should prevent what is called the flight of capital from this country, and, therefore, in any event investments which in England are under the heads of stocks, receipts by way of interest and dividends on shares and rents of resident Indians ought to be charged at all events, and that there is no reason why their resources should not really be largely employed for the purposes of the requirements of the expanding industry in this country; and that is very important from the other point of view, from the scare which the Honourable the Finance Member is attempting to produce He says, "if you tax the Englishman too much, he will take away his money from this country". But, assuming that the scare is true, it is up to us then to prevent our people in common with those of other countries from exporting their capital I am not one of those who believe in that exclusive and narrow nationalism but one is ultimately forced to the situation by the action of the rest of the world If the rest of the world looks after itself and excludes you and I am foolish enough to say that we are cosmopolitan so that everybody will come here and take advantage of us, then I am afraid we shall be acting as fools If the world alters, we shall of course be the first to set an example, but so long as the world does not alter, I cannot see my way to being in the company of those who believe that there is no reason why, if others are bad, we should not be good I suppose there are others who rise to the height of Christian charity We recognize, therefore, that if our friend the Englishman finds that it does not pay him to keep his capital in this country, I think we ought to take steps towards preventing our own capital being employed abroad, and to that extent there is a very strong argument in favour of taxing income on what are called "interest, dividends on shares, stocks, rent". Those are the four categories which are to be found in the English Act.

To turn to another matter, when you examine the proviso with "domicile" and "non-domicile", it is this category of incomes which are omitted. What is omitted for the non-domiciled resident is "income from investments, shares, stocks and rent" and leaving only the words "business, profession or avocation". You can, therefore, easily see whether the non-domiciled resident is going to escape as against the Indian whose

foreign income is to be taxed, that is to say, the Indian will be taxed on all sources of income, meaning from business, investments, interest, dividends on shares, stocks and rent, and of course in addition to that, business, profession or avocation, whereas the non-domiciled will be charged only on business, profession or avocation It is cutting out for all practical purposes any foreign income at all It is a deceptive phrase when you read the proviso, if you once omit interest and dividends on shares, securities and rent and confine yourself only to the business, profession or avocation, the chances are that except in the matter of business nothing remains for charging on foreign income for the profession and the avocation he must exercise here, and most of them do that job. Therefore, there is no question of income arising from that source And as to business, if you read the definition of residence and domicile, I think you will find next to nothing to tax for a non-domiciled resident. I must confess that the more closely I examine the proviso, the more readily I am prepared to submit to the House that in so far as foreign income is concerned, the domiciled resident Indian will pay any way of tax on foreign income whereas the non-domiciled resident non-Indian will pay almost nothing in addition to what he would otherwise pay Therefore, if foreign income is to be taxed, you will have to pay attention to this point as to what extent you will make the distinction which is sought to be made Of course, there may be a complaint that the resident, but non-domiciled non-Indian, will have to pay in his own country That is a matter between him and his own country. He cannot complain to me that, while he is as good an assessee the State has taken more out of him elsewhere and, therefore, it is India which must be sacrificed at the altar. That is a point which must be considered very carefully Therefore, the points, as I said, are whether you will allow the distinction and whether, assuming the distinction remained or did not remain, you will be prepared to give any protection or exemption to meet the difficulties which I have pointed out

That takes me to the definition of residence and domicile which is to be found in clause 4 (*b*). It says that a company, firm or association is domiciled in British India, if it is resident in British India I take it that the legal consequence is that an individual has not what you may call artificial domicile but is to be left to his own domicile Under constitutional international law the result of that will be, as the legal consequence, that every individual non-Indian who sticks to his domicile of origin, *i.e*, England, Germany, Italy, etc, will have no domicile in this country even though he may have lived in this country for 50 years Sir Andrews Yule is a standing example of this, about whom it was said that he lived a better Marwari than a Marwari did. That was the part of the evidence which I recollect to have read and yet they could not persuade the House of Lords to alter his domicile. In other words, every Englishman who remains here for 30, 40 or 50 years, that individual would still 'come within the proviso' That is to say, he is a non-domiciled resident. That is the true effect of these definitions. They appear involved but the effect is perfectly clear But in so far as a company is concerned, the definition does not help us in the least because it says "unless the control and management of its affairs is situate wholly without British India". The result is that most of the British companies which are controlled from the United Kingdom would equally escape under that heading. I must confess it has a very far-reaching result. Instead of having a proviso of this kind, a direct method

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of expressing it would be that every Indian would pay and every non-Indian won't pay Let us have it that way and then we know the issue. There is no use fogging the issue by too many words The whole point is that every Indian will pay and every non-Indian will not pay or pay very little indeed That is the net result so far as I can see it Of course, there may be some exceptional cases and I appeal to my friends, Sir Muhammad Yamin Khan and Mr Abdul Sattar, and all the rest of them to take these facts very seriously into consideration when they come to think and consider the suggestions and amendments which we might have to put before this House That, Sir, is clause 4, and I venture to say that I have explained it without the least desire to stress or stretch any point unduly I have done my best to explain the real and full implication of the clause as it stands now We have suggested perhaps a little wider definition of the residence of a company on which it is unnecessary to occupy the time of the House now, but it is a definition to be found in the recommendations of the Macmillan Committee's report for purposes of income legislation in the United Kingdom

Then, Sir the next clause to which I wish to refer and about which we could not see eye to eye with my Honourable friend, the Finance Member, is clause 7, which you might call the trust clause. It is a matter of some difficulty, but I am trying to put it in sufficiently plain language so that he who runs may read Hitherto, if A has created a trust in favour of X even for one year, and the income is payable to X, that income is not taxed as A's income Of course, it is a pure matter of law and I appealed to the then Chairman of our Committee, the Law Member that it is a pure matter of law Nobody can seriously argue that in the event of A making a trust for B to pay the income even for one year to C, that the income arising during that year is not the income of C That is a point on which I am sure one needs no authority, but if I needed any support, I am sure I would get it amply from my Honourable friend, the Law Member The argument, however, is that in many of these cases and notwithstanding the legal ownership, it is intended as a devise to escape tax because that is the only ground on which the income of A becomes for the purpose of assessment to tax the income of B, which is the income of A, I mean the person who is the beneficiary under the trust Then, so far as the provisions in the Bill are concerned, I submit with very great deference that they are too far-reaching What I mean to say is that they cannot be justified even on the ground that there may be some device of this kind which ought to be checked The language is difficult, but the substance is simple The substance is that, in practically every case where what you may call the corpus of the subject-matter of the trust is reserved to the settlor or is likely to revert to him under certain events and in all those cases the income of the beneficiary should be taxed as the income of the settlor. I must say that it strikes me as a very violent provision altogether, not so much that it refuses to recognise the law of trust because it will be said that we are not here merely to administer the law of trust, but that will be a mere verbal argument In other words, if you are going to break the law of trust you can only do so to the extent to which you can say that it is a device to evade the income-tax, and, therefore, I am prepared to hit it But to tell seriously any body of men that where the corpus is not disposed of or is likely to revert, that is a case in which you must assume

conclusively that the trust was intended only for the purpose that the income may be the income of the beneficiary and thereby it was created only for evasion of tax. I believe my Honourable friend, the Law Member, must know of many thousands of cases where genuine trusts have been made for the life of another by many, either by way of provision for maintenance or for many other similar reasons, genuine trusts where the corpus is undoubtedly not disposed of But to say that all trusts, all of them and each of them must be brought within the purview of the Act, because some of those kinds of trusts are likely to lend themselves is a devise, is a matter on which I am certainly not prepared to give my consent I do not deny that in England elaborate provisions have been made to catch different types of trusts as the ingenuity of the lawyer enable the settlor to make with a view to lessen his taxable income and therefore lessen the rate at which tax was payable by him Of course in desperation I was prepared to accept even the English law *mutatis mutandis* You must not say when I said English law that because you find one or two provisions here and there which by reason of the circumstances are inapplicable and therefore the suggestion is absurd or unacceptable If, in England, as my Honourable friend said, for reasons of drafting for catching people you have had to have 15 pages of provisions of the law, in order to cover every type of trust which can reasonably be supposed to be device for evasion of tax, I can understand it I am suggesting a much more simple formula to the House, less than that I think it would be very improper to accept The suggestion that I make is that the income of every revocable trust may be taxed as an income of the settlor I think it is possible there to say that a man may make a revocable trust, it is not a matter for what length of time, but being revocable in nature he can stop it next year Therefore you may say it is quite likely that it is a kind of trust which may lend itself to evasion Therefore I am quite prepared to say that the income of every revocable trust, even though the beneficiary might have wide benefits under it, it may still be assessed as that of the settlor I am prepared to go further that the income of an irrevocable trust so long as the disposition extends to a period of six years or less may be taxed as a part of the income of the settlor I think it would be harsh to go beyond that period By the suggestions I have made, I have made ample provision against the purpose of escaping tax, and to think that a person makes an irrevocable trust to inure for a period of more than six years is doing so purely and solely for the purpose of evading the tax is more than I am inclined to believe knowing the circumstances of the country I quite agree that it will be a question purely of super tax I must give you the proper perspective of the case Supposing the law did not stand, then the beneficiary would undoubtedly pay the tax There is another possible result, that where the income is small, that is below the exempted minimum, he may pay no tax whatever In other words, the income which may otherwise legitimately be exempt from tax would be taxed because it will be added to the income of the settlor, and the income of the settlor would swell to the extent of this addition so as to make his total income bear a larger rate of tax. That really is the significance of the provisions which are intended in the Act.

Sir Cowasji Jehangir: May I ask the Honourable Member whether he has seen the latest decision that appeared in the *Times of India* yesterday about a *waqf* case?

Mr. Bhulabhai J. Desai I do not wish to enter into that controversy at all.

I come then to clause 26 I cannot say that I am not sufficiently grateful to my Honourable friend for this provision I express the feeling of satisfaction at the provision that we can carry over the loss. I am only voicing the complaint which I heard, and I say this without any further comment I think the word "same" may be omitted in order that you may take the loss of this year, not only from the income from the same source, but from all sources in the next six years as well I leave it at that, I have nothing more to say on this point It is a matter on which I am not in a position, considering the justice of the case, to press unduly.

We then come to clause 39 which has been the subject of some controversy Clause 39 relates to what is called the re-opening of the past assessment. Hitherto you can only re-open for a period of one year. It was provided in the Bill that you can go back six years On the mere matter of time I am bound to say that I find myself in agreement by way of compromise if you like that the period should be four years and the reason that appealed to me in that respect is that now the losses can be carried forward for six years, in order to claim that you should have your books Equally the State can claim 'give me the same books' for the purpose of re-examining whether I have assessed you properly From this point of view, I have nothing to say There are other considerations which the House has to take into account The first consideration is that at present the Income-tax Officer is free so long as the word 'discover' is used I do not know really it goes very much further The original word was 'is of opinion' and for that the word 'discover' has been substituted Sometimes these verbal changes please people, but I have not found that they cut very much ice There were the words "escape assessment" I attempted to argue before the Court that the word 'escape' means escape either through mutual mistake or through any improper conduct on the part of the assessee This is the meaning normally conveyed by that word to a lay mind But unfortunately the Judges said 'escape' only means not taxed, that is to say fail to be taxed or remaining to be taxed Then the sting was out Anyway the word 'discover' does not particularly appeal to me. for it really does not advance the matter The real point that we urged was that there should be stated in the notice grounds for re-opening, secondly when the assessment is re-opened, it should be confined to those stated grounds. If the grounds were not stated, our objection was that the whole thing was fishy I do say that objection can be taken more or less on two or three grounds One is, of course, the inevitable informer, and he may give wrong information and say that I was a company director when I was not. But when he gets hold of my books he may find I was a green-grocer with an income which has escaped Secondly, they say, your next year's assessment may arouse a suspicion that you could not have earned so much out of the same business when you say earned nothing or very little last year. That is the sort of inference they propose to draw. And yet another is one's outward manner of life or way of living. But there are many poor people who live richly and many rich people who live poorly, and, I am sure that so far as India is concerned, Sir James Grigg will find little consolation in applying that test In Calcutta, there are many people whom you would never suspect of being rich from the way in which they live There is one multi-millionaire in Bombay who lives in a forty rupee

room with at least 10 telephones around his walls who is carrying on business of many crores of rupees I do not believe that this last method is of much value, the first two might or might not be Of course, it comes to admitting that it is in one sense fishing, but that a certain amount of fishing may be allowed where people unduly or dishonestly have escaped taxation It will be for you to judge what should be the terms of re-opening, because one cannot say that you cannot re-open it under any circumstances whatever

Then, we come to a clause which will lend itself to a considerable amount of discussion and I believe good humour and so on, and that is clause 42, relating to what I might call the right of entry of the Income-tax Officer into another man's premises, that is the violation of a man's right of remaining master of his castle The clause as it was appeared to us to be unduly wide, and I am not sure that the clause, as it now stands, has done all the justice or affords all the protection required against unwelcome intruders in the case of innocent people, which is the real point, because of course it can be easily said by catching one that we ought to have gone there twice or thrice, but whereas you may catch one where you may have gone twice or thrice you may go to 50 other people where we ought not to have gone at all That is the crux of the matter The clause as it now stands provides that he may go to your door to request information, and you cannot stand at the door and say, 'who the devil are you', and secondly that, if he is armed with a what is called a warrant—though it is not in this case called by that name, because the Criminal Procedure Code does not apply—if he is armed with a written permission from the Income-tax Commissioner, he can enter the premises and take the books, examine them and initial them and so on This is the provision which the Government desires or requires, saying that in many instances incomes have escaped taxation by reason of their not being able to get at any real means of checking those incomes

So far as major matters are concerned, there remains only one clause, clause 53 Clause 53 refers to the section which deals with what is called double income-tax relief It is going to be amended by the Government in certain respects and so far as those amendments are concerned there is nothing to be said against them But in regard to this clause I wish to remind the House of what occurred at the time when the motion for Select Committee was made Among the major complaints which were then made was first the section 60 to which I have referred, namely, the power of the Central Government to exempt any classes of income Of course that power I objected to, and as I have already pointed out, so far as that is concerned, that has gone out of the Act The other major complaint I made was about double taxation relief, and I then submitted as I submit again to the House that it is a matter which merits your attention Irrespective of the actual figures, the fact remains that as a result of what may be called reciprocal arrangement we get, that is to say the Indians trading in the United Kingdom or otherwise liable to taxation there, get a relief amounting to some two or three lakhs of rupees up to the separation of Burma The relief in the last year given by India before the separation, according to the figures published by the Board of Revenue in the All-India Income-tax report, adding up the two items businesses and other assessees, was about 129 lakhs. In regard to the extent to which the figures would be reduced by reason of the separation of Burma I am prepared to accept the figures of my Honourable friend But the point is that,

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as my friend said in his conclusion, and I will take his figure only, as against the 60 lakhs real exemption or relief which under the section is available to the resident non-Indian, as I will call him, the fact remains that he hopes to compensate you by saying that you will get it back if section 4 is passed. Now just imagine the irony of this argument that in order that another may be relieved I must burden myself That is the short statement of the argument which must carry with it its own condemnation In other words the relief to the other should remain, but to the extent to which that makes our taxes less I must find out a new source of taxation which you should suffer First as to clause 4, if it remains let it remain It is not a matter of exchange Let 4 remain, it is not unlikely that if not now at a later stage we may need more revenue and therefore the merits or demerits of clause 4 have nothing to do with the issue But the irony of it is the point which my friend, I dare say, saw and which I would like to put before you I am losing not 129, but only 60 lakhs, but as against the 60, I am going to extract 60 out of you. If you are pleased with that argument, you may be pleased, I have no quarrel with you But how you can be pleased with any sense in your head is more than I can see That is the short argument But I have a lot more to say about it lest it should appear that I have only the one argument But that is an argument for which there is no basis or justification, and it is one which I cannot possibly accept, that we should let off one who is not an Indian 60 lakhs and tax an Indian 60 lakhs to make up for that I this morning re-read the speech that I made at the time of the Select Committee motion and my Honourable friend's reply I have seen a cartoon of my Honourable friend in which he is sitting down as a school boy on the ground trying to discover an appropriate word, turning over dictionaries and books Possibly he is going to keep that as one of his heirlooms he is preserving. In that cartoon his face is cherubic. But as I see him in the cartoon reading his speech, I am referring to that he made in reply, I see him as a different child altogether; I see him sitting down on the ground rubbing both his hands and feet and with crocodile tears coming out of his eyes That is the only kind of picture induced by what one sees there in substance It is easy to be sarcastic and to talk of plunderers and robbers. That is easy enough to be used but the question is, am I a rascal when I am asking for what I am asking? His argument in substance came to this he says "Yes, in 1921 you were foolish enough to agree to this provision Since then we have had it Now if you take it away what will happen?" I first ask him whether he will refund all that he has taken That is the first question I am going to ask him. But he does not offer any such thing the very boon that was conferred is made an argument for continuing it His argument is this—and it is a correct representation of every word of his argument he says "If you had not been so foolish, our friends would have taken away their capital elsewhere." *(An Honourable Member* "Where?") Leave that out I am trying first to state his argument and when I have stated it, in its naked terms, you can easily judge its value for any man with any sense, unless it is clouded by selfishness or with dark glasses and so on—then he can see nothing that is a very different proposition, but the fact remains that his argument comes to this. he says "I would have taken it away; now that I have not taken it away and if you take the tax as any other Indian pays, then to that extent the capital value of my business would be so much less, because,

hitherto, the capital value of the business is valued on the ground that I pay 60 lakhs less, and, therefore, my income is better and capital value is correspondingly better or higher" Naturally Therefore, he says, if you take what you legitimately ought to take and what you should not have given to me during the last seventeen years and therefore I find myself to be less valuable in my business than before, that is playing the scoundrel. I should like clearly to expose the whole fallacy of this vicious argument on this question of being a robber so far as Indians are concerned They have had the benefit for 17 years and they now come and say "Now my business is being valued on the basis of, we shall say, Rs 10, less 5 which I do not pay—therefore Rs 5 therefore my business is Rs 100 value but if you take the 5 more which every Indian in the same position will pay, my business would not be worth 100 it would be worth only 85" That is the true analysis of his most impassioned peroration in the last speech he made and which I believe he expressed in words more difficult to understand than I have expressed The words are simply these. "Yes, you are taking away indirectly if you reimpose this tax, so to say You are taking away what I call the appreciated value of my business " I do not grant any one of those premises I do not grant the premise that the capital would have gone, because I am able to say from the returns which I have read that the income earned by the investment of that capital is certainly sufficiently inducing as relatively to any other country in the world and to say that I take or I might have taken what I ought not to have permitted at all, to say that if I take what I ought to take then I am reducing the value of your business and thereby robbing him, is an argument which to any reasonable tribunal, except as I said looking through glasses makes—it is said in my country that there is no greater blindness than selfishness—and if that prevails then there is nothing more to be said or as I said, if the big stick argument is trotted out then also there is nothing more to be said But if it is to be an honest argument, I cannot possibly see that the reason that they have got this for 17 years should be a ground, if you please, for saying "I have got so many lakhs and therefore if I do not get many more in future you are robbing me" That is an argument which I would like my Honourable friend to examine a little more coolly and in a little more detached manner to the extent that he can.

Then, there is the other point to which I want to call attention I do not deny for a moment the figures which my friend gave It is true that an English company would pay 4½ annas including tax in their own country; and if repealed in India they would pay 5 annas, and if repealed in the United Kingdom they would pay 7¼ annas. the figures are not disputed at all The figures as my friend gave them were 3 annas in the rupee here, but an English company pays 4½ annas and they would pay 5 annas if the relief here is repealed . . .

The Honourable Sir James Grigg Five and a half.

Mr. Bhulabhai J. Desai: All right, I will take it as 5¼, and 7¼ annas if repealed in the United Kingdom Now, let me examine this. Because his country takes from him by way of taxation because he is what they call resident and having a business outside, is that a fact for which I am to pay? An Englishman, because he is an Englishman, has the whole of the empire at his back. If one single Englishman suffers either in business or in person, and even in reputation, the whole of Britain is at his back;

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and not merely for the honour of it, but for the benefit of that position he has to pay a tax to his country. It is rather a tall argument to say that because he pays that tax which is quite legitimate, we the poor of India should relieve him, because otherwise he will have to pay too much. It is an argument which I cannot possibly accept. Can you accept an argument that because the Englishman in his own country has got to pay not merely for the privilege and honour of it, but for the benefit—a benefit provided in the Government of India Act itself—and many other benefits which are more invisible—if he has got to pay for that, let him pay for it. It is no use telling me that I have got to pay more If these figures are intended to frighten us, then I say I have nothing to do with them How am I concerned with those figures? Imagine his telling me seriously that if the income-tax relief is repealed in England, and if we fail to give exemption, then he would have to pay 7¼ annas But let him give it. I have no quarrel with it It is no ground to tell me that in England he has got to pay the tax By all means let him pay the tax Who objects to his paying the tax which he is bound to pay in his own country? I am too poor to afford it, and they have multi-multi-millions to spare Let his own country, if it likes, forego the 60 lakhs a year if it is only 60, or if it is 80 lakhs, then let it forego 80 85 lakhs to them is very little in their budget But 85 lakhs to me means a substantial assistance for nation-building activities, even according to my Honourable friend. He is trying to find money for it, he is trying to create new sources of taxation for it In the military budget he is trying to get some money for us he says Here is one matter on which there is no room for argument. Let him get it and we shall thank him His country ought to bear a third of what is imposed on us by way of relief His country can afford to bear it The Englishman owes it to his country to pay it and there is no reason why I should pay That is the whole of the argument so far as that section is concerned It is an unjust section it may be a section which may stand where the two parties are on equal terms, financially, economically and politically I can well understand that And even if I were in that position I would not even then come to an agreement like that. But to come to me like the poor, if you please, and say "I am very much harassed in my own country These fellows take an extra tax from me for being an Englishman you are a rich Indian and therefore you ought to relieve me the poor Englishman " Imagine the injustice of the argument Imagine the atrocity of the argument, that "our country chooses to tax us too much and we are poor you fellows are rich why do you not pay We pay two-thirds " I say, why do you not pay the whole if you think you deserve it? That has nothing to do with me To call that robbery is an argument which I say the Honourable the Finance Member should ponder over, before he can ask me to pay in order that he may be relieved! In other words, what I need not pay I must be compelled to pay, and having paid, if I cease to pay, it is robbery It is a thing which beats me altogether It only reminds me of what I have always been accustomed to hear from ungrateful people A man carries another on his shoulder for a whole day and the poor chap is tired or wants a little rest, and he puts him gently down on the ground he says—"the devil threw me down". That is the only credit that we get. Having allowed them to take this money for 17 years, the only credit we get is, if you don't pay you are a wretched man.

I am quite certain that my friend in his cooler moments will recognise the justice of what I am saying The House may or may not be blocked from dealing with it in the manner in which they are entitled in justice to deal with it. That is a matter on which the advice of constitutional lawyers would have to be sought, and I do not propose to pronounce upon it But I do appeal to my friend,—I am not making any grievance,—I am not calling him by the name by which he calls me,—I do appeal to my friend to consider that his country is well able to bear this relief in the shape of a third which my country is unable to bear any longer We want money for our nation building purposes May I plead an appeal to him, to his Government, to the Governor General, the Secretary of State and the whole of the British Cabinet that for once at all events in one small matter they may do some justice and I do appeal to my friends in this House that they should assist me in pressing this claim upon them I do not want to deprive them of the benefit of the relief, but let them take it from those who can bear it better These are the points of controversy between us, the last perhaps the worst of them from their point of view, but which is the simplest from our point of view In so far as we have been able to come to an agreement, I hope I have fairly presented the matter to the Assembly In so far as we have not been able to come to an agreement, I have put the pros and cons for my friends to consider, and I hope and trust that in most of the material matters there is no man or woman who will fail to vote with us as and when the amendments are moved to achieve the purposes and objects I have described.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions Muhammadan Rural) Sir, it will be sheer audacity on my part to open my lips on such a technical Bill as the one before the House. I know my own shortcomings, and, after the two very lucid speeches to which we have just listened, one from the Government side and the other from the Honourable the Leader of the Opposition, it is very difficult for me to enlighten the House on the salient points of this Bill The two instructive speeches that we have just heard have brought home to us the objects of this Bill. The Honourable Sir James Grigg said in the beginning that this Bill was intended merely to tax the richer people, and not the poor people of India

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) vacated the Chair which was then occupied by Mr Deputy President (Mr Akhil Chandra Datta)]

and I would ask the Honourable the Finance Member to bear this fact in mind when we come to discuss the amendments on this Bill I find that the Finance Member goes the whole hog in connection with the Select Committee's Report, while the Honourable the Leader of the Opposition differs from him on certain very important points which are in the interests of India and Indians I may mention at the very outset that I was not a member of the Select Committee, and, therefore, it will not be right for me to enter into the details of the Bill as the Honourable the Leader of the Opposition has done. I shall take up only those points which I consider are to the interests of my countrymen The Honourable the Leader of the Opposition said that he would not like to be called a partner with the Government I do not know anything about the proceedings that took place in the Select Committee, nor do I know who walked into whose

[Mr. Muhammad Azhar Ali.]

parlour. I do not know if the Leader of the Opposition and the Party which he represents have been able to extract from the Government as much as they ought to have done, but I find there are still very outstanding matters which have to be dealt with by this House, and the vote of the House will decide those questions

Sir, this Bill is a technical one like the Insurance Bill, the Companies Bill or the Motor Vehicles Bill, but there is much of practicability also in this measure Those people who have had practical experience of the working of a measure like this will be in a better position to say what is of benefit to the Indian taxpayer and what is not, as a result of the introduction of this Bill, but there are certain matters to which I would like to advert, if I may, within the time at my disposal. I would ask the Government to think twice before voting takes place to coolly consider the objections raised against this measure We all know that the Honourable the Law Member had to work very hard on the Companies Bill as also on the Insurance Bill, and so much the Honourable the Finance Member has worked But as this Bill will affect even the Government servants, the Government ought to bear in mind that if they impose heavy taxes, their own Government servants will be hit hard, because it is a matter which will affect the salaries of their own servants Government should also bear in mind that the industrial development of India should not be hampered in any way by imposing heavy taxes on the industrialists It is a well-known fact that there is not much capital in India There are no doubt a few millowners and millionaires, but, on the whole, India is a poor country, and the country cannot be saddled with such heavy taxes as you can impose on a rich country like England This fact ought to be particularly borne in mind when you consider the question of imposing taxation on even the middle class people Therefore, Sir, I would warn the House to be more cautious and to be very careful and not to be afraid of any holy or unholy alliance which may have been entered into by some in the Select Committee When the amendments are taken up, we shall have to regard the fact that India's trade is not crippling We have seen in the papers that the customs duties are going down at the present time and I do not know how the Finance Member will be able to meet the deficit when he comes to take up the budget But an idea is that the income-tax will be raised, and if that is so, there will be more dissatisfaction in the country and the Government ought to be more careful about it

I now come to a few points which I want to place before the House They have been adverted to by the Leader of the Opposition to a great extent but I would put them in my own simple way Under clause 22, notices are to be served on the assessees for the benefit of taxation by the Government, then I would say that proper steps be taken for such services It will not be enough, as we very often find in the civil courts, that substituted service is adopted instead of serving the notice on the people themselves If you advertise notices in the local gazettes and local papers and affix them in places where the people concerned reside, then service will be proper; otherwise it will cause very great trouble On several occasions this substituted service method is adopted in the civil courts and people have had to fight in the suits to the effect that the notices were not properly served on them I want Government to take note of the fact that notices should actually be served on the people, and there are

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proper ways in which they may be made effective, and not simply in a formal manner to complete the formality.

I come now to realisation of arrears. Under sub-section (2) of section 46 I find that under that heading you have provided imprisonment It is a very hard thing and if imprisonment is resorted to, it will not be humane and will not be conducive to income tax work. In the same manner I would say that there are harassing conditions under sub-section (2) of section 38 when you go to and enter forcibly the premises of the people for inspection of their account books For you to enter the house simply to catch hold of the books of those assessees who for some reason or other may not have been able to produce those books because either notice has not been served or some other thing has happened is preposterous—I would appeal to the Government not to be harassing the people in those ways but to adopt measures which may produce confidence and satisfaction in the country I come to the appellate powers now and to the appellate provisions of this Act. They are undoubtedly very good provisions The Select Committee has suggested machinery in the Bill for the setting up of tribunals I do not want to commit myself or my Party to anything here but I must say that the tribunals are really a more convenient way of deciding cases in India In our own province we are introducing the principles of the *panchayat* system and I think that the opinion of one judge or of one man will not be more on the side of justice than the opinion of the tribunal and I do approve of that provision and I think that is a very good provision At the same time it has also been provided that there should be a panel from which the members of the tribunal should be selected It is indeed one of the best procedures that have been adopted, and just as we find in the jury system that people feel more satisfied, so will be the case under the tribunal system I totally approve of the system But there is one thing that I would object to In case of certain appeals a substantial fee is provided to prevent frivolous or petty appeals I submit that this is rather too much This will be another way of extraction from the people If you want more money then say so but you should not, on that account, provide for a substantial fee It will be hard for poor Indians to pay large amounts and in many cases several deserving appeals will not be allowed to go before the tribunal I fail to see how the lawyer Members of the Select Committee agreed to such a proposal These appeals will not be like suits before ordinary civil courts Even in the criminal courts they have not to give a substantial amount of fee In the same manner I submit that the fee provided in this case should not be substantial I agree that the Central Board of Revenue should have the highest and fullest authority My own experience of the Central Board of Revenue of the Government of India has been that they look into the matters carefully if they are properly brought before them I give credit to my Honourable friend, Mr Sheehy, Member of the Central Board of Revenue, in a case which was brought to his notice He was very kind enough to restore the head clerk of one of his offices in spite of the fact that the Commissioner of Income-tax differed and was very harsh and dismissed the head clerk from the office I would, therefore, like that the Central Board of Revenue should be given full and thorough authority over the servants of the department But there is one thing which I would like to mention on the floor of the House, namely, that the treatment which should be meted out to the assessees should be more congenial. It is not only my experience but that of several others

[Mr. Muhammad Azhar Ali.]

also who have appeared before income-tax officers, that they are not as properly treated as they ought to be These are the people whom you want to tax to increase your own revenue and if you don't treat them properly when they go to the income-tax offices and their complaint that the treatment meted out to them is not congenial and that you don't treat them in the way in which they ought to be treated is worth noticing I remember a case in which one of the District Judges in my own province had to appear before an income-tax officer in Lucknow I am sorry that that friend is dead He told me that he was not properly treated in spite of the fact that he was a retired district judge When respectable Indians go there, they are kept waiting in the verandah for hours I would ask the Central Board of Revenue that they should be careful about the treatment that the department gives to Indians who appear before Income-tax officers In future it will be Indians mostly who will be attending in Income-tax offices, and I know that the treatment meted out to them is very different from that meted out to Europeans

Now, I come to another point and that is the unions which the income-tax people form among themselves I know it for a fact that there are Commissioners and Assistant Commissioners who do not care so much for the unions.

The Honourable Sir James Grigg: You mean trade unions of the staff?

Mr. Muhammad Azhar Ali Trade unions are on your brain, because you disgorge more money out of them I am referring to the unions of these poor people who are in the service of the department. I find that they are not so very much recognised by the officials of the department These are the days when trade unions and services unions are becoming a power in the country You ought to take a lesson from this You know what is happening today in Bombay If you don't recognise these unions, the result will be that true facts and true state of affairs will not be represented before you, as I have found to my cost and experience I am glad that the Central Board of Revenue should have full authority but, at the same time, I would ask them to think of the points which I have brought forward

Now, I come to the question of Trusts It may not be a congenial subject to discuss at present but I must say this much at least that in the province of Bihar the *waqf-alal-aulad* and allied questions have to a certain extent been solved and compromise arrived at I would ask this House to remember that those trusts which have been established by the Mussalmans and Hindus for the benefit of their generation or family or public good, should not be the subject of taxation in this House It is said that there is no mention of them in the Muslim scriptures I will not refer to any scripture today, but if the occasion arises and when the amendments proceed, I will do my level best to point out the scriptures, even for the information of the House if necessary.

We have heard a lucid exposition of the policies underlying this Bill from the Honourable the Leader of the Opposition I would not say anything about the policies until the amendments are before the House. To the question of the taxation of foreign income or the question of accrual and remittances, I will not advert to at the present moment. I will only refer to one more point and that is whether the Indians in Indian States will be treated as foreigners as Europeans and other foreigners will be? I do not

know really whether this Act places them on the same level as Europeans or Americans or Australians. So we have to be very careful about their taxation. We now find that there is great affinity between Indian India and British India and we have to be very careful about taxing Indians who are in the Indian States. There are people in British India who carry on business in the Indian States and there are people in Indian India who carry on business in British India We have to be very careful because if Indian States start taxation of incomes, then British Indians will be subjected to double taxation Unless we give relief in this respect, it may be said that we are not treating fairly Indian States people resident in British India I am sure that there is not a single Indian in India who would not like to help his own country They would be glad to contribute their own quota to help India but if they are taxed twice, it will create hardship.

When this Act is passed as reported by the Select Committee the Honourable the Finance Member will probably get higher honours from the Government, *i e*, he may get some more letters added to his name, but we will be the sufferers We have to look to our own interest and we ought not to be guided by what the Government or the Finance Member say is to the interest of Indians We remember the case when the ratio was changed. The Member who changed the ratio has gone away and we are the sufferers If this Bill is passed to the detriment of the Indian people, it will not be Sir James Grigg who will suffer, but it will be the Indians who will suffer Therefore, I would ask my Indian friends in the Assembly to be very careful about passing the legislation on the lines on which it has been brought by the Government

Mr. Deputy President (Mr Akhil Chandra Datta) Mr Lalchand Navalrai Before the Honourable Member starts, I have got to mention one matter, *viz*, that there is a request from the Muslim League Party that the House should adjourn at half past four So far as the Chair is concerned, it has no objection if the different parties including the unattached Members are agreeable I want to know if there is any objection

Honourable Members: No, no

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions Muhammadan Rural) We request that the House should adjourn at half past four for the remaining four days of *Ramzan*

Mr. Deputy President (Mr Akhil Chandra Datta) Yes,—during the remaining four days of *Ramzan*.

Mr. Lalchand Navalrai (Sind Non-Muhammadan Rural). Sir, it seems to be in the fitness of things that the House is being adjourned today at half past four, because, Sir, I cannot but say that, after the speech of the Leader of the Opposition, I do not find much interest of the House in this Bill Sir, this Bill, however, is a very important Bill,—I would say from this point of view that it ruins the Indian trader's interest It may not affect my friend, Mr Essak Sait, because he has no tax to pay, but with regard to the Bill itself, what I am claiming is that there ought to be given full consideration to it If you consider the provisions of this Bill carefully and take full interest in it—and that interest also should be a joint interest of the House,—then you can come to certain conclusions as to whether this Bill should or should not be called a very injurious one, but, any way, the main provisions of this Bill are such as should not exist at all.

Sir, the first question is whether we should give any credit to the Honourable the Finance Member for having brought this Bill or not. I submit that considering the way in which this Bill has been brought, we should give him credit only for one thing and that is that he has taken

[Mr. Lalchand Navalrai]

courage into his both hands to bring this Bill into this House himself in order to get credit for himself after similar provisions or at least some very important provisions had previously been rejected in the days of Sir George Schuster. I submit that he will be doing no credit, because if he succeeds at all in passing the very objectionable provisions of this Bill, then he would be only leaving an inequitable legacy to this country Sir, considering the way in which the Finance Member has always shown an anxiety and a rapacity for the purpose of extorting money from people, I submit that it would be wrong on his part to persist with those provisions, at least the very objectionable provisions.

Now, Sir, before this Bill went to Select Committee, we expressed our view over certain provisions of this Bill and pointed out the difficulties that we had Now there is no doubt that I should give credit to the Select Committee for having considered it for some time and spent much labour over it but I submit that with all that, in spite of giving credit to them for what they have been able to get, as it is said, by persuasion, by bargaining and by certain promises being made and not by argument because the arguments would never suit our Honourable Finance Member, the report is not complete and there is only a reliance on certain promises as expressed by the Honourable the Leader of the Opposition What I mean to say is this that when an important Bill like this went to Select Committee, there ought to have been no haste in sending this Bill to this House to be considered at this moment What I mean is this It has been made plain to the House today that there are certain provisions which have not been finally decided by the Select Committee but that certain promises have been given that provisions of that nature will be placed before the House, and also that certain matters are being inquired into and investigated and then those provisions will also come before this House. Not only that, but from the Select Committee's report I find that it has been said that some of the provisions which are being accepted by the Select Committee provisionally will be formed into rules or into instructions or what may be called administrative orders Now I say, Sir, that that is a most objectionable thing that they should have been left over in the Select Committee What do we find here? For instance, let us take the question of the tribunal Now that question is also very important because all along we have been saying that the procedure laid down in the Act is not a good procedure at all It is only the administrative authority which has to decide the case with no help of any capable man or any person or any assessor or any independent non-official to come to a certain conclusion Now, therefore, what we find in practice is this that when an assessee comes before the income-tax officer, the income-tax officer is the sole authority to assess him Now, when he assesses the income, it is left to him to form his own opinion on anything that he finds, even according to what we may call his own fancies and whims He comes to a certain conclusion and then what he decides is more or less, I say, the final view · When he comes to a conclusion that such and such a tax and so much amount should be paid, well he has given the judgment, but to whom does the matter then go if the assessee is aggrieved? Now, he goes before the Assistant Income-tax Commissioner, who also belongs to that very Department . . . . .

Mr. Deputy President (Mr Akhil Chandra Datta): The Honourable Member can resume his speech tomorrow

The Assembly then adjourned till Eleven of the Clock on Thursday, the 17th November, 1938.

LEGISLATIVE ASSEMBLY.

Thursday, 17th November 1938

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

INAUGURATION OF FEDERATION.

1292. *Mr. Abdul Qaiyum: Will the Honourable the Leader of the House please state

(a) whether Federation is to be inaugurated on or about the 1st January, 1940,

(b) whether a modified Instrument of Accession was lately shown to the ministers of various States at Simla,

(c) whether any time limit has been fixed for such States to decide for or against Federation, and

(d) the probable dates for the dissolution of the present Legislative Assembly, and for the holding of elections for the new Federal Assembly?

The Honourable Sir Nripendra Sircar: (a)—(c) The attention of the Honourable Member is invited to the combined reply which I gave on the 14th November, 1938, to starred questions Nos. 1217, 1229 and 1233

(d) As regards the first part, I invite the Honourable Member's attention to my reply to Mr Satyamurti's starred question No 1230 asked on the 14th November. Government are at this stage unable to make any statement on the point raised in the second part

Mr. Abdul Qaiyum: Is it a fact that time has been given to the States to answer by the 30th of June, 1939, whether they are joining the Federation or not?

The Honourable Sir Nripendra Sircar: For reasons already given, I am not prepared to say whether that is a fact or a fiction

Mr. Abdul Qaiyum: Is it or is it not a fact that it is intended to call a sort of Round Table Conference, if the requisite number of States fail to give the proper response, in autumn next year?

The Honourable Sir Nripendra Sircar: There is a question pointedly on that subject which I have got to answer later on.

Mr. S. Satyamurti: With reference to clause (c) of the question, may I know whether Government's attention has been drawn to the provisions of the Government of India Act under which it is open to the States to say that the Federation ought to come before a certain time, and that they will join the Federation only if it is inaugurated before that time, and whether, in view of that, Government have considered the possibility of negotiating with the States or the States have approached the Government of India with regard to any time limit, before which the Federation ought to come, for their joining?

The Honourable Sir Nripendra Sircar: For reasons already given, I cannot make any statement on this question

Mr. S. Satyamurti: I am asking whether Government have considered the provision of the Government of India Act which confers a power on the States to fix a time limit for the Federation to come into existence and to say that, unless it comes before that date, we shan't join it

The Honourable Sir Nripendra Sircar: The Government of India is supposed to know and does consider all the sections of the Act

Mr. S. Satyamurti: That I also suppose! But I am asking, with regard to the question that has been raised in clause (c), and with regard to the time limit, whether Government's attention has been drawn to that provision of the Act, and from that point whether they have examined any time limit being fixed by mutual agreement or whether they have left it to the States to fix the time limit

The Honourable Sir Nripendra Sircar: Government are aware of the section and its signification, but whether action has been taken or has not been taken, for reasons already given, I am not prepared to say

Mr. K. Ahmed: The Honourable the Law Member is not in a position to deny that a draft was prepared for the Ministers of the States who came here, and probably a copy of it was sent in advance of their arrival here, and they had some conversation with the Governor General, and probably Government have given an ultimatum that by the 30th of June, 1939, they have to make a statement whether they are agreeable to accept the terms of the Federation and to join it by that date If not, a Round Table Conference will be held If the Honourable Member is not in a position to deny it, he had better keep quiet. If he will kindly reply in the affirmative, then I am ready to put my question in that form. If that is so, it will be decided that the Federation is coming and the life of our House will be extended up to the autumn of 1940. Is not that so? If the Honourable Member is not in a position to deny it, because he does not know, as he has only recently returned from Europe, then I hope he will accept the version which has also appeared in the daily papers here.

The Honourable Sir Nripendra Sircar: My friend ended his speech by saying whether I accept his version. The answer is "No".

Mr. T. S. Avinashilingam Chettiar: May I ask whether Government have set up any time limit for themselves in the matter of these negotiations with the States?

The Honourable Sir Nripendra Sircar: I think that is covered by my previous answer, namely, that no statement can be made

APPOINTMENT OF INDIAN AGENTS IN BRITISH COLONIES.

1293. ***Mr. Abdul Qaiyum:** Will the Secretary for Education, Health and Lands please state:

(a) whether he has received a reply from His Majesty's Government with regard to the proposal of appointing Indian Agents in some of the British Colonies,

(b) if so, what is the nature of the reply;

(c) whether Government will appoint Indian Agents in Fiji, West Indies and East Africa, if so, the probable date of such appointments; and

(d) if not, the reasons therefor?

Sir Girja Shankar Bajpai: (a) No

(b) Does not arise

(c) and (d) I regret that I cannot answer this question until the negotiations with His Majesty's Government have been completed

Mr. Abdul Qaiyum: May I ask when these negotiations with His Majesty's Government actually began?

Sir Girja Shankar Bajpai: My Honourable friend is aware that the question of the appointment of Agents has been under consideration for some time. In September I said that I hoped to be in a position to say something by the end of October or the beginning of November Unfortunately, the precise decision has been retarded or delayed by the world crisis

Mr. Abdul Qaiyum: May I know for how long these negotiations are expected to last?

Sir Girja Shankar Bajpai: I hope they won't take very much longer to conclude

Mr. Abdul Qaiyum: Have Government received representations from Indians in East Africa, the West Indies and Fiji about the appointment of these Agents?

Sir Girja Shankar Bajpai: On a previous occasion I informed the House that the Indian Congress in East Africa had represented that it did not want any Agent in East Africa. No representations have come from Fiji, but informal advices indicate that the community there would be glad to have an Agent.

Mr. Abdul Qaiyum: May I ask if the Trade Agent in Kabul is under the Honourable Member or is he under the Foreign Secretary?

Sir Girja Shankar Bajpai: No, Sir. He obeys the sway of my colleague to the left.

Mr. Abdul Qaiyum: But is it not a fact that the other day the Honourable the Foreign Secretary was pleased to remark

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member cannot discuss a matter like that

Mr. Abdul Qaiyum: Sir, the position of the Trade Agent in Kabul is of great importance

Mr. President (The Honourable Sir Abdur Rahim) Take the answer as it is and draw your own conclusions

Mr. Abdul Qaiyum: But we want a reply from Government under whom he is? We have got two contradictory statements from them

Mr. President (The Honourable Sir Abdur Rahim) Draw your own inference

Mr. S. Satyamurti: We cannot draw an inference on facts We want to know what the exact position is

Mr. Abdul Qaiyum: The Foreign Secretary denies all responsibility

Sir Aubrey Metcalfe: May I explain the position, Sir The answer which I gave the other day may have been somewhat misleading For some purposes, he is under the Department which I represent and for some other purposes he reports direct to the Commerce Department

Mr. Abdul Qaiyum: May I ask for which particular purposes he is under the Foreign Secretary, and for which particular purposes he is under the Commerce Department?

Sir Aubrey Metcalfe: I could not answer that without notice

Mr. S. Satyamurti: With regard to Fiji, may I know if my Honourable friend's attention has been drawn to the proceedings of a Conference which was presided over by Pandit Hirday Nath Kunzru in which the Indians definitely put forward a demand for the very early appointment of an Agent in Fiji?

Sir Girja Shankar Bajpai: I think that is covered by the answer which I gave earlier that informal advices indicate that the Indian community in Fiji does desire the appointment of an Agent

Mr. S. Satyamurti: In view of that, will my Honourable friend press on His Majesty's Government the need for permitting this Government as early as possible to appoint an Agent?

Sir Girja Shankar Bajpai: Yes, Sir.

Mr. S. Satyamurti: With regard to the West Indies,—I think my Honourable friend knows that the condition of Indians there is causing some anxiety—may I know whether my Honourable friend will press upon His Majesty's Government the need in that case also for passing early orders permitting us to appoint an Agent in the West Indies?

Sir Girja Shankar Bajpai: My Honourable friend is already aware that the Government of India will be shortly deputing an officer to the West Indies primarily to give evidence before the Royal Commission on the West Indies and it may be that as a result of the report that he may make it may become necessary to make further representations to His Majesty's Government

Dr. Sir Ziauddin Ahmad: Is the delay due to the fact that his department is very slow to move as was done in the case of Burma, or is it due to the fact that the British Government was engaged in more serious matters?

Sir Girja Shankar Bajpai: This department is not slower than other departments of the Government of India.

Mr. S. Satyamurti: Are there any points of controversy between the Government and His Majesty's Government with regard to the appointment of these Agents of Fiji, West Indies and even East Africa, or is it a case of merely formal permission being given by His Majesty's Government?

Sir Girja Shankar Bajpai: I regret that until negotiations are completed I cannot disclose the nature of the difficulties that have arisen in the matter

PROTECTION OF THE INTERESTS OF INDIANS IN TANGANYIKA.

1294. *Mr. Abdul Qaiyum: Will the Secretary for Education, Health and Lands please state

(a) whether he has read Reuters message from Dar-es-Salam, dated the 6th October, 1938, published in the *Statesman* of the 7th October, 1938,

(b) whether the prospects of the return of Tanganyika to Germany has created alarm and resentment among the Indians there;

(c) the total number of Indians in the above Colony, and

(d) the steps taken, or proposed to be taken, by the Government of India to protect the interests of Indian nationals in Tanganyika?

Sir Girja Shankar Bajpai: (a) Yes.

(b) and (d). The Government of India received recently a communication from the Indian Association of Tanganyika indicating their concern in regard to the future of Tanganyika. This communication has been forwarded to His Majesty's Government

(c) The Indian population of Tanganyika, according to the census of 1931, is 23,422.

Mr. Abdul Qaiyum: In view of the possibility of the event of transfer of this territory to Germany, may I know if the Government of India will take steps to see that the Indian settlers there are sufficiently and amply compensated for all their investments?

Mr. President (The Honourable Sir Abdur Rahim) That is a hypothetical question which I cannot allow

Mr. S. Satyamurti: Have the attention of Government been drawn to the statement of Mr Malcolm Macdonald probably in the House of Commons, to the effect that there is no intention of transferring any of these colonies to Germany?

Sir Girja Shankar Bajpai: My reading of the paper this morning is that under the authority of the Governor of Tanganyika some statement has been made at a public meeting in Tanganyika—I am trying to get particulars of that—Government have seen an announcement made on the same question on Monday afternoon by the Prime Minister

Mr. T. S. Avinashilingam Chettiar: May I know whether this Government was consulted when that statement was made?

Sir Girja Shankar Bajpai: I cannot disclose whether this Government was consulted or not

Mr. S. Satyamurti: May I ask if the Government of India will telegraph to His Majesty's Government and find out the latest position or intention of His Majesty's Government with regard to the colonies, in view of the fact that the statement made by the Governor of Tanganyika, in the light of my Honourable friend's statement, is not completely authorised, and in view of the fact that the Premier's statement was not specific? May I know if Government will ascertain the information by cable?

Sir Girja Shankar Bajpai: I am afraid I must have been misunderstood. I did not say that the Governor's statement was unauthorised What I said was that all I read in this morning's paper was a statement reported to have been made on the authority of the Governor of Tanganyika I am trying to get particulars of that I have cabled already

Mr. Abdul Qaiyum: What is the attitude of the Government of India towards the proposed transfer of territory to Germany?

Sir Girja Shankar Bajpai: I submit that relates to a question concerning relations between His Majesty's Government with a foreign power

Mr. Abdul Qaiyum: We are also affected because we have got so many nationals in that country After all the Government of India are sure to have some opinion on this point

Sir Girja Shankar Bajpai: All that I can tell my Honourable friend is that the Government of India are as alive to the importance of Indian interests in Tanganyika as they are to their interests in other colonies

Mr. President (The Honourable Sir Abdur Rahim) Question No 1295: Sardar Mangal Singh.

(The Honourable Member was absent.)

Mr. Abdul Qaiyum: When I wanted to put a supplementary question about the proposed Round Table Conference, the Honourable the Leader of the House said that there was another question on the order paper and that he would answer my supplementary question when it was reached I now find that Sardar Mangal Singh is absent and his question has not been put May I know if I can repeat my supplementary question?

Mr. President (The Honourable Sir Abdur Rahim) You must make it relevant to this question.

The Honourable Sir Nripendra Sircar: I have no objection to answer question No 1295, if you allow me to give an answer.

Mr. President (The Honourable Sir Abdur Rahim) You can answer the question

PRESS REPORTS ABOUT A MINIATURE ROUND TABLE CONFERENCE ON FEDERATION ISSUE.

†1295. ***Sardar Mangal Singh:** Will the Honourable the Leader of the House please state:

(a) whether there is any truth in the press reports that a Miniature Round Table Conference will soon be held in India over the Federation issue; and

(b) whether Government intend to make any statement on this matter?

The Honourable Sir Nripendra Sircar: (a) I am not aware of any such proposal.

(b) Does not arise

APPOINTMENT OF INDIAN AGENTS IN BRITISH COLONIES.

1296. ***Mr. T. S. Avinashilingam Chettiar:** Will the Secretary for Education, Health and Lands state:

(a) whether he has heard from His Majesty's Government with regard to the matter of appointing their agents in some of the British colonies,

(b) if so, to what conclusion they have come, and

(c) to which colonies and when they propose to appoint their agents?

Sir Girja Shankar Bajpai: (a), (b) and (c). I would refer the Honourable Member to the reply which I have just given to Mr Abdul Qaiyum's question No. 1293

Mr. T. S. Avinashilingam Chettiar When do they expect to come to a conclusion on this matter?

Sir Girja Shankar Bajpai: I have already answered that in reply to supplementaries

Mr. T. S. Avinashilingam Chettiar: May I know whether the Honourable Member can specify any time?

Sir Girja Shankar Bajpai: Neither time nor date.

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

REPORT OF THE UNITED PROVINCES AND BIHAR GOVERNMENTS' JOINT POWER ALCOHOL COMMITTEE.

1297. *Mr. T. S. Avinashilingam Chettiar: Will the Secretary for Education, Health and Lands state

(a) whether Government have received copies of the United Provinces and Bihar Governments' Joint Power Alcohol Committee Report and examined their recommendation;

(b) if so, to what conclusions they have come, and

(c) whether they have received any representations from those Governments on this matter?

Sir Girja Shankar Bajpai (a) and (c) No

(b) Does not arise

Mr. T. S. Avinashilingam Chettiar May I know if they have not received copies of this report?

Sir Girja Shankar Bajpai That is so

Mr. T. S. Avinashilingam Chettiar: May I know whether they have examined the report?

Sir Girja Shankar Bajpai How can we examine the report without receiving copies?

Mr. T. S. Avinashilingam Chettiar: It is about two months back that the report was published and he said that they are trying to get a copy May I know the reasons for such a long delay in getting copies?

Sir Girja Shankar Bajpai That question can only be answered by the Government of the United Provinces All that I can say is that we asked for a copy of the report in August We reminded them again in November without success

Mr. K. Santhanam May I know if the Government of India cannot buy a copy of the report from the Government Press of U P ?

Sir Girja Shankar Bajpai. Seeing that the report has not yet been published and is not on sale the option of purchase is not open to me.

TRADE TALKS BETWEEN INDIA AND CEYLON.

1298. *Mr. S. Satyamurti: Will the Honourable the Commerce Member please state

(a) whether any steps have been taken to initiate Indo-Ceylon trade negotiations so far; if not, why not;

(b) whether Government's position still is that those talks cannot be taken in hand till the Indo-British trade negotiations are over; if so, why; and

(c) whether Government propose to take in hand those trade talks between Ceylon and India at once, and also to include therein the status of Indians in Ceylon?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b) and (c). The position with regard to negotiations for a trade agreement with Ceylon has been fully explained in reply to Mr Manu Subedar's question No 227 on the 14th February, 1938, and to the Honourable Member's question No. 874 on the 9th September, 1938, and the supplementary questions arising therefrom

Mr. S. Satyamurti In view of the protracted nature of the Indo-British trade negotiations and the need for taking up these Indo-Ceylon negotiations as early as possible, may I know if Government have reconsidered or will reconsider the question of not putting them off till these negotiations are over but of starting them as early as possible independent of the outcome of the Indo-British trade negotiations?

The Honourable Sir Muhammad Zafrullah Khan Sir, I regret the delay as much as the Honourable Member, but it really is not practicable to take up the question before the conclusion of the negotiations with the United Kingdom which, however, I am hoping will not take very much longer

Mr. S. Satyamurti With reference to the second part of (c) may I know whether Government are aware that the status of Indians in Ceylon is now causing grave anxiety to friends of India and Ceylon—I include the Government of India also—and may I know whether the Government of India are considering the question of including in these trade negotiations—I am glad to hear they will start it soon—this question of the status of Indians in Ceylon?

The Honourable Sir Muhammad Zafrullah Khan I have already on a previous occasion answered this question I have tried to explain that it is proposed that the talks with Ceylon shall not be confined purely to commercial matters but shall also include other matters

Mr. Manu Subedar. May I enquire whether Government have considered the desirability of cancelling the preferential treatment given to Ceylon under the Ottawa agreement in view of the attitude of Ceylon towards Indians generally and towards certain Indian products going to Ceylon?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir, I have no further information to add to that which I have already given on this matter on previous occasions

Mr. Manu Subedar. May I enquire whether Government have the power under the Indian Sea Customs Act to deal with certain imports from Ceylon which are receiving preference now and against which India is receiving no reciprocal preference?

The Honourable Sir Muhammad Zafrullah Khan: The Indian Sea Customs Act is available to the Honourable Member.

Mr. Manu Subedar I want to know whether Government have considered the desirability of using those powers?

The Honourable Sir Muhammad Zafrullah Khan I have already answered that

DEPUTATION TO DISCUSS THE QUESTION OF INDIAN MIGRATION TO MALAYA.

1299. *Mr. S. Satyamurti: Will the Secretary for Education, Health and Lands please state

(a) whether the Malayan Government have approached the Government of India with a request for receiving a deputation from them in respect of the question of Indian migration to Malaya,

(b) whether the Government of India have agreed to receive the deputation, if so, when,

(c) whether the Government of India will keep in touch with the Madras Government as the Government most interested in this question, if and when the deputation is received,

(d) whether the Government of India will send for their Agent from Malaya at the time the delegation is received,

(e) whether the Government of India will consult the Emigration Committee of this House, when the delegation is here,

(f) whether the Government of India will consult Indian opinion both in Malaya and in this country before conceding any of the demands of this deputation, and

(g) whether the Government of India will arrange to receive their deputation sometime early in February next year?

Sir Girja Shankar Bajpai (a) and (b) It has been agreed between the two Governments that a delegation from Malaya should visit India on sometime this cold weather

(c) The Government of India are already in touch with the Madras Government

(d) and (e) That is the intention.

(f) The Government of India consider that the consultation envisaged with the Government of Madras and the Standing Emigration Committee of the Indian Legislature should suffice to bring into focus representative Indian opinion They will, of course, be willing to examine views that may be communicated to them from other responsible quarters.

(g) The exact date of the delegation's arrival is under consideration

Mr. S. Satyamurti With reference to parts (a) and (b), may I know whether my Honourable friend can throw some light on the points which the Government of India and the Government of Malaya have agreed to discuss as a result of the deputation's visit to India?

Sir Girja Shankar Bajpai: Primarily to discuss the situation arising out of the decision of the Government of India to suspend assisted emigration to Malaya

Mr. S. Satyamurti: May I take it that so far as the Government of India are concerned, their position continues to be what it was, when they introduced the Bill and successfully piloted it through this House, and the delegation is being received at the instance of the Government of Malaya who want to make certain representations to the Government of India?

Sir Girja Shankar Bajpai: Yes; the initiative for sending this deputation came from the Government of Malaya

Mr. S. Satyamurti: With reference to part (g) may I know if the Honourable Member will be good enough to arrange for the date of deputation when this House is in session, so that apart from the Emigration Committee members of this House who may be interested in the question, other Members of the House may be available for consultation by Government or may be enabled to represent their views to the Government of India?

Sir Girja Shankar Bajpai: My Honourable friend will realise that this is a matter in which we have to adjust our convenience to the convenience of the Government of Malaya, but I shall bear his suggestion in mind

DISFRANCHISEMENT OF INDIAN ESTATE LABOURERS IN CEYLON

1300. *Mr. S. Satyamurti: Will the Secretary for Education, Health and Lands please state

(a) whether his attention has been drawn to the fact that the Bill to amend the village communities ordinance in Ceylon has again been reserved by the Governor of Ceylon for the significance of His Majesty's pleasure,

(b) whether the Government of India have noticed that even in this Bill discrimination against Indian estate labourers persists and that the remedy offered in the Bill is to disfranchise all estate labourers, Indian and Sinhalese;

(c) whether Government have considered that this will result merely in the disfranchisement of thousands of Indian labourers,

(d) whether the disfranchisement in the case of Sinhalese labourers will be practically *nil* and

(e) whether Government propose to press on His Majesty's Government the need for giving the franchise to Indian estate labourers provided they are otherwise qualified?

Sir Girja Shankar Bajpai: (a) Yes

(b) The amended Bill excludes all labourers, Indian and Sinhalese, resident on estates from the right of vote

(c) No. Under the existing Ordinance no Indian estate labourer has vote

(d) It is estimated that 32,000 Sinhalese may be prevented from acquiring the vote.

(e) The Honourable Member probably means the village communities franchise. The Government of India have addressed His Majesty's Government on the subject of the amended Ordinance which has been reserved for His Majesty's assent

Mr. S. Satyamurti: May I know if my Honourable friend's attention has been drawn to the news which appeared in this morning's paper that the Secretary of State for the Colonies has said that he is unable to advise His Majesty to give his assent even to the amended Bill?

Sir Girja Shankar Bajpai: My attention has been drawn to that report.

Mr. S. Satyamurti: May I know if Government have any information officially apart from the statement in the newspapers?

Sir Girja Shankar Bajpai: No, Sir.

Mr. S. Satyamurti: With reference to the answer to clause (c) of the question, I see my friend has taken advantage—I do not say undue, but proper advantage—of some ambiguity in my question. I am asking whether the result of this Ordinance will mean that Indian estate labourers will have no votes at all, whereas Sinhalese labourers will get votes in other capacities because they do not live on the estates exclusively as the Indian labourers do?

Sir Girja Shankar Bajpai: According to my recollection, the provision in the Ordinance excludes all resident estate labourers, whether Indian or Sinhalese. It may be that Sinhalese labourers working on an estate who are not resident will be eligible for the vote.

Mr. Manu Subedar: May I enquire whether Government have considered any retaliatory measures and in particular any form of economic pressure on Ceylon on account of the attitude which Ceylon is showing in this matter?

Sir Girja Shankar Bajpai: That question was implicitly raised by my Honourable friend when he addressed his question regarding treaty relations to the Honourable the Commerce Member.

Mr. Manu Subedar: Sir, I submit that was raised with regard to the preferences only. I have now asked about retaliatory measures generally, including citizenship.

Sir Girja Shankar Bajpai: It seems to me that so far as the question of citizenship is concerned, if my Honourable friend will refresh his memory, he will find that the Indian estate labourers have the franchise for the State Council in Ceylon. When the Honourable the Commerce Member said that the proposed trade discussions will not be limited to economic questions, he indicated that other outstanding questions will come under review also.

Mr. S. Satyamurti: In view of the reassuring news in this morning's paper, will my Honourable friend cable to England and find out if a definite recommendation has been made to His Majesty by the Colonial Secretary, against His Majesty giving his assent to the measure?

Sir Girja Shankar Bajpai: Instructions for telegraphic enquiry have been given already.

NEGOTIATIONS FOR BILATERAL TRADE AGREEMENTS.

1301. *Mr. S. Satyamurti: Will the Honourable the Commerce Member please state

(a) whether any attempts are being made to start bilateral trade negotiations with any other countries,

(b) if not, the reasons for the delay, and

(c) whether Government are prepared to take prompt and effective steps to start bilateral trade negotiations with countries with which India has a good foreign trade?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b) and (c). The attention of the Honourable Member is invited to the answers given by me on the 9th September, 1938, to part (d) of Mr Santhanam's question No 887 and the first supplementary question

Mr. S. Satyamurti: May I know if Government from time to time review trade statistics between India and foreign countries and come to decisions with regard to the need for concluding trade agreements with those countries, and, if so, how often in a year?

The Honourable Sir Muhammad Zafrullah Khan: As I said on a previous occasion, these statistics are being continuously reviewed

Mr. S. Satyamurti: When were these statistics last examined from the point of view mentioned in this question, namely, the desirability from India's point of view of concluding bilateral trade agreements with other countries?

The Honourable Sir Muhammad Zafrullah Khan: When the statistics come in they are examined from all points of view on which they bear

Mr. S. Satyamurti: In view of the fact that this House has recommended to Government that they should conclude bilateral trade agreements wherever they are favourable for India, may I know whether these figures are examined from that point of view, if so, how often, and by what agency?

The Honourable Sir Muhammad Zafrullah Khan: They are examined in the Department, Sir, and as I have said, they are examined continuously. For instance, after my journey to some European countries last year, they were examined from that point of view Since then the examination has been taking place continuously

Mr. S. Satyamurti: Have Government come to any conclusion with regard to any of the countries with which they desire to start negotiations for concluding bilateral trade agreements?

The Honourable Sir Muhammad Zafrullah Khan: With regard to that until the negotiations with the United Kingdom are out of the way no definite conclusion could be come to.

Mr. K. Santhanam: Now that discussions with the United States and the United Kingdom are almost completed, may I know whether any steps are being taken to enter into negotiations with the United States for a trade agreement?

The Honourable Sir Muhammad Zafrullah Khan: The matter is being examined

Mr. Abdul Qaiyum: In view of the fact that cordial relations exist between Italy and Great Britain now, is it a fact that trade negotiations are about to begin between India and Italy?

The Honourable Sir Muhammad Zafrullah Khan: I have no specific information though I have noticed something in the press which might tend in that direction.

Dr. Sir Ziauddin Ahmad: Have Government already established or have they taken up the question of establishing clearing arrangements with any of these countries? Are they taking steps to establish clearing arrangements direct with any of these countries?

The Honourable Sir Muhammad Zafrullah Khan: So far as I am aware, there are no clearing arrangements between India and any other country

Mr. Manu Subedar: May I know whether the proposal is to delay bilateral trade agreements until the trade with these countries is definitely lost to India

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

Mr. M. Ananthasayanam Ayyangar: One more supplementary question, Sir. May I know why the negotiations for bilateral trade agreements with other countries should wait until the negotiations with the United Kingdom are complete?

The Honourable Sir Muhammad Zafrullah Khan: For the obvious and simple reason that we must know to what extent we are able to offer concessions to any country with which an agreement may have to be arrived at and that could not be determined till we know what our position is likely to be *vis-a-vis* the United Kingdom.

Mr. S. Satyamurti: Have the Government of India borne in mind the necessity for keeping their hands as free as possible for favourable bilateral trade agreements with other countries and not commit themselves beforehand with the United Kingdom, so as to restrict the scope of negotiations for bilateral trade agreements with other countries?

The Honourable Sir Muhammad Zafrullah Khan: Yes, Sir.

INDIAN DELEGATION TO THE LAST ASSEMBLY OF THE LEAGUE OF NATIONS.

1302. *Mr. S. Satyamurti: Will the Honourable the Leader of the House please state:

(a) whether it is a fact that the Indian delegation to the last Assembly of the League of Nations was given a free hand in respect of the attitude which it may take up in regard to the questions coming before the Assembly,

(b) whether, in pursuance of that, they were given a brief by the Government of India, or the present practice continued of their being given a brief at the India Office, and

(c) whether the attention of Government has been drawn to the statement of the Leader of the Delegation, Sir Nripendra Sircar, to the effect that the League is becoming increasingly unpopular in India and whether that statement was made on behalf of the Government of India?

The Honourable Sir Nripendra Sircar: (a) The last Indian Delegation equally with its predecessors had a free hand within the limits imposed by its instructions.

(b) There has been no change in practice Delegates receive at the India Office briefs which have been prepared in consultation between the Secretary of State and the Government of India

(c) The Honourable Member is presumably referring to my speech in the Sixth Committee on the 24th September of which he appears to have seen a not entirely accurate press report I, therefore, lay on the table a copy of the official report of the relavant portion of my speech which was made in my capacity as Delegate and, therefore, on behalf of the Government of India

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Extract from Provisional Minutes of the 6th Committee of the 19th Ordinary Session of the League Assembly

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"A certain section of opinion in India was opposed not merely to Article 16, but to all the other articles of the Covenant and that section was gaining ground owing to the rapidly decreasing prestige of the League The League had been described as a body which could neither punish its enemies nor help its friends The matter was further complicated by another consideration, not strictly relevant to the interpretation of Article 16 There was in India a strong feeling of grievance about the representation of its nationals in the administration of the League; that factor also has a bearing on India's attitude

If the League could not justify its existence by constructive work towards the end for which it was established, India might lose all interest in Article 16 and every other article of the Covenant Personally he was opposed to the secession of India from the League, but he desired to direct attention to the fact that such a measure was a possibility even a probability, in view of the changes in the Constitution of India which were expected to come into effect at no distant date"

The Honourable Sir Nripendra Sircar: The relevant portion is about two-thirds of a page. I do not know if my Honourable friend expects me to read it.

Mr. S. Satyamurti: Will the Honourable Member read the one sentence regarding the increasing unpopularity of the League of Nations in India?

The Honourable Sir Nripendra Sircar: I had better read the two paragraphs—two paragraphs out of my speech.

Mr. S. Satyamurti: If I am not taken to be impertinent, I would like to express to my Honourable friend my agreement with him, but I should like to ask him, in regard to clauses (a) and (b) of the question, what are the instructions to which he referred?

The Honourable Sir Nripendra Sircar: I believe my friend is more interested in the limits imposed by the instructions than in the instructions themselves, because the instructions cover a huge field. Speaking from recollection—I have not the brief with me here—the only limit which I found in the instructions was that in regard to questions of relations with foreign powers it would be advisable to consult the British delegation I do not remember any other limit being placed on anything which I proposed to do in the League of Nations

Mr. S. Satyamurti: May I know whether my Honourable friend understood the instructions to mean that, if he thought so, he was free to differ, on behalf of the Government of India, from the British delegation in respect of foreign affairs?

The Honourable Sir Nripendra Sircar: I found no express prohibition, and if I felt any doubt I surely would have consulted them as to whether I was free to express my opinions

Maulana Zafar Ali Khan: In view of the fact that international events in Europe have given a decent or rather indecent burial to the League of Nations, will Government consider whether the time has not come when India should cease all relationship with the League of Nations considering the waste of money and the waste of time?

The Honourable Sir Nripendra Sircar: I would like to abide by the decision of His Highness the Aga Khan

Dr. Sir Ziauddin Ahmad: Are Government aware of the fact that people in India as well as in Europe say that the League of Nations is a pleasant place where you can go in whenever you like and come out whenever you like?

The Honourable Sir Nripendra Sircar: I can tell you that when the weather was bad it was very unpleasant indeed to get out

Mr. S. Satyamurti: With reference to clause (b), may I ask whether in respect of the briefs prepared and given to the delegates, do the Secretary of State and the Government of India always agree, or what happens in cases of difference of opinion between the Government of India and the Secretary of State?

The Honourable Sir Nripendra Sircar: I cannot tell the House as to what happened on previous occasions, but on this occasion I did not come across any question of any difference

Mr. Abdul Qaiyum: May I know, if on the question of Palestine the Indian delegation's views exactly tallied with the views of the British Government or was there any difference of opinion?

The Honourable Sir Nripendra Sircar: The question of Palestine was not discussed in any committee in which I was present, in which opinion of British Government was expressed

Mr. Manu Subedar: May I ask whether the delegation submitted any report to the Government of India and whether in that report the delegation made any recommendation about relieving this country of the huge cost of the membership of the League of Nations?

The Honourable Sir Nripendra Sircar: The Report will be published in due course

Mr. Manu Subedar: May I ask whether the recommendation which I referred to is included viz, the saving to this country's treasury of this enormous cost?

The Honourable Sir Nripendra Sircar: I would advise a little patience to Mr. Manu Subedar It will be printed and published and copies will be supplied

Mr. Abdul Qaiyum: On the question of Palestine, did the Indian delegation receive any instructions from the British Government?

The Honourable Sir Nripendra Sircar: We received no instructions

Mr. S. Satyamurti: In the case of the aggression and invasion of China by Japan, which I believe came before this session of the League, did the Indian delegation agree with the British delegation that nothing could or need be done?

The Honourable Sir Nripendra Sircar: I do not know that the British delegation expressed that view.

Mr. S. Satyamurti: Did they express any view at all?

The Honourable Sir Nripendra Sircar: Not that I remember.

POSITION OF INDIANS IN BURMA.

1303. *Mr. Sami Venkatachelam Chetty: Will the Secretary for Education, Health and Lands please state whether Government propose to issue a statement on the situation in Burma in regard to anti-Indian troubles, since the arrival there of the Representative of the Government of India containing, *inter alia*, information on the number of Indians who left Burma, their condition in India, the number still remaining in Burma, the

condition of safety of the personal, commercial and agricultural interests of the Indians who have left Burma and who still remain there and whether panic has ceased?

Sir Girja Shankar Bajpai: Available information regarding the present situation in Burma and the number of refugees who have returned to this country has already been furnished to this House in answer to questions asked on the 14th of this month Government do not consider any other method of publicity to be necessary for the dissemination of this information. They have no information regarding the condition of Indian refugees who have come back to India, the number of Indians still left in Burma must be over a million With the return of conditions to normal, the personal, commercial and agricultural interests of Indians should be as safe as they used to be before the recent riots

Mr. M. Thirumala Rao: Has the Agent to the Government of India submitted any report about the situation in Burma after he went there?

Sir Girja Shankar Bajpai: The answers which I gave on the 14th regarding the present situation in Burma were based on the reports received from the Agent.

Mr. M. Thirumala Rao: Will copies of the reports be laid on the table of the House?

Sir Girja Shankar Bajpai: These are almost bi-weekly communications: they are not reports in the sense of formal documents

Maulana Zafar Ali Khan: May I know whether normal conditions have been restored?

Sir Girja Shankar Bajpai: That is the information that we have received from the Agent.

Prof. N. G. Ranga: Will Government give due publicity to the fact to whom those who wish to put in claims for compensation will have to send in their claims?

Sir Girja Shankar Bajpai: I informed the House the other day that the question of the machinery to be set up for adjudicating questions of compensation is still under consideration

Prof. N. G. Ranga: When once that decision is reached, will Government see to it that due publicity is given as to whom these claims have to be sent by those who suffered?

Sir Girja Shankar Bajpai: I have no doubt that when a decision is taken the person or authority to whom claims should be addressed would be widely published.

Mr. Abdul Qaiyum: May I know if the Indian Agent has been instructed to assess the value or amount of losses suffered by Indian nationals in Burma, because that would help Government in pressing their claim for compensation?

Sir Girja Shankar Bajpai: I gather that those responsible for the presentation of the Indian case to the Commission of Inquiry which has been set up in Burma have already presented to the Commission a fairly comprehensive statement of the loss suffered by the Indian community.

Mr. Abdul Qaiyum: May I know what is the total amount which has been claimed by Indians?

Sir Girja Shankar Bajpai: I should like to have notice of that I cannot say off-hand But I believe it is something like 75 lakhs

Mr. S. Satyamurti: Has the Indian Agent's term been extended, and if so to what period?

Sir Girja Shankar Bajpai: The Indian Agent has been appointed only recently and the question as to how long he should serve has not been considered

Mr. S. Satyamurti: Was he not appointed only for a few months in the first instance?

Sir Girja Shankar Bajpai: The idea was that he should be there, at any rate until the more critical position arising out of the riot was over.

INAUGURATION OF FEDERATION

1304. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Leader of the House state

(a) whether any progress has been made in the talks with the Princes with regard to the inauguration of Federation,

(b) whether the required numbers of them have signified their consent to the Instrument of Accession, and

(c) at which stage are the negotiations at present?

The Honourable Sir Nripendra Sircar: The attention of the Honourable Member is invited to the combined reply which I gave on the 14th instant to starred questions Nos 1217, 1229 and 1233

Dr. Sir Ziauddin Ahmad: Has any Indian State approached the Government of India that it wishes to join the Federation?

The Honourable Sir Nripendra Sircar: I once more draw his attention to the answer which I gave on the 14th But did the Honourable Member say League of Nations? This question relates to Federation, and they are not mathematically the same.

IMPORT OF FOREIGN WHEAT IN INDIA.

1305. *Mr. Manu Subedar: Will the Honourable the Commerce Member state:

(a) in view of the representations recently sent to Government for the equalisation of freight on wheat and wheat products, whether Government have ascertained whether Indian wheat and wheat products have to compete on an unequal basis with imported wheat and wheat products from imported wheat at the ports;

(b) whether the import of wheat in India has increased since the Wheat Import Duty Act expired in 1937; if so, what are the figures;

(c) whether the import of foreign wheat in India is due to technical grounds, or it is due to price difference; and

(d) whether it is true that Australian wheat can be landed in India cheaper on account of depreciated Australian exchange?

The Honourable Sir Muhammad Zafrullah Khan: (a) A representation has been received in the Railway Department from the Punjab Chamber of Commerce on the subject of the equalisation of freight rates on wheat and wheat products The representation is under examination

(b) Imports of wheat into India during 1937-38 were 21,688 tons against 117 tons in 1936-37 and 13,066 tons in 1935-36 During the first five months of the current year imports were negligible, but in the last two months, September and October, they amounted to 42,302 tons.

(c) There is a demand from Indian flour mills for Australian wheat for blending purposes, owing to the larger percentage of wheat flour obtained from it, but the extent of the demand in any year appears to be determined by price considerations

(d) Since the Australian exchange has not varied in its relationship either to sterling or to the rupee over recent years, during part of which time no imports of Australian wheat into India took place even with a free market, the answer is in the negative

Mr. Manu Subedar: May I know what steps are Government taking to safeguard the interests of the wheat producer as well as the interests of the Railway Companies who were transporting wheat and wheat products from the Punjab to Calcutta and Bombay?

The Honourable Sir Muhammad Zafrullah Khan: The question of imposing a duty on the import of wheat is under consideration

Sardar Sant Singh: May I know whether the figures contained in the reply of the Honourable Member as to the quantity of wheat imported include the quantity under bargain which is to come into the ports very soon?

The Honourable Sir Muhammad Zafrullah Khan: Does the Honourable Member mean whether the figure I have mentioned for September and October includes the quantity of wheat that might come in in January?

Sardar Sant Singh: My point is, whether it is a fact that more quantities are under contracts to be sent to India in the near future and that has depressed the price of wheat considerably?

The Honourable Sir Muhammad Zafrullah Khan: The question was whether the figure I had mentioned included certain other quantities. It does not include anything except that to which it refers

Sardar Sant Singh: May I know if Government are aware of the fact that bargains relating to very big quantities have been made with Australia for import of wheat into this country?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir, I am not aware of that fact.

Mr. Manu Subedar: May I know whether Government propose to revive the Wheat Import Duty Act by bringing in a separate Bill or whether it is capable of being revived, and if they are going to bring in a Bill, whether it will be brought in this session?

The Honourable Sir Muhammad Zafrullah Khan: That is a question which I have just answered, and my answer said that Government have that matter under consideration

Prof. N. G. Ranga: Is it not a fact that the Punjab Government made a representation not only during the last Session while this House was in Session in Simla, but also after the recess?

The Honourable Sir Muhammad Zafrullah Khan: I believe a representation was received, but with regard to any more specific question I am afraid I shall have to ask for notice.

Sardar Mangal Singh: May I know when Government will finish their consideration, because a similar reply was given before that they hoped to finish consideration of the question

The Honourable Sir Muhammad Zafrullah Khan: The consideration had to be started afresh, because the consideration which was then in progress showed that no wheat was coming in but now the matter has to be looked into afresh because there have been imports of wheat.

Mr. K. Ahmed: May I know whether the freight of wheat from . . .

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

Mr. K. Ahmed: What is the attitude of the Chair, I do not know

Mr. President (The Honourable Sir Abdur Rahim). The Honourable Member must withdraw that sort of remark.

Mr. K. Ahmed: I am not allowed to ask any question, I am suffering from this trouble. I don't know what the attitude of the Chair is . . .

Mr. President (The Honourable Sir Abdur Rahim): Will the Honourable Member withdraw those remarks?

Mr. K. Ahmed: What am I to withdraw?

Mr. President (The Honourable Sir Abdur Rahim): He must withdraw the words "what is the attitude of the Chair" and he must apologise to the Chair.

Mr. K. Ahmed: I will withdraw, but allow me to put the question.

Mr. President (The Honourable Sir Abdur Rahim): No, not at all. Will the Honourable Member withdraw those remarks and apologise to the Chair?

Mr. K. Ahmed: What is it, what am I to withdraw?

Mr. President (The Honourable Sir Abdur Rahim). I must ask the Honourable Member to withdraw the remarks he made regarding the attitude of the Chair

Mr. K. Ahmed: You tell me the words and I shall tell you

Mr. President (The Honourable Sir Abdur Rahim) What were the words used, let the Official Reporter read them out

(The Official Reporter read out the words "What is the attitude of the Chair, I do not know")

Mr. K. Ahmed: Yes, I withdraw those words unconditionally

INDIANS IN THE INDIAN MEDICAL SERVICE.

1306. *Dr. Sir Ziauddin Ahmad: (a) Will the Secretary for Education, Health and Lands please state the number of Indians in the permanent grade in Indian Medical Service, and how many of them are Muslims?

(b) What is the number of Indians in the temporary grade of the Indian Medical Service and how many of them are Muslims?

(c) When do the temporary officers complete their five years service?

(d) Will they be considered for permanent appointment?

Sir Girja Shankar Bajpai: The question should have been addressed to the Defence Secretary

JOINING OF FEDERATION BY INDIAN STATES

1306A. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Leader of the House state

(a) representatives of how many States have had talks with Government over the matter of Federation,

(b) whether any of them have signified their consent to join the Federation, and

(c) if so, how many and if under any conditions on what conditions?

The Honourable Sir Nripendra Sircar: The attention of the Honourable Member is invited to the reply which I have just given to his starred question No 1304

Mr. T. S. Avinashilingam Chettiar: May I know, Sir, how many Ministers of States have had consultations? We do not want to know the matter if it cannot be given out, but we would like to know the number of Ministers consulted.

The Honourable Sir Nripendra Sircar: I think I explained more than once that we cannot give that information, because it is against public interest to disclose anything about the nature of the negotiations which include the number as well as the names of the States or with whom consultations, if any, are being carried on.

Mr. S. Satyamurti: I can understand their claiming public interest for not answering question on the nature of the negotiations, or even the names of the Princes, but the simple question here is how many States have had talks, and whether any of them have signified their consent to join the Federation? I think, Sir, the public are interested in this matter. Federation is not between one man and another, it is between British India and the people of the Indian States I am not asking your help in the matter, I am merely asking my friend, the Law Member, what are the reasons why the Government will not give this House even this information as to how many States have talked to them or whether any of them have signified their consent to join the Federation?

The Honourable Sir Nripendra Sircar: My friend is so familiar with May's Parliamentary Practice that, I am sure, he will agree that a Government Member cannot be cross-examined as to the reasons why it considers certain answers opposed to public interest, but in this particular case, it is obvious it is not in the public interest to disclose as to what people are negotiating

Mr. S. Satyamurti: May I take it, therefore, that no State has agreed to join the Federation?

The Honourable Sir Nripendra Sircar: You may take it or drop it as you like.

Dr. Sir Ziauddin Ahmad: May I know, Sir, how many States have already signified their intention to join the Federation, and not the League of Nations, please hear me properly.

The Honourable Sir Nripendra Sircar: I have answered this question very often, and I would repeat once more that for the reasons already given, I cannot make any statement.

Mr. Manu Subedar: May I know, Sir, whether Government have considered the desirability of a tripartite discussion with regard to Federation between the Government of India, the representatives of States and leaders of parties in this House?

The Honourable Sir Nripendra Sircar: I am not prepared to say what they have considered

Mr. Abdul Qaiyum: And who decided that the disclosure of the information would be against public interest?

The Honourable Sir Nripendra Sircar: That again my Honourable friend is not entitled to know

Maulana Zafar Ali Khan: I should like to know whether it will be a condition precedent to the participation of Indian States in the Federal scheme that the representatives from the States should be elected or nominated to the Federal Legislature?

The Honourable Sir Nripendra Sircar: It will be either yes or no, I am not prepared to say what it is.

Maulana Zafar Ali Khan: I should like to know whether it will be a condition precedent.

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

INDIANS IN TANGANYIKA.

1306B. ***Mr. Sami Venkatachelam Chetty:** (a) Will the Secretary for Education, Health and Lands please state the number of Indian population in Tanganyika?

(b) What are the landed, commercial or labour interests of these people in that country?

Sir Girja Shankar Bajpai: (a) The attention of the Honourable Member is invited to the reply given by me just now to part (c) of Mr. Abdul Qaiyum's starred question No. 1294

(b) Indians have considerable landed and commercial interests in Tanganyika but Government cannot assess exactly the monetary value of these interests.

Prof. N. G. Ranga: Is any considerable number of them interested there as labourers?

Sir Girja Shankar Bajpai: No, I don't think so.

THE INDIAN INCOME-TAX (AMENDMENT) BILL—*contd*

Mr. President (The Honourable Sir Abdur Rahim) The House will now resume consideration of the following motion moved by the Honourable Sir James Grigg:

"That the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee, be taken into consideration"

Mr. Lalchand Navalrai (Sind Non-Muhammadan Rural): Last evening, when we adjourned, I was dealing with the question of the machinery of the Income-tax Department. There has for long been a demand that there should be some judicial officers who should sit with the Income-tax Officers when they sit to assess a particular assessee. That demand has not been fulfilled in the present Bill. There will be nothing lost if an independent non-official with judicial experience is joined with an Income-tax Officer in the assessing of claims. That is the first point that the House should consider. At one time it was considered that some such people who have some knowledge of the Income-tax Department should be joined, but that has also not yet been done.

I now come to the first appellate authority. The first appellate authority at the present moment is the Assistant Commissioner. He belongs to the machinery of the department and he is the creature of the Central Board of Revenue; that is to say, he is responsible for making more revenue for the department. Now, in the Bill, we find that the words "Assistant Commissioner" have been changed into "Inspecting Assistant Commissioner". Probably the idea is that some Assistant Commissioners will be engaged in the duty of inspection only and some others who will sit in appeal as the first appellate court. But I do not find that the one who will sit in appeal will be a judicial officer I find from the Report of the Select Committee that the judicial work, that is, sitting as an appellate court, will also be given to some of these inspecting Assistant Commissioners; in other words, the officer will be a ministerial officer all the same That is what I am objecting to I submit that the Assistant Commissioner, who will sit as the first appellate authority, should be a judicial officer Then I move on to the question of the second appellate authority An attempt has been made by the Select Committee to give only indications regarding a tribunal I say, indications, because I find from the Select Committee Report that no definite proposal was considered by the Committee Some suggestions were placed before the Select Committee and they had no time, they state, to consider them My complaint of yesterday that this report has been sent to us too prematurely is fully justified by what the Select Committee has said I will now read that portion of the report of the Select Committee which deals with the tribunal

"We are of opinion that the Bill should contain provisions for the introduction of a further appellate authority, of an independent nature, for the hearing of appeals from decisions of Appellate Assistant Commissioners The limited time at our disposal "

Why should the time be considered limited? Is it because of the fact that the Honourable the Finance Member is soon leaving us that he is in a haste about this?

"The limited time at our disposal and the complicated nature of the adjustments that would be necessary for this purpose have prevented us from giving effect to our views in the Bill itself, and have reconciled us to awaiting proposals on the subject which Government undertakes to put forward at the consideration stage "

Have those definite proposals come before us now? We are at the consideration stage and no definite clause has been brought before us If it comes at the time of the amendment stage it does not satisfy the requirements Therefore, it cannot be considered that the consideration of this Bill now at this stage is complete

"The new appellate body should consist of a tribunal composed of not less than two members chosen from each of two categories of a panel of some eight or ten members comprising legal members with qualifications such as are normally required for appointment as a District Judge and technical members recruited from among persons with professional experience of accountancy."

These suggestions are very good, but my point is that they should be cut and dried and in the form of a clause so that we may consider it fully.

I now come to a very important point on which I am very keen and I think the House also, and that is with regard to clause 4. This is a clause against the objectionable portion of which there have been many protests, I would say world-wide protests of the Indian traders, Certain parts of

[Mr. Lalchand Navalrai.]

this clause are being considered very objectionable, and as I stated yesterday, they will prove a great detriment to Indian traders outside I, therefore, submit that this is a very important Bill I will take up the important clauses and comment on them and give my reasons for their deletion In the Bill as it stands clause 4 reads thus

"Subject to the provisions of this Act, the total income of any previous year of any person includes all income, profits and gains from whatever source derived which are received or are deemed to be received in British India in such year by or on behalf of such person"

This is the remittance system that we have at present All foreign incomes that come into India are charged by the Income-tax Department on the remittance basis, that is to say, income-tax is charged on the money that is actually brought into India Therefore, that clause may not be objectionable The second one reads

12 NOON.

"If such person is resident in British India during such year accrue or arise or are deemed to accrue or arise to him in British India during such year"

This also is not objectionable, because that is the present practice We cannot do away with the Income-tax Act under this head What is most harsh is sub-clause (ii) which reads

"Accrue or arise to him without British India during such year"

This will mean that income-tax will be charged whether the money is brought into British India or not I see no justification for this. Along with this I would ask the House to read the second proviso which reads thus

"Provided further that in the case of a person resident but not domiciled in British India, income, profits and gains which accrue or arise to him without British India shall not be so included unless they are derived from a business, profession or vocation or unless they are brought into or received in British India by him during such year"

This makes a distinction One would go to that limit and say that it is a racial question The distinction is apparently and clearly a very invidious one. Reading clause b (ii) with this proviso, it comes to this—that an Indian who is resident as well as domiciled and who belongs to India will be charged on every income that is made by him outside India That is to say, it would be profit on business, profession or vocation and also securities or interest or profit in shares and so forth but with regard to the person who has been resident here for years, but happens to be not domiciled in this country, two exceptions are made One is that he shall be charged only for profit from profession, business or vocation. But with regard to securities, interest, etc , they are being exempted A two-fold provision is made One is that he will be charged with regard to the former three kinds of income, namely, profession, vocation or business, on an accrual basis, but with regard to securities, etc., he would be charged on a remittance basis. That is an anomaly again. Therefore, I submit that this clause will be injurious to the Indian trade and I submit that that clause should go

After having read the clause and shown what is principally meant by this Bill and how it affects, let me now show since when this remittance basis has been continued, because the very first reason that I would give for keeping on the present basis is that it has lived satisfactorily and it has

also given money to India. Therefore unless very tangible grounds are put forward to show that circumstances have changed now or that there are any conditions under which there is a necessity for the change of this clause I hope the House would say that it is not justified The history of this Bill is this This remittance system was first of all provided for in the Act of 1922 In 1928 again the Income-tax Act was amended Here, the remittance system was continued but the change was made that income will be charged if brought within three years to India After that an amendment was made in 1933 It levied a tax on income if it was made after 1933 and remitted to India within three years Now, this gave a little relief because it was shown that if any income that is made in an outside country at any time is charged, it will be wholly inequitable There ought to be some limit Then they provided that any income that was made before 1933 will not be assessable and thus was this amendment made Since 1933 no other amendment has been made and that remittance system has continued. Now, I ask that when it is now demanded that that remittance system should be given the go-by and that the accrual system of all the income, so far as Indian domicile is concerned, should be assessed and charged here even though it lies outside in foreign countries, I ask—is there any justification for it? The House should not consider that this addition is an ordinary thing over which we may sleep or in respect to which we may not give our fullest consideration so as to remove it because this is an evil that is being introduced into the Income tax Act Therefore, I submit, that let us consider coolly what are the grounds upon which it is asked that this Bill should have that clause Now, so far as I understand, no such substantial reason has been shown except the general one, viz., that it will bring in more money Now how much more money will be brought in, when there are difficulties of bringing in money from foreign countries and others? That is for the Honourable the Finance Member to tell us. How much more can you get in these special days in which there are special restrictions outside? How much more money will he get for which he wants to change the present practice and create this revolution? I submit that that has not been shown But let us take it that he will get more money. Now, is that a reason for having this injurious or objectionable clause—because there is an assertion that there will be more money brought in from that tax? I ask—which is that tax which does not bring in more money? Any tax will bring in more money Therefore, that is no reason that any and every kind of tax should be put on Therefore there will be no necessity or any justification for having the accrual system Now I would submit that it has also not been shown that there have been any difficulties in charging on the remittance system when the money has been brought in here. That system has been going on very satisfactorily Then the second point that I would put and which is also a very forcible one and which I think the House should take into consideration, is whether this House, at present, has any reasons to deviate from the opinions that this very House gave definitely and gave it by a large majority on the same accrual system when it was attempted to be brought into India

Sir Cowasji Jehangir (Bombay City. Non-Muhammadan Urban): When was that?

Mr. Lalchand Navalrai: It was on the 9th September, 1931 If the Honourable Member wants the volume, it is Volume No. 1 of 1931 and

An Honourable Member: That was before the flood. That was before the "Sukkur Barrage".

Mr. Lalchand Navalrai: Yes, the Sukkur Barrage will bring lots of money to you, but you will lose when the merchants of Sind who have been contributing so much to Sind to help your barrage do not go outside, they could then send you no money from there and this very House will have to enhance the subsidy that we are giving at present to the Sind Government to go on.

The Honourable Sir James Grigg (Finance Member). Not on your life.

Mr. Lalchand Navalrai: But after you—so far as the Finance Member is concerned, he is very hard to deal with

Sir, without digressing from the point, I submit that this Bill was introduced on the 9th September and rejected in 1932. At that time it was not considered fit enough even to be sent to a Select Committee. Now it might be said that that might be a different Bill I have got the Bill with me and I was a party to it, too, and, therefore, I know much more. Now, Sir, it contained a clause 4. I have read to you clause 10 of the present Bill and you know section 4 of the Income-tax Act also. Therefore, I will not repeat them to show you what they are Now, clause 4 of the Bill of 1931-32 reads thus

"Subject to the provisions of the Act the total income of any year of any person includes all income, profits and gains from whatever source derived"

It comes more or less to the same thing so far as Indian domicile is concerned,—

"which accrue or arise to such person in British India during that period"

This is all right Then comes the clause which is in dispute and that is more or less substantially the same, and it says

"Which accrue or arise to such person in British India during that year if he is resident and domiciled in British India in that year"

So far as the Indian domicile is concerned, it is substantially word for word the same Then coming to the distinction which they are keeping now, that was also not approved of then. After all, the foreign people, as well as the British people in India, have lived long with us, and why should they every now and then ask for these doles and say, "we should be treated differently"? Sir, we know that they are ruling, but it is not on that account that at this stage they can insist upon it. Opinion in India has changed, people are demanding that they should rule themselves, and at that stage to come here with certain distinctions and considerations for foreign people is not just The second distinction is this.

"income which accrues or arises to such person in British India at any time if he is resident but not domiciled in British India in that year, in so far as he brings them into or receives them in British India during that year."

It is the same with regard to their business, profession or vocation It was provided that their securities and investments should be treated on the remittance basis Now, Sir, this very Bill was considered in 1932 with open eyes by Members of the same capacity and the same intelligence.

Mr. Manu Subedar (Indian Merchants' Chamber and Bureau. Indian Commerce). But Sir James Grigg was not there

Mr. Lalchand Navalrai Yes, that is the only difference in the outlook We had then Sir George Schuster in whom we could place some confidence

The Honourable Sir James Grigg Compliments do not cost you much

Mr. Lalchand Navalrai But you won't get any You are going away, leaving the legacy to others who may repent and weep over it.

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member had better address the Chair

Mr. Lalchand Navalrai What I am submitting, Sir, is this that when a Bill of a substantial nature and with the same provisions as in the present Bill has already been rejected by this House, there is no justification to bring it before this House again The justification for bringing it before the House can arise only when some changes of substance have happened or the circumstances have altered That we have not heard any from the Honourable the Finance Member He says he wants more money From whom does he want this money? Is it for the salaries of the Government servants or is it for increasing the salaries of the Members on the Treasury Benches?

The Honourable Sir James Grigg No

Mr. Lalchand Navalrai Is it for increasing the number of the British soldiers?

The Honourable Sir James Grigg It is for the provinces

Mr. Lalchand Navalrai That is very good How much have you given

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member had better address the Chair

Mr. Lalchand Navalrai Very well, Sir If he were to make a proper retrenchment and curtail the number of the officers at the head and also retrench their salaries, how much more will he be able to give to the provinces. It is mere sham to say that Sir, this is the second reason which I have advanced with regard to this objectionable provision.

I now come to the third. I submit, Sir, that this clause is bad on principle. The principle that I advocate is that the income should be taxed at the place of its growth or origin That principle is not my own It is a well-recognised principle. Now, about two or three years ago a Committee was appointed by the League of Nations which was called the Income-tax Committee. The Committee had six experts.

The Honourable Sir James Grigg: Who were they?

Mr. Lalchand Navalrai: I have told you that the Committee was appointed two years ago and you can find out the names of the members yourself. Those experts were of opinion that the income should be assessed only where it accrued or where it had its origin.

The next reason that I would like to put forward, which is also a weighty one, is this, that the Government of India give no help whatsoever to the Indian traders abroad in making their profits and, therefore, it cannot claim any tax on those profits. Now, Sir, I would like to know what help the Indian Government have given to our traders abroad? What I wish to say is that the British Government, in order to tax their income, ought to be in a position to say that they have extended their help to these traders abroad. Now, what has happened in Abyssinia? The House knows that there was an Indian firm there, known as Muhammad Ali and Company. They were trading there and during the war they were practically ruined. Everything was confiscated. What did the Government of India do for them? And this is not only the single case. I will be glad to learn from the Government of India, if this point is contested, the instances in which they have helped the traders outside. They have now got the list of traders in the opinions papers. They are trading at various places outside and they have sent resolutions mentioning their difficulties. They have complained that they are not even allowed to go to the port without a certificate. They are experiencing so many other difficulties. Have they been removed by the Government of India? We have put questions in this House to remove their troubles and the only reply we have got from Government has been that their Consul is there or their British officer is there and he will look into the matter. That reply does not satisfy us. The other day I put questions with regard to the traders who had returned from Spain and were held up on the way. We put several questions to the Foreign Secretary who invariably replied that every attempt was being done there. But what is being done there, I do not know. This is how the Government of India give them help. Therefore, I submit that this is also a ground which deserves our consideration. I think the argument which they will advance in favour of this tax on these traders will be this that these traders fly away the capital of India which would otherwise be useful to India. This is a wrong idea. I can say from my personal experience about the Sind work merchants that when they leave India they do not have much money with them. They did not develop their business abroad with the help of the Government but only because of their own assiduity and skill. I also know that a Sind work merchant went abroad against the wishes of his relatives and he took nothing with himself except a few curios. He went on hawking and he is now the well-known Pohumal and Brothers known all over the world. They have got agencies in every part of the world. Therefore, I submit that if you do not give any help to these Indian traders abroad, you cannot claim any money from them in the shape of a tax. A father who does not give any help to his sons and disregards them cannot claim and ask them to give him money when they begin to earn it. The sons may help him out of morality and out of reverence but not legally. The same principle applies in the case of these traders. The point is that the Indian Government have given them no help and no capital has flown from this country. On the other hand, more capital is brought to India. All this money is brought to India. Unless you drive them bag and baggage and ask them to settle in those foreign countries by enacting a provision like this, they are always willing to bring the money to this country so that

India may be benefited. Not only are the Sind merchants affected but also South Indian merchants who do business in Burma and other places. I, therefore, submit there is no justification for putting difficulties in their way.

The next point is the absence of mutual arrangements, between the Government of India and the foreign Governments in the matter of currency. Indians go and make money in those foreign countries There is no arrangement with those countries as regards trade facilities If they make money there, they cannot move it to India for want of facilities If you want to charge income-tax on the money that is lying in those foreign countries you only induce these people to leave India for ever and settle there Who will be the sufferer? I am told that the tax on foreign income which will accrue outside and which is not brought to India will remain in abeyance In other words even if a small income comes here, it will be charged, and those lying outside even more than six years or any period will be charged whenever it comes Why not directly and straightforwardly say that the income which is not brought to India will not be charged at all

The next question is the question of exchange It cannot be denied that the exchange question has become complicated nowadays The exchange in foreign countries changes quickly If the exchange difficulties are not removed, then I would call the Income-tax Bill not only complicated and intricate but also unreasonable

Mr. President (The Honourable Sir Abdur Rahim): I cannot ask the Honourable Member to make his speech short, but I want the Honourable Member to remember that there are a number of other speakers who want to take part in the debate

Mr. Lalchand Navalrai I am making only a brief reference to all the points I want to make Take the case of Shanghai, the exchange in 1936 was Rs 200 per 100 dollars whereas in 1938, it is Rs 50 only for 100 dollars. Imagine how detrimental it would be to tax on accrual basis

The next question is the payment of double income-tax You pay assessment there and also pay assessment here on the same income. This is clearly wrong This is not fair I learn that they propose to give allowance for the tax they pay there But that is a fallacy If they charge here on the income derived there as well as here and give only a tax paid there as expenses, how is it going to relieve the assessee? He is charged for the whole income outside and here with a small deduction

Then, the next difficulty is with regard to books The income-tax officers insist upon these assessees bringing their books into India so that they may scrutinise them In a place like Manilla and other places they do not allow the books to be removed. That is another difficulty in the way.

Next, I come to the opinion of Provincial Governments. The opinions of Provincial Governments do recognise the difficulty and iniquity of this provision. I will not read those opinions The House might refer to those opinions themselves. Indian merchants trading in far off places like Java, Sumatra, Manilla, Gibralter and others, have passed resolutions and those resolutions have been incorporated in the opinion papers In the summary, at page 6, you will find the opinions and the reasons. These

[Mr Lalchand Navalrai]

opinions should be considered very weighty, because they have been passed in the form of resolutions by those personally affected associations The reason they give is that if this income is going to be assessed on accrual basis, they will have to leave those places and give no more money by their trade to India and cannot settle there any more The next opinion that I shall quote is the opinion of the Sind Government As I belong to Sind, I will quote that opinion—only a few words, the Sind Government Secretary has said.

"I am to say that the Government of Sind are inclined to think that there is much force in the contention that an exception should be made in the case of income derived in countries which prohibit or severely restrict foreign remittances or which do not allow relief from double taxation, and suggest that the question may be given due consideration"

This is exactly what I have placed before you today There are also the opinions of the Karachi merchants and others I will not read them, but I will only refer to the page. The first from the Sind Government was in Paper No II and the one that I am now referring to is in Paper III at page 28 There the merchants association have said.

"We would reiterate that Indian merchants having business in foreign countries are of immensely more value to the country than the foreigners trading here inasmuch as while the former increase national wealth the latter drain away the national resources It is therefore the duty of Government to see that the Income-tax Law of the country does not in any way discourage the Indian business enterprise in foreign countries"

This is what I have to say at present about clause 4 I have also sent notice of amendments to clause 4 and when the time comes I will say more.

I shall now refer to the objections to some of the other provisions I would not take clause by clause, but only in passing say that I object to the slab system I have read what the Select Committee have said. The Select Committee had no materials before it and I do not agree with them—they will excuse me— they are not justified in their conclusion about the slab system and it should not be introduced until we have more materials before us to come to the conclusion that that would be more profitable. Only an assertion is nothing

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): That will be in the Finance Bill.

Mr. Lalchand Navalrai: Why do you accept the system now?

Mr. S. Satyamurti: It is better than the step system.

Mr. Lalchand Navalrai: That must be proved. We are going to put the cart before the horse. We are going to consider the slab system; we are going to commit ourselves to it. The incidence of the tax will come at the time of the Finance Bill. At that time you might consider whether you should have the step system or the slab system. The opinion of the Select Committee is only provisional; they may change it.

Then, Sir, the next point is with regard to the notice to assessees for returns—the general notice to everybody that everybody should send the return That is very hard. It will be very hard upon poor people.

You recognise that in India there are poor people who are not educated and you expect everybody to send in the return The reason given by my respected Honourable friend, the Leader of the Opposition, that some relief has been given and that the rigour has been brought down because there will be no punishment with penalty, but that is nothing I appeal to the Leader of the Opposition to consider how the Income-tax Officer are assessing now Is it not very easy for the examiner to make it over Rs 3,500—by adding a little here and a little there? If you say that Rs 2,000 is assessable and the amount is less by 500, it is very easy for them to make up the amount by manipulation in the accounts We know their way of additions I suggest that the notice should not be a general one You may give notice as at present, and not say generally that all should send the returns by putting a notice on the board as is done in courts and not looked at

Lastly, I would refer to clause 74 Clause 74 of the Bill refers to representation of assessees before the Income-tax Officer Now, the present system is that any man who has got no work to do can get up and represent by calling himself an expert At present any man can go whether he has got ability capacity or legal knowledge or not He goes there to the Income-tax Officer, comes out and says that it is his argument that moved the Income-tax office and so on Therefore I object to clause 74 (m) Barristers and lawyers will appear, registered accountants will appear, even accountants who get the certificate of the Central Board of Revenue, and why, any other so-called practitioner? I strongly object to clause (m) which deals with definition of practitioner In the Bill

"Income-tax practitioner means any person who before the 1st day of April, 1938, attended before an Income-tax authority on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee"

Therefore, this is objectionable and I will have to say more on this when we come to the amendments

In conclusion, I submit that clause 4 is the accrual system which should not be trifled with It should be given full consideration, and if you find not in agreement with the opinion of the House in 1931 and 1932 and for very cogent reasons, then alone it may be adopted with certain modifications I submit that even the Honourable the Leader of the Opposition was not definite on this point and left it to the House to consider whether it was good or not he has not given a mandate or verdict and, therefore, I submit it is an open question Considered from all these points of view I hope the House will not allow that clause to have any place in the Bill

Dr. B. D. Dalal (Nominated Non-Official) Mr President, in supporting the motion to take into consideration the Indian Income-tax Amendment Bill as reported by the Select Committee, I propose, with your permission, to refer to a few salient features and general considerations of the Bill

This important measure has the following main purposes

Prevention of the evasion of payment of income-tax by companies and individuals, production of increased revenue, introduction of the slab system for the present step system, certain concessions to the tax-payers, introduction of the system of compulsory returns of income, and an increase in the efficiency of the income-tax department

[Dr R D Dalal]

The Honourable the Finance Member has considered sympathetically and specifically the following principles:

That the Bill provides for fair and equitable taxation and the paying capacity of the people, that the burdens of the country must be carried by the broadest shoulders, that there is no discrimination in favour of non-nationals in respect of taxation, that the effect of the provisions of the Bill is such as not to handicap the normal development of the trade and industry of the country on which is built its economic structure

Sir, income-tax legislation must spread a net comprehensive and fine enough to cover every kind of business, every type of property, and every manner of employment at the same time it must make provision for an elaborate array of reliefs, allowances and exemptions The obscurities, complexities, and anomalies of the income-tax law have long been the despair of the tax-payer, the bane of business, and the subject of constant judicial remonstrance The obscurities of the income-tax law open the door to a two-fold evil On the one hand they encourage evasion, while on the other they lead to administrative oppression, because only too often the tax-payer finds himself unable to bear the immense costs of legal proceedings So unintelligible many of the statutory provisions, so multitudinous and sometimes conflicting the judicial interpretations, that but for the skill and ingenuity with which the Central Board of Revenue administer it, the existing law would long since have proved unworkable To remedy this lamentable state of affairs and with a view to producing increased revenue, the Honourable the Finance Member appointed an Income-tax Enquiry Committee to investigate the Indian income-tax system in all its aspects and to report upon both the incidence of the tax and the efficiency of its administration

This Bill has the modest, the useful and the necessary purpose of giving effect to the recommendations embodied in the Income-tax Enquiry Report This Bill embodies the triple virtues of intelligibility, uniformity and simplicity, and is a lucid and logical statement of the law relating to income-tax

Sir Cowasji Jehangir: Has it anything to do with vaccination?

Dr. R. D. Dalal: . and it brings the substance of the law more fully into accord with existing conditions and existing needs

The existing rates of income-tax and super-tax in India are by no means excessive, and the general scheme of taxation operates at present to relieve the wealthier commercial classes to an extent which is unusual in taxation schemes In order to make the Indian constitutional reforms financially practicable, the Central Government have to abandon a part of the income-tax collections to the provinces Sir Otto Neimeyer dealt with the question of the prospect of the transfer of resources to the provinces out of the proceeds of income-tax. Since for this purpose the necessary funds have to be found by the Central Government, this Bill emphasises the paramount importance of preserving the stability of Central Finances and enabling British India to enter the next stage of All-India Federation . .

Mr. M. S. Aney (Berar: Non-Muhammadan): Are you making out a case for or against the Bill?

Dr. B. D. Dalal: Ultimately the provinces shall receive 50 per cent of so much of the proceeds as, under the Government of India Act, is divisible between them and the Centre Such a sacrifice by the Central Government is out of the question until it has been able to adjust its own finances to the other changes arising out of the inauguration of provincial autonomy Therefore for the first five years the Central Government retain the full sum realised under the head income-tax

Now, I shall discuss very briefly the question of tax avoidance, which is the main objective of the Bill Tax avoidance is the name given to the activities of those who evade payment of taxes by what are known as "legal methods" In legal circles it is held that the term tax avoidance gives a pleasanter atmosphere and a higher tone to the consultation between lawyer and client than the more down-right word evasion If a tax-payer can by lawful means reduce his income, the courts will not inquire whether the transaction has any genuine business validity It is common knowledge that an ever-growing number resort to evasive methods Many of these methods have not yet been reached by legislation India offers most opportunity of any country for tax avoidance The reason lies in the formalistic attitude of the courts Fictitious loans, sham assignments, colourable settlements all form part of the trade of that great array of experts, accountants, solicitors and barristers, who devote their time and brains to showing tax-payers the methods of reducing the incidence of taxation There is very little hope of eradicating these practices until their essential immorality is recognised by public opinion At present this is scarcely the case In particular, the legal profession as a body sees nothing dishonourable in lending its skill to further the ends of the tax evader The legal profession is of opinion that

Sardar Sant Singh (West Punjab Sikh) Did you ever consult the legal profession?

Dr. B. D. Dalal: tax avoidance is not only legal but is not immoral or dishonourable Further, the prudent man will take care to ensure that his property is so disposed as to bear the smallest possible burden of taxation Furthermore, if the tax avoider acts openly and above-board and clearly conforms to the law, there is no reason why he should not do anything the law allows to lighten the load of his taxes Sir, may I be permitted to explain in what sense the word 'law' is used Law is the will of the people as expressed in the Legislature, it is also the rules of conduct enforced by the Courts The two senses should coincide; but in practice they often diverge, because the Legislature has failed to express itself with sufficient accuracy or completeness The opportunity for legal tax evasion proceeds solely from this divergence, and he who exploits it can only be defended on the ground that what is binding on the conscience of the good citizen is not the well-recognised intention of the Legislature, but the technical imperfection with which it is expressed It is argued that the rich tax-payer is taxed without his consent; so tax evasion is the proper remedy Cases are on record in which Members of the Legislature, who have voted to impose taxes on others, have themselves resorted to evasive operations in order to avoid the very taxes to which they have consented . . . .

1 P M

Mr. B. Das (Orissa Division Non-Muhammadan) Are you talking of English practice or Indian practice?

Dr. R. D. Dalal: Every step of the Legislature stimulates the ingenuity of the tax-evading lawyer who plays an endless game of chess with the Central Board of Revenue

Mr. M. S. Aney: Sir, may I ask whether the Honourable Member is in order in making strictures against lawyers as a class, because he accuses them of resorting to ingenious methods for evading taxes, even when they are a party to income-tax legislation?

Mr. President (The Honourable Sir Abdur Rahim) I cannot say it is altogether irrelevant to the subject, but the Honourable Member might consider whether it is in good taste

Mr. B. D. Pandey (Rohilkund and Kumaon Divisions Non-Muhammadan Rural) What about medical certificates?

Dr. R. D. Dalal: Sir, it is high time to grapple with this evil at its root, by making illegal, not particular kinds of evasive tricks, but evasion itself Of course, this is technically difficult, because it is a delicate matter of draftsmanship to separate by Statute the trusts and companies that exist for legitimate business from those that are founded to cheat the Central Board of Revenue The policy of the Income-tax Act has been to deal with the most important tax-dodging devices, but as fast as one hole is stopped, another appears Another reason for the failure of legislation is that the interpretation placed by the Courts is so technical as often to be almost puckish Obscurity and complexity lead to many ambiguities, consequently it is always easy for the Courts to narrow the scope of the legislation and to defeat the purpose of the Legislature Sir, it is remarkable that Government have never made a pronouncement that tax-dodging is contrary to the interests of the community Publicity should be a very effective deterrent Surely, Government must make clear its determination to put an end to all fictitious transactions designed to enable a tax-payer to escape those burdens, which the less astute or more honest continue to bear I would suggest that the Central Board of Revenue should itself seek the assistance of tax experts in order to find out what tax avoiders are doing

Mr. Sri Prakasa (Allahabad and Jhansi Divisions Non-Muhammadan Rural) Is it moral legislation or financial legislation?

Dr. R. D. Dalal: The most successful methods escape, because their existence is unknown to the Central Board of Revenue The money spent in consulting the foremost experts amongst Accountants and Barristers would result in increasing the revenue from incomes Reluctance on the part of Commissioners of Income-tax to make use of the available legal talent is the cause of serious loss on cases where the issues of fact fall to be decided by them The tax-payer will engage the services of a Solicitor and a Barrister, while the Central Board of Revenue will rely on their own resources to contest a case in which the issue of fact may involve the payment or otherwise of large sums of money If a Barrister were employed at the cost of a few gold mohurs, it will save the Finance Department several

lakhs of rupees The real remedy lies in a general provision dealing with tax avoidance as a whole What is needed is a provision that the taxable income of an individual should be his real income, not his income after it has been bandied about from company to company in all parts of the world Though difficult to frame, such a provision is not beyond the ingenuity of the present Finance Member, whose knowledge of income-tax law and income-tax forms is unrivalled and unique

Mr. B. D. Pande: Is that a medical certificate of fitness?

Dr. R. D. Dalal: It should be specified that the ultimate decision, whether any particular transaction should be disregarded because of its artificiality, would lie with the Courts This would meet the objection that disregard of form, and examination of the substance of an arrangement, would place too great a power in the hands of the Executive. As the outline of a practical policy, I would venture to suggest that a special body should be set up composed of highly-paid whole-time legal and accountancy experts, whose sole function would be to seek out and investigate all cases of suspected tax avoidance and expose methods of evasion, and to submit recommendations from time to time to the Central Board of Revenue for legislation to thwart evasive operations

Mr. Sri Prakasa: And will they pay any tax themselves?

Dr. R. D. Dalal: Now, Sir, I shall pass on to the next point Sir, the Indian Chamber of Commerce suggest that the interest on Government of India securities received by the Ruling Princes and Chiefs of India should be subject to income-tax I may point out that by a Notification under section 60 of the Indian Income-tax Act of 1922, the interest on securities held by or on behalf of the Ruling Princes and Chiefs of India as their private property has been exempted from income-tax This exemption was granted at a time when the Government of India were anxious to attract subscriptions to their loans I would suggest that this concession should not be discontinued, because no one can assert with any confidence that the time will never come when the Government of India would not again welcome contributions to their loans from the Indian States

Now, Sir, I shall refer to a grievance that has been felt very much by the public, namely, vexatious delay that occurs in dealing with income-tax refund claims I am in perfect agreement with the comments made by the Income-tax experts in section 10 of Chapter XIV of their report The Income-tax department should be responsible for seeing that income-tax refund claims are disposed of promptly A definite period should be laid down within which refund claims should be settled In cases where refund is delayed beyond three months, the assessee should be allowed a certain percentage of interest That would act as a certain check upon dilatory proceedings As regards the time limit for preferring refund claims I would suggest that the present period should be extended further by one year The reason is this In cases where dividends are declared prior to the 31st March and paid subsequently on the 1st April, an assessee whose accounting period ends on the 31st March finds his claim time barred at the time he submits his return in respect of the year during which the dividend was received by him

[Dr R. D Dalal]

Clause 6 of the Bill provides for the appointment of Appellate Assistant Commissioners of Income-tax. The separation of judicial and executive functions of Assistant Commissioners is a welcome feature of the Bill. It is a sound and salutary proposal, and I am sure that it will remove the present dissatisfaction with the Income-tax department I submit that, if with the combination of judicial and executive functions, the Assistant Commissioners have so far proved fairly satisfactory, Appellate Assistant Commissioners will be much more so Appellate Assistant Commissioners will be relieved of all administrative duties They will be solely devoted to the judicial function of hearing and deciding income-tax appeals They will be under the direct control of the Central Board of Revenue Appellate Assistant Commissioners should be recruited from the department itself There are many Assistant Commissioners of the highest probity with judicial training and a knowledge of law They are not only bachelors of commerce with G D A qualification, but they are also bachelors of law Moreover, they have specialised in this work for years, so they are in a better position to deal with income-tax appeals promptly, efficiently, and satisfactorily I am quite confident that the great majority of income-tax appeals will be settled in the Department itself by the Appellate Assistant Commissioners and that there will be very few appeals from their decisions Therefore the scheme of appointment of Appellate Assistant Commissioners should have a fair trial before any further change could be contemplated The Select Committee recommend that there should be an independent appellate tribunal for hearing appeals from the decisions of Appellate Assistant Commissioners I shall not trouble the House with the genesis of judicial tribunals for dealing with income-tax appeals There is no reason to suppose that Assistant Commissioners do not dispose of income-tax appeals impartially On the contrary, the tendency of Assistant Commissioners and Commissioners of Income-tax is to interfere perhaps a little too much During 1936-37 there were 30,000 appellants in the whole of India Of these 24,000 got relief on appeal or on revision, the remaining unsuccessful 6,000 had no case at all These figures do not justify the charge that the Assistant Commissioners are the judges in their own cause I submit that a tribunal will not inspire the same confidence of the public as the High Court

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member will continue his speech after Lunch

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

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

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Dr. R. D. Dalal: Mr Deputy President, before Lunch I referred to the recommendation made by the Select Committee as regards an independent appellate tribunal for hearing income-tax appeals from decisions of Appellate Assistant Commissioners In regard to second appeals, the proposal that a tribunal should replace the High Court would, in my opinion, be a retrograde step To lose the High Court and to have an accountant and a legal member of the standing of a District Judge would, in my opinion, be a poor

substitute for the High Court and a poor solace to an aggrieved assessee. In order to ensure absolute fairness and impartial administration of justice to an aggrieved assessee, the Highest Court of Justice should continue to be available to him, the judicial ability and independence of which constitute the greatest possible guarantee for the principles of justice and equity in the interpretation of law It is true that divergent views have been expressed by different High Courts on the same question of law, but the mere purpose of reconciling these decisions would not justify the establishment of independent tribunals Intricate questions of law can easily be referred to the Federal Court or to the Privy Council Moreover, the consensus of public opinion is against ousting the jurisdiction of the High Courts for dealing with income-tax appeals on both points of fact and questions of law Therefore to me it seems that the proposal for a tribunal is only a sentimental demand

Now, Sir, I shall bring my remarks to a close Sir, in connection with income-tax appeals there is one point which raises a public issue of very great importance, it is this, that on an appeal by the Commissioner of Income-tax or the Central Board of Revenue from a decision in favour of the tax-payer, where a point of principle not previously decided and not covered by previous authority is involved, the costs of the appeal to the High Court and to the Privy Council on both sides should be borne by Government, whatever the issue

Mr. Sami Venkatachelam Chetty (Madras Indian Commerce) Proposing to speak from my Benches soon after my Leader, I realise how difficult a task it is to follow him in speech, however willing and respectful my loyalty to him in other matters Sir, my Leader has spoken about the more important features of this Bill in a manner which leaves nothing whatsoever for his followers I have neither the ability to improve upon what he has said, nor the inclination to repeat even on those big issues on which he has spoken In conformity with his position in life and also with his position in this Party, he has evidently left smaller matters to his followers I, therefore, propose to address myself only to matters of minor importance as compared with the bigger issues which have already been dealt with There is another justification why I should speak only on these small matters I come from a Presidency which is admittedly comparatively small in importance in so far as commerce and industry of this country are concerned, and I represent the small merchant, the small trader and the small factory owner of that part of the country However small they may appear in comparison with the very big issues that have been dilated upon, the importance of those small measures and matters seem to me too big for the small man in Madras to leave without being protested against I find that in the first place it will be useful to refer to what has not been done by the Select Committee more than what they have actually done in the committee For such improvements as were possible to be done in the Select Committee, either with or without the support of my Honourable friends representing the Muslim League, I think the thanks of this House are due to their labours, but I must express my disappointment at the way in which the Select Committee has practically abrogated some of the most essential duties to be performed by them I speak in this matter with considerable hesitation because I am quite aware of the fact that my Party was represented on the Select Committee by no less weighty persons than the Leader and the Deputy Leader of the Party but yet, I am quite conscious of the fact that on account of the pressure of time they were not able to bestow that considered thought

[Mr Sami Venkatachelam Chetty]

and attention which the smaller matters deserve, at any rate, in a taxation measure of this importance I desire to draw the attention of the House to three or four statements in the Report of the Select Committee which gave pointed force to my assertion that the Select Committee has abdicated its essential duties to the good offices of a "trustful Government" like the one we have

In the very first paragraph dealing with the subject matter of the Bill, we find these sentences

"The limited time at our disposal and the complicated nature of the adjustments that would be necessary for this purpose have prevented us from giving effect to our views in the Bill itself and have reconciled us to awaiting proposals on the subject which Government undertakes to put forward at the consideration stage "

The reason why they have allowed the whole responsibility to be taken by Government is stated by themselves And that reason is the complicated nature of the adjustments that would be necessary If the adjustments that would be necessary are so complicated, I think, Sir, that must have been a sufficient reason for the Select Committee to deal with the matter themselves instead of leaving the matter to be brought forward by the Government and again in a later paragraph they say In the first paragraph on page 2 we again see that the Select Committee has developed a good deal of faith and confidence in this Government They say

'We have received an assurance that administrative arrangements can and will be made to obviate any hardship that might be imposed in consequence of the change to the accrual basis of taxation, on persons prevented by laws in force in the country where their money may be lying from remitting money to British India as and when they wish "

Sir, if there is one matter which has troubled the minds of those pioneers of commerce and industry who have gone out of this country to foreign lands, it is this change from the remittance to the accrual basis and yet on that matter the Select Committee has definitely left it to be decided by the Government on the assurance given by the Government I am afraid the Honourable Members of the Select Committee are far too experienced to put any reliance whatsoever on the assurance given by the Government As regards clause 8, the Select Committee say

"Some apprehension was expressed that under section 7 of the Act as now amended, an employee might find himself called on to pay income-tax on salary which was not and never would be paid to him "

There, again, Sir

"We have received an assurance that administrative action can and will be taken to obviate any such hardship "

May I know how many such hardships are not there in the archives of the Government which have not yet been rectified under administrative action? Sir, they say

'Government have given us an assurance that the new rates consequent on the change from the cost basis to the written down basis will be discussed with the interests concerned before they are fixed, and that the new provisions will not be brought into operation until the rates have been so fixed "

I shall leave that statement without any comment Then on page 3 again with regard to clause 23 they say

"It has been made clear to us that notwithstanding such publication of notices Government intend that notices shall as hitherto be served on all persons believed to have incomes liable to assessment "

Sir, if the Government intend doing what they have hitherto been doing, why should they object to a change in the wording of the clause? Again, Sir, they say, with regard to clause 45, on page 4:

"The limited time at our disposal has prevented us from making specific provision to this end in the Bill, but we understand that Government will bring forward proposals on the subject at the consideration stage"

But here, it is not only placing confidence and reliance on an assurance but I am afraid the Honourable Members of the Select Committee themselves felt some doubt and, therefore, they left it by saying that they understand that Government will bring forward proposals, evidently there has not been a direct statement made by the Finance Member that he will bring forward such proposals

Mr. S. Satyamurti: There was

Mr. Sami Venkatachelam Chetty: Sir, this may make us wonder, apart from other reasons which I shall refer to in the course of my few remarks, why, in spite of this great handicap of time, we should allow the consideration of this Bill to be supported by us Sir, the Honourable the Finance Member has very successfully pinned us to a time-programme in the matter of the passing of this Bill Sir, the Honourable Member got the House to agree to the Select Committee being called at Delhi in October and to the convening of a special Session to consider this matter at an exclusive sitting of the Assembly, and he thought he was really obliging this House and this country by giving them some chance to consider this measure in all its aspects, but I find that, having taken a promise from the Opposition and other Groups that they would be willing to sit in a November Session, he has actually taken their consent to have this Bill passed at any cost I hope my statement will be belied by the action which the House will take

The Honourable Sir James Grigg: What do you mean by "at any cost"—do you mean "bribing"?

Mr. Sami Venkatachelam Chetty: Sir, I do not know The reasons which the Honourable the Finance Member stated in support of the consideration of this measure are these,—that the passing of this measure will bring in more revenue to the provinces, and, secondly, that the tax-dodgers would be roped in Sir, in regard to the first reason, I am afraid he is using it as a trump card I have heard this argument used for the last two or three occasions Any time during which he wants to bring in a taxation proposal or a legislative proposal, there is the question of the inducement of higher contributions to the Provincial Governments So it was that his Honourable Colleague, Sir Thomas Stewart, was able to get his Motor Vehicles Bill passed

The Honourable Sir James Grigg: Outrageous

Mr. Sami Venkatachelam Chetty: And then, secondly, there was an attempt, fortunately infructuous, made by the Honourable the Finance Member in regard to some Stamp Duty Bill

The Honourable Sir James Grigg: What has your Prime Minister to say about that?

Mr. Sami Venkatachelam Chetty: By quoting that, my friend has practically put the Opposition into the Government lobbies because my Party, having been in power in nine out of eleven provinces, Honourable Members representing that Party somehow feel as if it is their duty somehow or other to provide money for their own administration. It is true that they exercise responsibility there but they have a greater responsibility, and I am afraid my Party has forgotten the responsibility on which alone it has been returned to this Assembly and on the strength of which alone the administration has now come into our hands We have given our promises and our pledges to the general electorate and to the commercial and other electorates that it will be our fundamental duty to see to the reduction of the incidence of taxation on the poor

Now, Sir, the Finance Member is exploiting the sentiments of the poor as against the rich and I know if my Honourable friend, Prof Ranga, had been here, he would also have shouted along with the Honourable the Finance Member in this matter

Now, this income-tax measure is not a matter between the rich and the poor but between the smaller rich and the bigger rich Now, according to the amendments made by the Select Committee, it is my assertion, all that the big businessmen wanted to have done has been done and the smaller man has been neglected Now, I ask whether, in the interests of the very poor for whom my friends and more particularly the other side appear to be very sympathetic, they have considered as to what it is that is actually oppressing them so far as this measure is concerned

Sir Cowasji Jehangir: What is it that you want us to do?

Mr. Sami Venkatachelam Chetty: Please let me refute the assertions made by the Honourable the Finance Member first The professed object of the Honourable the Finance Member in bringing this measure, as I stated earlier, is to put down the tax-dodging I quite realise that the Honourable the Finance Member comes from a place where tax-dodging is a fine art

The Honourable Sir James Grigg: In India it is a business

Mr. Sami Venkatachelam Chetty: As though his experience is not enough, he has also imported another gentleman, Mr Chambers Nobody finds fault with either the Honourable the Finance Member or the Government for trying to put down tax-dodging We shall do our best to help him to prevent this tax-dodging provided he helps us in putting down law-hedging by the executive of the Income-tax Department All the dodging that he might complain of in India is practically due to the income-tax administrators misinterpreting the law and prosecuting the assessees And it must be admitted to the humiliation of the Honourable the Finance Member himself that the more important cases of dodging which have appeared in the Indian Courts were cases of dodging perpetrated by my Honourable friends, the Englishmen, in this country

The Honourable Sir James Grigg: There are a good many others also.

Mr. S. Satyamurti: But you set the example.

Mr. Sami Venkatachelam Chetty: But if you take the quantity of the amount involved in Indian cases as against the quantity of the amount of money involved in the few cases of these English merchants, you will then see the disparity in the cleverness of dodging the income-tax rules

Now, Sir, I am sure the Honourable the Finance Member will not deny that there is an Association in the United Kingdom whose purpose is to assist the assessee to evade the income-tax rules Nor is he in a position to deny, I am sure, that there is a book written by one of the cleverest man in England as to how to dodge the income-tax law It will be interesting to know how many issues of that book are sold in England and how many in India So, when he speaks of putting down the dodging of income-tax rules, he is not speaking really with the full knowledge of the offenders against this law If he knows who the offenders are, then he only wants to pretend his ignorance of them and throw the whole blame upon Indians I do not deny that there are cases of evasion of income-tax on the Indian side but they are of such a trivial nature and are such disingenuous attempts on the part of the illiterate and half-educated merchants of this country that they are not worth taking notice of

Now, I come to those matters on which the small man feels very much First of all, I will refer to the invidious provisions of this law If really the increase of revenue was the only consideration for a measure like this, the Honourable the Finance Member ought to be very fair between all sections of the people of this country, whether resident, domiciled or non-domiciled It is only then that he can prove his *bona fides* as to the fair dealing with regard to matters of taxation. Sir, in this matter I beg of my Honourable friends of the European Group not to misunderstand me when I have got to repeat what has been so often repeated by them,—fair field and no favour It is exactly 'fair field and no favour' that we, the smaller merchants and smaller traders and commercial men, are asking now This appeal is not only addressed to the European Group but also to the magnates of other provinces because they ought not to rest satisfied with what they have secured in this matter and leave us in the lurch

Sir Cowasji Jehangir: What is it that you want?

Mr. Sri Prakasa: We want to rob you!

Mr. Sami Venkatachelam Chetty: Now, Sir, I beg of you to compare and contrast the provisions of the United Kingdom law with the law either as it is or as it is going to be hereafter It was pointed out by my Honourable friend, Mr Lalchand Navalrai, that in 1931 or 1932 there was a Bill of a similar nature which was rejected by the then Assembly The then Assembly, according to us, was not as popularly representative Assembly as we claim to be today

Sardar Sant Singh: And that is why they rejected it then

Mr. Sami Venkatachelam Chetty: Therefore, when a less popular Assembly was able to reject a similar Bill in 1931, I do not see any reason how a more popular Assembly today can even look at this Bill, not to speak of the support that the Honourable the Finance Member has been able to secure from the Opposition

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Now, Sir, I consider that if the Government of India Act had provided against discrimination against Englishmen, this Act is either perpetuating or making sufficient provision for discrimination in favour of Englishmen

The Honourable Sir James Grigg: Nothing of the sort

Mr. Sami Venkatachelam Chetty: So we are unconsciously becoming abettors in continuous crime of exploiting of India by other than its own nationals Discrimination seems to be the feature of this income-tax law Please for goodness sake compare and contrast the United Kingdom law with this law in many of its provisions Sir, in the first place it looks as though it ought to be taken as a well-admitted presumption that every Indian is a dishonest man, that every Indian is a tax-dodger, that every Indian is interested in keeping the true state of affairs concealed and that there should be neither privacy due to him nor confidence reposed in him Otherwise how do we justify the provision of empowering the Income-tax officer to enter the premises of a possible assessee or a would-be assessee and demand inspection of accounts? May I ask the Honourable the Finance Member who always has the United Kingdom law as his authority for doing things whether there is similar provision in the English law? 3 P M

The Honourable Sir James Grigg: We only keep one set of books there

Mr. Sami Venkatachelam Chetty: That means that the second set of books has not been discovered in the United Kingdom With regard to this very important provision all that the Honourable Members of the Select Committee have been able to do was this That the Income-tax officer must be armed with the authority of a Commissioner

Sir Cowasji Jehangir: May I point out to the Honourable Member, that was not what the Select Committee did Please do not blame the Select Committee or the minority of the Select Committee for something that they did not do You know that it is not permissible in this House to divulge the number or the names of the minority You are now putting the blame for a certain clause on the minority which it does not deserve, as you have been doing throughout your speech

Mr. Sami Venkatachelam Chetty: I am sorry the Honourable Baronet from Bombay has completely misunderstood me I neither mentioned names of the Honourable Members of the Select Committee nor divulged what I do not know I do not know the proceedings of the Select Committee, except what appears in the report I find in the amended Bill that all the amendments made by the Select Committee are underlined and the underlined sentences are stated in the heading of the Bill to be the changes or additions made in the Select Committee I am proceeding upon that assumption They are satisfied only if the Income-tax officer is armed with the power of a Commissioner to enter the premises of an assessee I have often heard both on this side of the House and on the other side that it is going from tweedledum to tweedledee What distinction do Honourable Members think there would be in the power of the Income-tax officer and in the power of the Commissioner of Income-tax? It is a higher officer in the same heirarchy. For instance the Secretary of the Finance Department is the subordinate officer of the Honourable the Finance Member But behind this Assembly we

do not know whether the tail wags the dog or the dog wags the tail Sir, this difference between an Income-tax officer and a Commissioner of Income-tax is nothing I warn this House to be mindful of the oppressive nature of an unwarranted search like that Apart from the fact or otherwise of the dishonesty of a particular man, it seems to me castigating the whole of my countrymen with suspicion and distrust if we allow an officer of the stamp of an Income-tax officer to search the premises of an assessee Now, Sir, there is no question of limitation of time There is no question on what occasion he has got to enter There is no previous notice He can enter the premises at any time Of course, probably he will be guided by what are called the general clauses govering the hours of search, which must be between sunrise and sunset I am sure that there will be many private matters transacted between sunrise and sunset I am only citing as an illustration the nature of the oppression which this law is going to cause in so far as smaller men are concerned I am sure there will be no visitation of that sort in the premises of my Honourable friend, Sir Cowasji Jehangir

Mr. S. Satyamurti: Why not?

Mr. Sami Vencatachelam Chetty: I know of instances of the Income-tax officers coming in as guests and worming out information Probably a visitation of that nature might happen in the case of the Honourable Baronet from Bombay

Another point which I should like to bring to the notice of my Honourable colleagues is with regard to the state of Indians in foreign lands Now, even with the conservatism of this Government it must be admitted to their discomfiture, to their humiliation, to their shame, that this Government was not able to offer any sort of protection to foreign traders of my country, and yet we exact every pie from those people on businesses carried on simply on their own energy, skill, wisdom and adventure and that must be a matter of some concern to Honourable Members of the Government

Mr. K. Ahmed (Rajshahi Division Muhammadan Rural) Who gave you passport to go to foreign countries?

Mr. Sami Vencatachelam Chetty: Passport or no passport, if only my Honourable friend, Mr K Ahmed, had blocked the way, no one could have gone

Sir, so far as foreign income is to be taxed on remittance basis, I have very little to say against it, but, if as is suggested it should be taxed on accrual basis, I hope Honourable Members will see the injustice and the iniquity of a step of that sort Sir, in the first place, it will be impossible to substantiate to the satisfaction of the assessing officers the accuracy of their reports of income There will be a demand for the production of account books which might well nigh be impossible to produce from distant places and to prove to the satisfaction of the assessing officers I know in one small district of Guntur a very over-zealous Income-tax Officer (an Assistant Income-tax Officer at that) was able to persecute a successful merchant for years together so much so that that merchant had to reduce his commercial activities to a considerable extent If that is the case in a small district like that, what should happen in regard to those enterprising gentlemen who have got branches all over the world? It will be

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impossible for the account books to be brought over here and prove to the satisfaction of the Income-tax Officers I was sorry, Sir, the Honourable the Law Member was not on the Select Committee

The Honourable Sir Nripendra Sircar (Law Member). I was glad, Sir.

Mr. Sami Vencatachelam Chetty: Because I know that when a similar representation was made by foreign insurance companies with regard to production of their accounts how sympathetic the Honourable the Law Member felt in regard to the difficulties in producing accounts in India and, I am sure, with his experience of particularly clever manner in which foreigners used to dodge various laws and Acts in this country, he would have sympathised with the demand of these Indian commercial men who are doing foreign business I hope, if his sense of fairness is not entirely suppressed by his loyalty to his Colleague, it will be exercised on this occasion, and that he will advise his Colleague how to mitigate the rigour of this measure Sir, secondly, with regard to exchange restrictions that are prevalent in various parts of the world, it has become a peculiar feature of recent years that every country is anxious to reserve its economic resources and cash resources to itself In these circumstances it has become impossible for these traders in foreign countries to remit either their profits or even to close their business and remit their assets I see that there was again an assurance given by the Government that some method will be found in regard to these countries where exchange restrictions are current What the nature of those arrangements will be it is impossible now to divine and knowing as I do that the Government is habitually prevaricating and procrastinating I should not be surprised if they would not take this matter into consideration after this Bill is passed The Honourable the Finance Member has every consideration to the Englishman who does business in the country In fact, Sir, he went to the length of putting forward an argument yesterday which was condemned and repudiated by my Honourable Leader in most scathing terms and it is a great surprise that the Honourable the Finance Member could not find a more valid reason to uphold his contention in regard to that matter, but that is a different matter We shall argue that point out when it comes up I am only mentioning that matter in order to say that while the Honourable the Finance Member is so very solicitous about even the inconveniences of the English merchants here, I expect him to be at least fair to Indian merchants either here or outside this country

The Honourable Sir James Grigg: Why should they not produce audited accounts?

Mr. Sami Vencatachelam Chetty: Have you made provision that Income-tax Officers will be satisfied with audited accounts? You have not

Now, Sir, tacked on to this question of foreign income is the question of Indians in Burma Sir, the history of Indians in Burma which is considered to be a most distinguished history of Indians in that country has now become a most tragic matter and also a matter for great humiliation Now, I do not think it is necessary to go through all that has occurred in order to force the necessity of separation of Burma from this country But there it is Burma has been separated, and now we are under a sort of agreement with Burma in respect of duties and other

trade matters. But it is a matter of great regret that we forgot about the Indian businessmen who are now in Burma In this connection, my Honourable Leader made a passing reference and I want to supplement that reference with a few more details It is often supposed that those who have gone to Burma from India were all Chettiars from Southern India In the first place I want to disillusion those gentlemen of that impression It is not only Chettiars from South India but also Muslims from South India and Muslims from Bombay and some from Bengal and the United Provinces and the Punjab and Sind I am sorry that some of my Honourable friends to my left have not realised the extent of trading activities of their co-religionists in that country I am very glad to be informed that they are beginning to realise it In this connection, one of the matters concerning these people who may now be called emigrants from India is with regard to agricultural income It is true that agricultural income being not only subject to the possibility of another tax by the Provincial Governments, but on the fact that these proprietors are very poor people, should be exempt from taxation and that Burma being no longer a part of India, any income derived from that source should be treated as non-agricultural income The possession of these agricultural lands by these moneylenders was not of their wish They had not gone there in order to acquire land They had gone there only to do moneylending business Very often we confuse the issues by repeating to ourselves certain slogans Whenever the moneylending profession is mentioned it is considered to be not a very decent profession At any rate that will be one way of emphasising one's own patriotism or one's own concern for the poorer people when one condemns moneylending But I do not think any country has ever progressed commercially or industrially without moneylending in its smaller shape or banking in its bigger shape

Mr. K. Ahmed: Not at such high rates of interest!

Mr. Sami Vencatachelam Chetty: My Honourable friend in his usual humorous way has intervened by saying "Not at such high rates of interest" But it is on that high rate of interest that this Government want to tax and to share Apart from that, I will dispel the idea that it was at a high rate of interest What is the high rate of interest? In England, the present rate of interest is less than one per cent But in India even the bank rate is about three per cent Therefore, the financial conditions of this country lead to interest-racking or interest-profiteering even Similarly, if you compare one group of commercial men and another group of commercial men, you will find variation of interest to a great degree It is just possible that a person who cannot raise credit has had to pay a higher rate of interest than one who is able to get credit in the financial market But whatever high rate of interest they may have charged on the Burmans, this fact cannot be effaced from history—the very great certificates which have been given by the successive administrators of Burma with regard to the moneylending business of these Chettiars and South Indians, they have admitted in very glowing terms that the agricultural prosperity of Burma is due mostly, if not entirely, to the financing of South Indians Apart from that, when the capital came to be repaid, you will be horrified to know at what rate of interest and what great sacrifice these moneylenders have had to take these lands They may have charged 24 per cent or 18 per cent. or 15 per cent.; but when the money could not be realised, when they were

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threatened with murder and assassination, when State laws were promulgated to expropriate them without compensation not only in Burma but in many other foreign countries they had to take these lands not with interest but with considerable sacrifice of the principal itself Therefore, what I submit is, not that I want that agricultural income from Burma should be treated as exempted as such, having regard to peculiar nature of the case of these Indians in Burma, they should be treated with as great a consideration for all time to come as with other provinces, or at least for a certain number of years, during which time it may be possible for them to clear off bag and baggage from that country

Now, Sir, I want to mention one word with regard to reopening of assessment The reopening of assessment is extended up to eight years, and it is also provided or at any rate it was understood that this reopening was only in respect of fraudulent or deliberate concealment of income But when it was about to be put into actual drafting of the section, the reopening of assessment was made possible in respect of cases coming under section 28 (*1*) (c) (i) Under that clause it is not necessary that there should be fraud in regard to the submission of returns or accounts It is enough if any other kind of concealment is discovered to enable an Income-tax officer to re-open the assessment for a period of eight years Here again the longer you extend the period of re-opening the assessment, the greater is the trouble or the difficulty of an assessee to produce accounts to substantiate his statement

Now, Sir, with one word with regard to the sneering comment of the Honourable the Finance Member on propaganda, I shall close my speech This is not the first occasion, Sir, when he felt triumphant at reading telegram from persons affected, the intention of which was to make the House reel with laughter and to show that these people are imagining grievances which do not exist in fact, and that, therefore, they ought not to be regarded with any seriousness I am glad, Sir, we have not fallen victims to that kind of sneering reference to some of the telegrams which he has received The wearer knows where the shoe pinches, and so long as the Finance Member is an Englishman, and, more than that, a Member of the Government, I am sure no shoe would pinch him

Mr. Sri Prakasa: Give him a Chinese shoe and it will pinch him

Mr. Sami Vencatachelam Chetty: It is just possible, as often happens, that the grievances of assessees are in several cases exaggerated,—I do not deny it,—but there has been sufficient cause for apprehending that the worst will happen in so far as this Government is concerned, because proceeding on the basis that the Indian assessee needs no sympathy whatsoever, the next place for him, apart from his business, is the prison or conviction, it will be really surprising if an Indian assessee does not fear that the Government would go on increasing the rigour of its rules Whatever the rules are, in their actual administration, they have proved to be very oppressive I do not want to refer to small incidents which generally happen in income-tax offices, but one cannot deny it that when often times it is not possible for one to get a decent seat in that office for an Indian assessee, one can imagine the indignities to which Indian assessees are put in respect of other matters

In the first place, the same kind of mentality prevails right from the Finance Member down to the chaprassis in the income-tax offices,—there is that sneering disregard of the grievances of Indians You go to the Commissioner of Income-tax, and he says· 'Oh, no, do you think my officer is so unreasonable as to misunderstand your position? Certainly not I am inclined to believe him more than I can believe you' That is the way in which everybody goes on This will be a sort of new experience so far as my English friends are concerned. They do not know what sort of indignities and humiliations to which we are put, how many times we have to carry our books, bag and baggage in cart loads to the income-tax offices Sometimes a Tamil man is posted in a Canarese District, or an Urdu man is put in a Canarese District. Then it devolves upon us to translate the accounts for him and explain all details There is no doubt that some improvement has been made now in regard to this matter, but I am only mentioning the very petty and minor tribulations and difficulties we, the small men, have to undergo, and this measure gives added force to these things being done continuously and unchecked, by these income-tax officers I hope this House and the Government will see that these things are rectified by putting down in the legislation itself sufficient provisions to disable these officers from troubling the assessees in the manner in which they have been accustomed to do heretofore

Now, Sir, apart from that, there are one or two reasons why it seems to me very necessary that we should reject the consideration of this Bill Now Sir, the Honourable the Finance Member started with bargaining He said that he would see that the notifications issued under section 60 would be withdrawn if this measure was passed in substantially the same form as it is now before the House, and, therefore, he started the bargaining I think there is nothing wrong in our bargaining on similar terms with the Members of the Government, and why should we not say that unless section 49 is allowed to be amended by us we shall not look at this Bill

Mr. Lalchand Navalrai: Also section 4

Mr. Sami Venkatachelam Chetty: I do not know why we should develop this kind of affection for this measure So far as Provincial Governments getting more revenue is concerned, in the first place I am not sure, having regard to the Government's desire to thrust Federation upon us, how long the Congress Ministries are going to remain in office in those provinces Having regard to that insecurity, why should we assume responsibility for the provinces, especially, as we fear they will not continue in office for long It seems to me contradiction in terms if we do not resist this while we are proclaiming resistance to Federation Then, Sir, if the money question is the only consideration with the Provincial Governments, I am sure they will be able to realise this money even from the very class of people whom you are subjecting under this Act by adjusting certain inequities and inequalities that exist at present. Why should you accept a measure which perpetuates the humiliating and insulting and invidious distinction between Englishmen in India and Indians in foreign lands? I, therefore, think that our Party will be well advised to reject this measure

Mian Ghulam Kadir Muhammad Shahban (Sind Jagirdars and Zamindars: Landholders): Sir, I need not mention that the measure under discussion is a highly technical one. The Departments of the Government of India, which evolved out this measure, deserve all praise, for the great

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amount of work that has been done The Honourable the Finance Member deserves congratulations for the manner in which he piloted this Bill in the Select Committee, the result of which is writ large on almost every page of the Bill in the improvements that have been effected. The Select Committee also deserves congratulations on the very patient work that appears to have been done, which is apparent from the large measure of agreement that is in evidence in the Report

The Bill before this Honourable House in the main seeks to give effect to the recommendations of the Income-tax Inquiry Committee which was appointed by the Government of India two years ago to explore the whole field of this vast and complex subject The present Bill is the final result of that inquiry I have every confidence that this measure, into whose making so much careful labour has gone in, will receive a very sympathetic treatment in this House

The present measure seeks to enable the State to exact its pound of flesh from the taxpayer But it is up to the State, to whom the interests of the people should be as dear as its own interests, to see that no unnecessary blood is spilt in the process This will, in fact, militate as much against the interests of the State as against those of the people For, to vary the metaphor, any undue exaction on the part of the State will only kill the goose that lays the golden eggs

The main purpose of the present Bill is to prevent evasions of the tax as far as possible, and thus to secure to the State the maximum amount of revenue that can be obtained from this source Of course, it is perfectly proper, and, indeed, necessary for the State to take due order to prevent evasions of any lawful due or legal liability on the part of any person or persons But, at the same time, we must also see whether the fault does not lie as much with certain provisions of the Act itself or with those who administer it For, every attempt to bring in more revenue must be regulated and controlled by the principles of equity and good conscience, so that while the income of the State is enhanced no undue hardship is caused to the people

I will now dwell very briefly on the salient features of the present Bill which appear to me to call for modification Within the time at my disposal it is not possible for me to deal with them as completely as I would have wished I will, therefore, content myself with indicating the main lines of such improvements in the Act as appear to me to deserve consideration I will refer to the amendments, rather in order of their importance as it appears to me, than in the order in which they stand in the Bill

The Bill places the taxation of foreign income on an entirely new basis It replaces the present "remittance" basis by the proposed "accrual" basis. On the former basis, only that part of the foreign income of an Indian resident which is received or brought into British India or is deemed to accrue or arise to be received in British India, is subject to taxation. On the latter basis the whole of the foreign income of a domiciled Indian resident is proposed to be taxed, whether it is brought into British India or not. In considering this change that is sought to be newly introduced, we have to take great care to see that this change will not have a bad effect on Indian trade in foreign countries.

No one will dispute that it is a very good sign that so many of our nationals go abroad to spread their business and to eke out an honest living They certainly deserve all encouragement. Encouragement is necessary in the case of Indian trade in foreign countries on account of the various disabilities under which it is labouring A large number of enterprising British Indians are engaged in business in foreign countries. The people of my own Province of Sind have established about 5,000 shops all over the world, more than 12,000 Sindhis are engaged in them in various capacities, and about 60,000 Sindhis are dependent on this foreign business. Therefore, we have to take particular care that trade does not receive a set back as a result of proposed amendment

Even the United Kingdom Tax Codification Committee, 1936, expressed itself in favour of the continuance of the remittance basis in the taxation of income from foreign business, and also in this very Government a similar amendment which was brought in 1931 was not supported Even at present our merchants doing business abroad are subjected to double taxation For, on the very remittances on which they pay tax in India they have already paid tax in the countries in which they carry on their trade Far from getting any relief from double taxation, they are now to be mulcted still further even on the income which they do not remit to India This is a position which requires very careful examination

There will also be a number of difficulties in the practical working of this amendment, such as, examination of foreign account books, varying rates of exchange, foreign exchange control and the like Even though these are matters of detail, they are very important details and on a successful solution of the problems raised by these details will depend the ultimate success or failure of the measure before us

The provision regarding compulsory returns of income is also an innovation in this country Illiteracy in India is the almost universal rule, and literacy the very rare exception. It will be practically impossible for the uneducated masses to submit their returns, and they will thus be subjected to unnecessary harassment. Innocent people will be penalised, not for wilful disobedience of the law, but for their sheer ignorance. India is very far from ripe for this measure, which will only cause hardship to the vast bulk of people, and safeguards are necessary to see that it causes no unreasonable hardship After all, legislation must always adapt itself to the conditions prevailing in the country in which it is sought to be introduced, and the conditions precedent for this provision are not universal in India

Another departure is the proposal to tax capitalised profits This is, no doubt, the law in Australia, but that is no reason why it should be law in India The present proposal affects the reserves set aside by some companies towards their capital requirements When these reserves are not so utilised, they are then distributed amongst the shareholders. The practice of putting such reserves towards capital has been in existence long before the Income-tax Act came into operation And the present Act itself recognises them as capital and not as income The proposed amendment will, therefore, have the effect of taxing what is really capital, as income

I also wish to make a suggestion in connection with the exemption granted in the case of income devoted to any "charitable purpose", which purports to include any object of "general public utility" I consider

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that the term "charitable purpose" should include pensions to widows, orphans, children, etc., as is the case in the English Statute; and the term "general public utility" should include trusts for the benefit of any particular section or community and also what is known as "Waqf-alal-Aulad". I think that these points should be provided for in the Bill

The proposed bifurcation of the present single post of Assistant Commissioner of Income-tax, into two separate posts of Inspecting and Appellate Assistant Commissioners of Income-tax, is commendable. At present, both the inspecting and appellate work is done by a single officer, the Assistant Commissioner of Income-tax The separation of these two functions will be to the advantage of the taxpayer

These are a few suggestions which I have ventured to put forward before this Honourable House for their earnest consideration This piece of legislation is very far reaching in its effects It touches the people in a matter of the most vital concern to them Expenditure is racing forward in every direction, while income is not able to keep pace with it The State is mainly concerned with its revenue and with the means of increasing it by every possible means But we, as the accredited representatives of the people and the custodians of their interests, have a solemn obligation to fulfil towards them It is for us to see that while the State is not deprived of any of its legitimate dues, the people do not suffer any undue hardship. It is with this twofold aim in view that I have put forward a few humble suggestions of mine before this Honourable House, and I feel sure that they will receive whatever consideration is due to them

With these observations, Sir, I support the motion

Dr. P. N. Banerjea (Calcutta Suburbs Non-Muhammadan Urban) Sir, The Income-tax Amendment Bill, as it was originally introduced in this House last winter, contained defects of a very serious character, and the Select Committee have been able to remove only a few of them "No fundamental alteration", to use the words of the Honourable the Finance Member, has been made in this Bill This is to be deplored, especially in view of the fact that the opposition was led by an astute lawyer and a great advocate like Mr Bhulabhai Desai, to whose extraordinary knowledge and skill a handsome tribute was paid yesterday by the Honourable the Finance Member We were also told that the Honourable Sir James Grigg mellowed during the deliberations of the Select Committee It is unnecessary for us to discuss whether this was the effect of age or the influence exercised on him by the mild climate of the country and the non-violent behaviour of its people But the fact remains that, in spite of the best efforts of Mr Desai and the cool temper of the Finance Member, the Bill, as it has come before us, still contains many objectionable features. One reason may be found in the fact that the strength of the opposition in the Select Committee was not proportional to the strength of the opposition in this House. But perhaps a more important reason was to be found in the hurry, the indecent hurry, with which the Select Committee finished its deliberations

The Honourable Sir James Grigg: Is it in order to refer to the proceedings of the Select Committee as indecent? I deny the allegation completely. There was no indecent hurry at all

Dr. P. N. Banerjea: In many places in the Select Committee's Report itself, as has been pointed out by my Honourable friend, Mr Chetty, there is evidence of this hurry It has been admitted by the signatories to the report that there was hurry They had no time to discuss some of the most important matters.

In this connection, I desire to point out that undue haste has characterised the procedure in regard to this Bill through all its stages It was only in 1935 that a committee was appointed to enquire into the income-tax system of the country Before a year had elapsed this committee submitted its report, and before another year had come to a close the recommendations of the committee had been put in the shape of a Bill and placed before the Legislature

The Honourable Sir James Grigg: How long do you want? A century?

Dr. P. N. Banerjea: I will tell you presently When the proposal was made to refer the Bill to a Select Committee, many of us on this side of the House urged that the Bill be circulated for eliciting opinion thereon before it was referred to a Select Committee, but this proposal was not accepted by Government So the result is that within the brief period of three years an important measure like this is going to be placed on the Statute-book By way of a contrast, I may refer to what has been done in a similar connection in England? The Codification Committee was appointed more than ten years ago, if I remember aright, and the Codification Committee took no less than six years and a half to finish its deliberations and to submit its Report This Report was submitted three or four years ago, but no Bill has yet been placed before the British Parliament Mark the contrast

Sir, the third reason for the inability of the Select Committee to deal with this Bill in the manner in which it ought to have been dealt with was to be found in the fact that in respect of some matters the sanction of the Governor General was needed When we discussed this matter last year some of us urged that the sanction of the Governor General should be obtained by the Finance Member in regard to these vital matters, but this was not done The last reason for the unsatisfactory character of the Report which has been presented is that the Bill is an amending measure and not a consolidating Bill

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

When an amending measure is placed before the Legislature, it is precluded from considering the Bill in the manner in which it ought to consider it. It is unable to look at all the different aspects of the income-tax system, and this grievance of ours is not only with regard to the substance but also with regard to the procedure All Members of this House who have tried to table amendments to this Bill have found the greatest difficulty. The Honourable the Finance Member told the House yesterday that an income-tax measure is intricate and complicated in all countries and at all times. This is true, but that is no reason why unnecessary complications should be introduced by defective drafting and by the creation of confusion, where confusion could be avoided. We find that even the figures and letters which indicate the clauses, sub-clauses, parts and sub-parts of the Bill have not been correctly used I do not

[Dr. P. N. Banerjea.]

know whether this has been due to deliberate design or to incompetence on the part of the office, but the fact is that we have been placed in great difficulty, and a great deal of the time of the House will be taken up when Members of the House will attempt to explain the tenor of their amendments and to make clear what their real intentions are Who will be responsible for the waste of the valuable time of the House?

Coming to the Bill itself, one is tempted to ask, what is the main purpose of this Bill? It is true, as has been pointed out by the Finance Member, that a number of poor persons will stand to benefit when the slab system is substituted for the step system. I welcome this change, and I express my gratitude to Sir James Grigg for the concession he has made But I must say that this concession is only an incidental one

The Honourable Sir James Grigg: Not incidental at all It is fundamental

Dr. P. N. Banerjea: It is incidental to the introduction of the slab system You cannot deny that However, we should now consider the standpoint from which this measure has been approached Is it the standpoint of a tax-reformer, or is it the standpoint of a tax-gatherer?

The Honourable Sir James Grigg: Both

Dr. P. N. Banerjea: Yes, but it appears to most of us that the standpoint is more that of a tax-gatherer than that of a tax-reformer It will be clear from a look at the Bill that the Bill has been brought forward mainly with the object of increasing the revenue of the Government Only in two clauses of the Bill the Government have agreed to sacrifice the revenue of the country, namely, the clauses relating to the distinction which has been made between domiciled residents and non-domiciled residents and the provision relating to the relief of double taxation I am not one of those who think that the resources of the country should not be enlarged, but what I do insist upon is that proper means should be adopted for this purpose I should insist that the means adopted for enlarging the resources of the country should be fair and just.

4 P.M.

Sir, the Bill is based on the recommendations of the Income-tax Enquiry Committee, but the recommendations of this Committee have been departed from whenever it has suited the purpose of the Government The English system of income-tax law has been followed in general in the Bill, but this system has been departed from whenever the interests of the Government dictated such departure Sir, the result of this attitude on the part of the Government has been that the principle of 'ability to pay' and the principle of convenience to the tax-payer and to the general public have been ignored in many cases, and in not a few cases have provisions been inserted which are harsh, oppressive or arbitrary. I am one of those who sincerely desire that evasion should be stopped, but surely it ought to be possible to stop evasion without recourse to harassment and oppression. It may not be irrelevant in this connection to refer to the oppression and harassment which were caused by the income-tax measures enacted in the years 1869 to 1872 and the consequent discontent which,

to use the words of Lord Mayo, the then Governor General of India, was "a political danger the magnitude of which could hardly be over-estimated" Such a conflict should be avoided by all means on the present occasion

Sir, I shall now discuss very briefly some of the more important provisions in the Bill. The definition of the word "dividend", as given in the original Bill, was borrowed from Western Australia Now this provision was intended to prevent the avoidance of payment of super-tax in cases in which assets are distributed to assessees The amendment which has been made by the Select Committee in this regard has improved the definition to some extent, but this amendment does not go far enough. If the amendment as it stands now is allowed to stand in the Act, it will be difficult to distinguish between capital and income, and it may sometimes happen that assets and not income will be assessed I, therefore, suggest that the whole of this part of the clause should be deleted.

Sir, the amendment to section 4 of the Bill seeks to enlarge the scope of taxation of income There are two matters which should be carefully considered in this connection In the first place, in this clause a distinction is drawn between domiciled residents and non-domiciled residents I do not know what justification there exists for drawing this distinction but I must say there is a very strong feeling against this discrimination and I would urge on the Honourable the Finance Member to consider whether he should not drop it What is the motive behind this distinction? I will not ascribe any motives to the Finance Member, but people say—I do not say it—that the motive behind it is to assist English companies in India, but to my mind it appears

Mr. President (The Honourable Sir Abdur Rahim) Order, order The Honourable Member said that the use of certain letters and figures in the Income-tax Bill was not correct and showed the incompetence of the office. So far as the Assembly Office is concerned, they only took the figures and letters as they were given in the Bill, as they were handed over to them by Government

Dr. P. N. Banerjea: I did not say that it was due to the incompetence of the Assembly Office—I meant the office of the Drafting Department.

Mr. President (The Honourable Sir Abdur Rahim). The Honourable Member said "office".

Dr. P. N. Banerjea: I meant the drafting department office, I was discussing the question of the distinction which has been drawn between domiciled residents and non-domiciled residents. To me it seems that the effect of this distinction is to benefit the British exchequer at the expense of the Indian Treasury. I hope that the Honourable Member will not deny it.

The Honourable Sir James Grigg: I certainly deny it It leaves the existing situation unchanged. The British exchequer does not get one penny of benefit out of it.

Dr. P. N. Banerjea: In the name of fairness and equity, I urge that this discrimination should be dropped.

[Dr. P N Banerjea.]

The other objection to this clause of the Bill is that the whole of the foreign income of a resident national is sought to be taxed. Now, the difficulty with regard to this is that it discourages the trading activities of Indians abroad At the same time, if this sub-clause is dropped altogether, a great deal of loss will accrue to the Indian exchequer Therefore, I suggest that the income derived from business only should be taxed on the remittance basis, while the rest of the income should be taxed on the accrual basis This would result in minimising the loss to the treasury and, at the same time, it will encourage Indian enterprise.

I fully sympathise with the motive which underlies the amendment of section 4(2) of the Act which seeks to exclude the income of a private religious trust from the benefit of the exemption I agree that we should not sympathetically consider the case of a trust which does not enure to the benefit of the public But it should be made perfectly clear what is understood by the term 'public' It may often happen that a trust is created in favour of a class, or a section, or a community, and such a trust should not be deprived of the benefits of the exemption As regards the restrictions which are sought to be imposed on the business carried on by the charitable institutions and by local authorities, I do not think that they are justified I do not believe that the removal of these restrictions will harmfully affect the Indian treasury

The proposed amendment of sub-section (1) of section 7 which seeks to add the words "which are due to him from, whether paid or not," is wholly unjustified You can tax a person's salary only when it has been received, but you ought not to tax it when the salary has not been received Is this proposal fair? This is not consistent with the principle of ability to pay I have a salary due, but I have not obtained it, and still I have to pay the tax Is this, I ask, consistent with the principle of the ability to pay, which is the most fundamental principle in income-tax law I hope, therefore, that the Finance Member will see his way not to insert these words

The amendment which was sought to be made by the original Bill in section 9, sub-section (a) of the Act has been considerably modified by the Select Committee But, unfortunately, the Select Committee have not taken into consideration the fact that the deletion of the proviso to sub-section (2), as proposed in the Bill, is likely to hit many poor and middle-class persons very hard Now, this proviso restricts the taxation of the annual value of property to ten per cent of the total income of the owner This is strictly in accordance with the principle of ability to pay, and I do not see what justification there can be for the removal of this restriction It often happens that poor decendants of a family which was at one time rich live in their ancestral house, sometimes out of sentiment and sometimes because of the fact that this big house does not in fact fetch much rent, if let out In such circumstances, to tax this house on the full annual value would be wholly wrong.

Mr. K. Ahmed: What do you do in the Calcutta Corporation?

Dr. P. N. Banerjea: That is not an income-tax That is a consolidated rate which is levied by the Corporation Here we are considering an income-tax Bill You can tax only the income, but you cannot go beyond that. You cannot tax property under this Bill. If you do not remove the restriction, then you will be taxing property and not income

Sir, the proposed amendment of section 10, sub-section (2), of the Act, which seeks to substitute the written down value in regard to the depreciation of buildings, machinery, etc., possesses some theoretical advantages. I admit it, but it should be remembered that the business community of the country is strongly opposed to the change. They fear that it will hamper industrial development, and this point of view should be carefully considered by the Honourable the Finance Member

I now come to settlements It is clear that the intention of the Government is to put revocable and irrevocable settlements on the same footing. Is this just and fair? If a settlement is irrevocable, then it should not be presumed that the object of the settlor is to transfer the property in order to evade taxation. If, on the other hand, it is a revocable settlement, then that presumption may legitimately be drawn. I, therefore, suggest that a distinction should be drawn between revocable and irrevocable settlements, and that in the case of a revocable settlement the income from the property in the hands of the settlor or disponer should be taxed, but this should not be done in the case of an irrevocable settlement

Sir, the amendments proposed in clauses 20(*a*) and 30 of the Bill regarding the supply of information to the Income-tax Department with regard to transactions between an assessee and his clientele do not seem to me to be fully justified. Under these clauses, it is expected that information should be given with regard to the financial positions of all persons with whom an individual assessee, or a bank, or a company has transactions amounting to Rs 200 Now, this lowering of the limit from Rs 1,000 will be a source of great annoyance and trouble to many firms, companies and individual assessees

One of the most objectionable provisions of the Bill is to be found in the amendment sought to be made in section 22 of the Act by which the submission of a return is to be made practically compulsory The Select Committee has introduced slight modifications in the amendment, but these modifications do not go far enough It is argued on the Government side that such a system exists in England, but there could be no real analogy between conditions in England and conditions in India in view of the fact that, whereas in England 100 per cent of the people are literate, in India literacy is confined to only eleven per cent There is also another fact to be taken into consideration, namely, that the percentage of people who pay income-tax in India is much smaller than in England In view of these differences in the conditions of the two countries I hope this proposal will be withdrawn and that the giving of notice will be made compulsory, as it is at present

The clause providing for penalties seems to be in some cases very drastic. I have no sympathy with the tax dodger The Honourable the Finance Member says that this Bill has been stiffened up against the dodger So far that is a correct statement I am in entire agreement with him. But we should not forget the fact that the tendency of income-tax administrators is to place the guilty and the innocent on the same footing. Even in this Bill we find that there are provisions for the punishment of innocent persons For instance, a penalty of Rs 25 is provided for non-submission of a return, even when it is proved that the would-be assessee has no taxable income So, in this case, an innocent person is sought to be punished. If the Honourable the Finance Member is true to himself, I hope he will withdraw this provision of this Bill.

[Dr. P N. Banerjea.]

It is a matter of great satisfaction to us that the Government have agreed with the Opposition to set up an independent tribunal of appeal for all questions of fact and of law. It is eminently desirable that the executive and the judicial functions with regard to income-tax administration should be completely separated. Even if this tribunal is set up, I would urge that the first appeals in income-tax cases should not be heard by Appellate Assistant Commissioners but by a separate class of judges who may be called Income-tax Judges. The advantage of this will be that you will inspire confidence in the general public and in the minds of the taxpaying community I admit that the provision in the Bill relating to the appointment of Appellate Assistant Commissioners is a slight improvement on the present position, but this does not go far enough These Appellate Assistant Commissioners will have to depend for their pay, promotion and transfer on the good graces of the Central Board of Revenue which is the final authority in matters of income-tax administration I, therefore, suggest that the first appeals in income-tax cases should be heard by Income-tax Judges, who may be officers of the rank of District Judges, or Additional District Judges, or subordinate Judges

The clause relating to the entry of business premises by income-tax officers has been slightly modified by the Select Committee But the sting has not been wholly taken away The word "visit" has been substituted for the word "entry", but the spirit remains the same This has been regarded as a serious menace to the liberty and self-respect of assessees or persons who are expected to possess taxable income.

Lastly, I pass on to the question of double taxation relief This question can be viewed from two standpoints, namely, the standpoint of principle and the standpoint of revenue Considered from the first standpoint the Indian system is wrong, for it is generally recognised that in the matter of relief from double taxation the priority of tax claim should be given to the country of origin But even more important than the question of principle is the question of revenue During the 14 years 1923-24 to 1936-37, the total amount given in relief of double taxation amounted to about 14¼ crores, and out of this total amount of relief nearly 13¾ crores were given to British companies The amount of relief which was given in 1936-37 was 1¼ crore Now, this is a large amount for a poor country like India to sacrifice Even if the deductions mentioned by the Honourable the Finance Member were made, the annual saving to the Indian treasury would be substantial If this saving could be utilised for strengthening the financial resources of the Centre and for assisting the development of nation-building services in the provinces great good would arise to the whole country It may be noted in this connection that only two countries in the Empire, namely, India and Australia, have so far agreed to give reciprocal relief to the United Kingdom India is a dependent country, and her consent is really the consent of the United Kingdom Is it right, I ask, on the part of the British Government to saddle India with a heavy item of expenditure not for her own benefit but for the benefit of Britain? Besides, there is no real reciprocity in the arrangements for the relief given in the two countries, for, we find that the relief given by the United Kingdom is exceedingly small compared to the relief given by India to British companies. The system is thus extremely unfair to India and cannot be justified on any principle, legal or moral It is high time that it is stopped.

Mr. President (The Honourable Sir Abdur Rahim): Order, order. The House has decided that we should rise at 4-30 during the Ramzan days. The House will, therefore, stand adjourned till 11 o'clock on Saturday.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa. Muhammadan) Sir, I wish to bring to your notice that I am asked by the different parties to request you not to have meetings on Saturdays this Session. There should be no sittings on Saturdays.

Mr. President (The Honourable Sir Abdur Rahim) Is that the desire of the House?

The Honourable Sir Nripendra Sircar: So long as I am not blamed for not finishing the Select Committee meetings on Mr. Kazmi's Bill by the 9th December, I have no objection to Members not sitting on any particular day I am asked that the Select Committee's Report on Mr Kazmi's Bill should be ready by the 9th December, and I cannot possibly do it, because, if the House is not sitting this Saturday, they will object to have a meeting of the Select Committee as well I presume reluctance to attend the House extends to attending Select Committees.

Mr. President (The Honourable Sir Abdur Rahim) It is a matter for those who are interested in Mr Kazmi's Bill. If there is no meeting tomorrow and the Select Committee cannot meet on Saturdays, the Select Committee Report on Mr Kazmi's Bill may not, as the Leader of the House says, be finished by the 9th December.

The Honourable Sir Nripendra Sircar: What I gather from my Honourable colleague is that it is not likely to be finished by the 9th December, even if we sit on Saturdays.

Mr. President (The Honourable Sir Abdur Rahim) If that is the position, and the House desires that there should be no meeting next Saturday or any other Saturday. . . . .

The Honourable Sir James Grigg: Only this Saturday

Mr. President (The Honourable Sir Abdur Rahim) I will adjourn the Assembly till next Monday.

The Assembly then adjourned till Eleven of the Clock on Monday, the 21st November, 1938.

LEGISLATIVE ASSEMBLY.

Monday, 21st November, 1938.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

MEMBER SWORN

Mr. Arthur Brokenshaw, M.L.A. (Government of India: Nominated Official).

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS.

†1807—1832*

RENTS PAID BY INDIAN AND EUROPEAN REFRESHMENT ROOMS ON RAILWAYS.

1833. *Mr. Abdul Qaiyum: Will the Honourable Member for Railways please state

(a) whether a uniform policy is adhered to on Indian Railways in the matter of charging economic rents from owners of European and Indian refreshment rooms,

(b) whether contractors of European refreshment rooms are either charged no rent, or only a nominal rent, if so, the reason therefor,

(c) whether contractors of Indian refreshment rooms are paying economic rents,

(d) if so, the reasons for this dissimilarity in treatment, and

(e) whether Government will take speedy steps to set this right?

The Honourable Sir Thomas Stewart: (a) to (e) I would refer the Honourable Member to the reply given to Mr Satyamurti's starred question No 1088 on the 16th September, 1938, and the supplementaries thereto

Mr. Abdul Qaiyum: May I know if any change has taken place in this dissimilar treatment since the last answer was given?

The Honourable Sir Thomas Stewart: The situation is unchanged.

Mr. Abdul Qaiyum: May I know if it is a fact that present position is that Indian refreshment rooms are being charged economic rents while those in charge of European refreshment rooms are not paying any rents at all?

†These questions, which were on the Order Paper for the 19th November, 1938, have lapsed, the meeting fixed for that day having been cancelled.

The Honourable Sir Thomas Stewart: The position is this, that the information has been asked for and the complete information has not yet been received, and so I am not in a position to answer the question.

Mr. T. S. Avinashilingam Chettiar: May I know, apart from the complete information which has yet to come in, whether they have received any information that the European refreshment rooms are not paying economic rents?

The Honourable Sir Thomas Stewart: In the absence of complete information I have not examined the question.

Mr. S. Satyamurti: May I know the reasons for the delay in the receipt of the information, in view of the very serious allegation that European refreshment rooms are more or less subsidised by the State Railways, while Indians have to pay "economic rents", and why Government cannot examine the question to the extent of the information they have already got, and take effective steps to redress the inequality?

The Honourable Sir Thomas Stewart: Without acquiescing in the Honourable Member's suggestion that there is any discrimination or inequality, Government are perfectly prepared to examine the case so soon as they have the information, but it may be that the pre-occupations of the various administrations have prevented them from sending the information so far

Mr. T. S. Avinashilingam Chettiar: Have Government received information from any administration so far?

The Honourable Sir Thomas Stewart: Certainly we have had replies from certain administrations

Mr. T. S. Avinashilingam Chettiar: From what administrations?

The Honourable Sir Thomas Stewart: I am afraid, I cannot answer that off-hand

Mr. Abdul Qaiyum: Without waiting for complete replies, why do not Government lay down a principle and apply that principle to persons irrespective of the fact whether they are Europeans or Indians?

The Honourable Sir Thomas Stewart: Government are reluctant to take any decisions until they know the relevant facts

Mr. K. Santhanam: May I know, if pending the consideration of this question, no existing contracts will be prolonged or renewed?

The Honourable Sir Thomas Stewart: I should have to have notice of that. I do not know what our commitments are

Mr. Lalchand Navalrai: Is there no record in the Railway Board which could give this information and help the Honourable Member in coming to a conclusion to break this distinction?

The Honourable Sir Thomas Stewart: That would be a very reasonable deduction from the fact that we have sent for the information from the railway administrations

Mr. S. Satyamurti: Will Government remind the dilatory railway administrations, and ask them to expedite their replies so that a decision can be reached as early as possible?

The Honourable Sir Thomas Stewart: May I remind the Honourable Member that I promised him on the last occasion on which I answered questions that I will see that there was no inordinate delay?

Mr. Sri Prakasa: In view of the most uneconomic prices charged by these refreshment rooms for the food they supply will Government see to it that they pay at least economic rents?

The Honourable Sir Thomas Stewart: That is indeed a hypothetical question

INDIANISATION OF PORT TRUSTS

1334 ***Mr Abdul Qaiyum** Will the Honourable Member for Communications please state

(a) the relative numbers of Indians and non Indians on the Bombay Calcutta and Madras Port Trusts

(b) the policy of Government in the matter of racial composition of such Trusts, and

(c) what steps have been taken or are proposed to be taken in the matter of Indianisation of such bodies?

The Honourable Sir Thomas Stewart: (a) A statement is laid on the table

	Indians	Non Indians	Total
Bombay	11	11	22
Calcutta	5	14	19
Madras	5	10	15

(b) and (c) The general policy of Government is to give due representation to all interests whether Indian or non Indian, concerned in the business of the Port Enquiries are being made in regard to the adequacy of Indian representation in the Port Trust of Madras I have no reason to suppose that in the others all interests are not adequately represented

Mr. Abdul Qaiyum: Do Government accept the principle that the Indian element should preponderate in all these bodies?

The Honourable Sir Thomas Stewart: I have said that the general policy of Government is to give due representation to all interests whether Indian or non-Indian concerned in the business of the Port

Mr. Manu Subedar: In view of the fact that in no major port in the world has any seat been given to any foreigner, may I know if Government have reconsidered the propriety of continuing a European majority in all these port trusts?

The Honourable Sir Thomas Stewart: The Honourable Member asked a somewhat similar question in the last Simla Session to which Mr Clow made a final reply.

Mr. Manu Subedar: I did not ask this particular question. I am asking whether Government have reconsidered their policy: is the policy the same in the matter of the European majority, as it was a few years ago or has it changed today?

The Honourable Sir Thomas Stewart: The policy is precisely the same as I stated in the answer to parts (b) and (c) of the question

Mr. Manu Subedar: May I ask whether Government have considered the logical consequence of their answer that due representation should be given to non-Indians, *viz*, that Japanese, German, Italian and other interests which are also interested in the major ports should be given representation?

The Honourable Sir Thomas Stewart: I hesitate to give any dogmatic reply but I am not at all certain that there is any reason why a German or a Japanese should not be on a port trust

Mr. S. Satyamurti: In regard to the Calcutta Port Trust, the Honourable Member said there were five Indians and 14 non-Indians May I know whether the Government have examined and are satisfied that this proportion of five Indians to 14 non-Indians is giving adequate representation to all interests which ought to be represented on the port trust according to the Government?

The Honourable Sir Thomas Stewart: Yes

Mr. S. Satyamurti: May I know what are the considerations on which Government have come to the conclusion that five Indians adequately represent all Indian interests which ought to be represented and that 14 Europeans are required to protect the European interests?

The Honourable Sir Thomas Stewart: The Honourable Member assumes that the 14 non-Indians represent trade interests As a matter of fact a large number of this are *ex-officio* members representing, *e g*, railways or the Collector of Customs or the Principal Port Officer

Mr. S. Satyamurti: Confining himself to trade alone, will my Honourable friend tell me how many Indians are there who represent the Indian trade interests, and how many Europeans are there who represent the European trade interests?

The Honourable Sir Thomas Stewart: I regret that I am not in a position to give the numbers now.

Mr. N. M. Joshi: May I know, Sir, in view of the fact that the Royal Commission on Labour have recommended that labour should be represented on all Port Trusts in India and in view of the fact that labour is represented only at the Bombay and Karachi Port Trusts, whether the Government of India will take steps to see that labour is represented on the other Port Trusts also?

The Honourable Sir Thomas Stewart: I would refer my Honourable friend to the answer given to a similar question asked by him in the Simla Session

Mr. T. S. Avinashilingam Chettiar: May I know, Sir, out of 14 in the Calcutta Port Trust, how many are *ex-officio*?

The Honourable Sir Thomas Stewart: As I said in answer to my friend, Mr. Satyamurti, I am not in a position at this moment to give the details of the representation as between *ex-officio* appointments and trade representation

Mr. T. S. Avinashilingam Chettiar: Sir, this is really unfair The question is about the number of Indians and non-Indians, and among the *ex-officio* there may be Indians also, and unless we know how many *ex-officio* members there are, the answer to this question is really misleading

The Honourable Sir Thomas Stewart: I suggest, Sir, that the fault lies not in me, but in the form in which the question was put first of all

Mr. Lalchand Navalrai: May I know, Sir, what is that due proportion which has been laid down for giving posts to Indians and Europeans?

The Honourable Sir Thomas Stewart: I never suggested for a minute that there was any racial proportion laid down.

Mr. Lalchand Navalrai: May I understand when it is said that due proportion has to be given it must be done on some basis, if so, what is the basis that the Honourable Member has laid down?

The Honourable Sir Thomas Stewart: The basis is the relative importance of the interests concerned

Mr. T. S. Avinashilingam Chettiar: May I know, Sir, when this question of representation on the Calcutta Port Trust was last examined?

The Honourable Sir Thomas Stewart: I should require notice

Mr. T. S. Avinashilingam Chettiar: May I know whether they examine this question from time to time, and if so, in what period?

The Honourable Sir Thomas Stewart: Yes, Sir, it was always within the consideration of the Government of India as to whether the representation is adequate and proper.

Mr. Abdul Qaiyum: May I know if the over-representation of non-Indians is due to the apprehension that their interests will not be safe in the hands of Indians?

The Honourable Sir Thomas Stewart: I think the Honourable Member has a question later on the paper.

Invoice Typists on the North Western Railway.

1335. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether Invoice Typists are employed on the North Western Railway, and whether they type out Goods Receipts?

(b) Is it a fact that these men are detailed on duty for 8½ hours to 9½ hours per day—unlike other typists who perform duties from six to seven hours per day?

(c) Is it a fact that these Invoice Typists have made repeated requests for reduction in duty hours and given concrete examples of the employees contracting tuberculosis and other diseases as a result of excessive typing?

(d) If the reply to part (c) be in the affirmative, will the Honourable Member be pleased to state the reply sent by the Agent, North Western Railway, Lahore, to these memorialists?

(e) Is it proposed to reduce duty hours of the Invoice Typists? If not, why not?

(f) Do Government propose to direct an enquiry into the matter? If not, why not?

The Honourable Sir Thomas Stewart: (a) Yes, in goods sheds

(b) The duty hours of Invoice Typists are nine hours a day with rest on Sunday, *i.e.*, 54 hours a week, the same as other subordinate staff employed in goods sheds. The duty hours of typists employed in other offices are fixed as for other clerical staff employed there.

(c) Yes, but it has not been accepted by the North Western Railway Administration, on the advice of their Chief Medical Officer, that the contraction of tuberculosis and other diseases was the result of excessive typing

(d) The memorials submitted by the Invoice Typists were rejected by the General Manager, North Western Railway, and the memorialists were informed accordingly.

(e) No, in view of the reply to part (b) above.

(f) No, as Government do not consider any enquiry necessary.

Mr. Lalchand Navalrai: With regard to part (b), may I know what is the average time for which the typists and other officers work, is it only for six or seven hours?

The Honourable Sir Thomas Stewart: I am prepared to accept the Honourable Member's suggestion that the hours of duty of other typists are from six to seven hours a day.

Mr. Lalchand Navalrai: May I, therefore, know why there is a difference here, the typists are working in the same manner like other people or perhaps for a little while longer?

The Honourable Sir Thomas Stewart: I do not accept the suggestion that the work done by the two sets of typists is the same.

INVOICE TYPISTS ON THE NORTH WESTERN RAILWAY

1336. *Mr. Lalchand Navalrai: Will the Honourable Member for Railways be pleased to state

(a) the number of Invoice Typists on the North Western Railway,

(b) the grade of pay in which they are employed,

(c) whether they have any chances of promotion to the next higher grade, if so, whether any higher grade posts are reserved for them, if so how many and in which offices if not, why not, and

(d) what action Government propose to take to ensure that the Invoice Typists are assured chances for promotion to higher grade if not, why not?

The Honourable Sir Thomas Stewart:—(a) 46

(b) Rs 39—3—60 (old scale) Rs 80—5—50—5/2—60 (new scale)

(c) In order to provide for promotion of grade I typists to a higher grade, two grade II posts have been provided on the Lahore Division, and the proposal to create six posts of grade II on the Karachi Division is under consideration of the North Western Railway Administration

(d) Chances of promotion exist for qualified staff in all categories

FINANCIAL EFFECT OF THE RECOMMENDATIONS OF THE WEDGWOOD COMMITTEE

1337. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member for Communications state

(a) whether they have finished consideration of the proposals of the Wedgwood Committee,

(b) if so, whether they will consult the House on the more important questions before giving effect to them, and

(c) what is the financial effect of the proposals already accepted?

The Honourable Sir Thomas Stewart: (a) and (b) I would refer the Honourable member to the reply given to starred question No 1286 asked by Mr Satyamurti on the 16th November, 1938

(c) Government have not so far been able to assess the financial effects of the proposals of the Railway Enquiry Committee which have been accepted by them In this connection I would refer the Honourable Member to the second part of the reply to part (b) of Mr Asaf Ali's starred question No 394 asked on the 21st February 1938

Mr. T. S. Avinashilingam Chettiar: May I know Sir, whether Government accept the proposals of any Committee without knowing the financial effect of those proposals?

The Honourable Sir Thomas Stewart: Yes Sir, that is inevitable, I think

Mr. T. S. Avinashilingam Chettiar: May I know what are those inevitable proposals which must be accepted as inevitable without an examination of their financial effect?

The Honourable Sir Thomas Stewart: Sir, I never suggested that the acceptance of any proposals was inevitable

Mr. T. S. Avinashilingam Chettiar: What was it that was inevitable?

The Honourable Sir Thomas Stewart: I said that it was inevitable that proposals must be accepted without any certainty as to their financial effect.

Mr. T. S. Avinashilingam Chettiar: Apart from the certainty, may I know whether Government estimate the financial effect of a proposal before they accept it?

The Honourable Sir Thomas Stewart: It has not been possible to do so.

Dr. Sir Ziauddin Ahmad: Have Government seen and examined the recommendations of the Public Accounts Committee on the Wedgwood Committee's Report?

The Honourable Sir Thomas Stewart: As I suggested to the Honourable Member on the last occasion when he asked that question, it does not arise out of the question to which I have given an answer

Mr. S. Satyamurti: Sir, I submit it does arise, and I shall presently show how it does arise. The Public Accounts Committee has gone into the Wedgwood Committee's recommendations and has recommended, only the Finance Member dissenting, certain proposals to this House which have not yet been considered finally by this House, that certain action should or should not be taken on the recommendations of the Wedgwood Report. These questions are asked to find out whether they will consult the House on the more important questions before giving effect to the recommendations of the Wedgwood Committee My friend is asking whether, in making up their minds on the recommendations of the Wedgwood Committee, they will take into consideration the recommendations of the Public Accounts Committee I submit, Sir, it does arise, and I submit my friend must give an answer to it.

Dr. Sir Ziauddin Ahmad: May I add another reason as to how it does arise The Honourable Member's predecessor has stated it on the floor of the House that the Public Accounts Committee had first suggested the formation of a Committee It also laid down terms of reference. Therefore the Public Accounts Committee had every right to examine that Report, and it did examine it, and it did make certain recommendations. I want to know if Government have examined and seen those recommendations?

The Honourable Sir Thomas Stewart: Assuming for a moment that the question does arise, from the speech just delivered, it seems to me that the matter is somewhat complicated, and I must ask for notice

Mr. T. S. Avinashilingam Chettiar: May I know what has been the financial effect of the recommendations of the Wedgwood Committee so far accepted by Government?

The Honourable Sir Thomas Stewart: I think the Honourable Member has a question later on that subject.

Mr. S. Satyamurti: Sir, I want to pursue this matter. May I know if it is the policy of the Railway Board to accept far reaching proposals even without making an attempt at assessing the financial implications thereof, and the extra expenditure?

The Honourable Sir Thomas Stewart: Sir, as a statement of general policy, that would not be true

Mr. S. Satyamurti: What were the special considerations which induced the Government to accept some of the proposals of the Wedgwood Committee, without even examining the financial implications thereof?

The Honourable Sir Thomas Stewart: No one for a moment admitted that there was no examination of the financial implications.

Mr. S. Satyamurti: Then what is the result of that examination, with regard to those proposals which have been given effect to, or what are the financial implications thereof?

The Honourable Sir Thomas Stewart: No proposal has been adopted unless it was the opinion of the Government of India or of the Railway Department that economies would thereby be effected, but it is a different thing to say that the economies would be X-number of rupees or Y-number of rupees.

Mr. S. Satyamurti: May I take it, therefore, that no proposal was accepted which would add a single pie to the railway budget on the expenditure side, and all the proposals which have been accepted either reduce the expenditure, or increase the revenue?

The Honourable Sir Thomas Stewart: No, Sir, I am not prepared to give a categorical reply to that question, which covers a very large number of proposals.

Mr. F. E. James: Is it not a fact that all the recommendations of the Wedgwood Committee were fully discussed with the Central Advisory Council for Railways on which both the Houses are represented?

The Honourable Sir Thomas Stewart: That is my very strong recollection

Mr. S. Satyamurti: And what was the conclusion of that Council?

The Honourable Sir Thomas Stewart: Well, there were a very large number of propositions put before them, on each of which there was a different conclusion, and I am afraid I am not prepared at this moment to say what were the conclusions on those 70 or 80 odd subjects that were discussed

Mr. S. Satyamurti: May I know if my Honourable friend realises that the Public Accounts Committee is a committee appointed by this House under statutory rules, and this Wedgwood Committee was appointed on the recommendation of the Public Accounts Committee and its recommendations ought to be considered by the Government before taking action on them?

The Honourable Sir Thomas Stewart: That is the Honourable Member's view

Mr. S. Satyamurti: What is the Government's view?

The Honourable Sir Thomas Stewart: The Honourable Member is asking for an expression of opinion

Mr. K. Santhanam: May I know whether the recommendations of the Central Advisory Council all or any of them, have been accepted by the Government?

The Honourable Sir Thomas Stewart: I should require notice of that

Dr. Sir Ziauddin Ahmad: Do I understand correctly that Government are not prepared even to examine and consider the recommendations of the Public Accounts Committee?

The Honourable Sir Thomas Stewart: The Honourable Member's understanding is entirely wrong

Dr. Sir Ziauddin Ahmad: Do I understand that Government are going to examine them—either will examine them or will not examine them?

The Honourable Sir Thomas Stewart: I am not responsible for the Honourable Member's understanding

Mr Deputy President (Mr Akhil Chandra Datta) Next question

Political Pensions paid to Foreign Refugees

1338. ***Mr. T S Avinashilingam Chettiar:** Will the Foreign Secretary state

(a) whether the matter of political pensions to foreign refugees has been re-examined,

(b) if so, what is the number of those paid now, as compared with the previous year, and the amounts paid as compared with the previous year, and

(c) whether most of them belong to Afghanistan?

Sir Aubrey Metcalfe: (a) Yes

(b) In 1937, 131 refugees were paid pensions totalling approximately Rs. 2 lakhs In the current year these figures have been reduced respectively to 126 and Rs 1,90,000 approximately

(c) They all belong to Afghanistan

Prof. N. G. Ranga: Is any effort being made to reduce this expenditure?

Sir Aubrey Metcalfe: Every effort is being made and a reduction has already been effected.

Mr. T. S. Avinashilingam Chettiar: The reduction was Rs 8,000—is it so, or more?

Mr Aubrey Metcalfe: The difference between Rs 2 lakhs and Rs 1 90 000 is Rs 10 000

Mr. S. Satyamurti: Are these payments based on any treaty made with Afghanistan, or are they based on any obligation of the Government of India towards the Government of Afghanistan?

Sir Aubrey Metcalfe: They are certainly not based on treaties

Mr. S. Satyamurti: May I know what is the liability under which these pensions are being paid? Are they voluntary on the part of the Government of India, or do they get any *quid pro quo* beyond any understanding or agreement with the Afghan Government?

Sir Aubrey Metcalfe: I have answered frequently before and tried to explain that these payments are made because the Government of India consider that it is in their own interests to make them

Mr. T. S. Avinashilingam Chettiar. May I know whether this was one of those subjects which were discussed by the Honourable Member when he went to Kabul?

Sir Aubrey Metcalfe: No

Mr. S. Satyamurti: May I know whether these pensions are being paid for the peace and tranquillity of India?

Sir Aubrey Metcalfe Yes I think I can say that that is so

Mr. Abdul Qaiyum: Has any attempt been made or has any effort been made so far by negotiation with the Afghan Government to repatriate some of these people?

Sir Aubrey Metcalfe: Yes certainly Several efforts of that kind have been made and we hope to have some success in that direction

Absence of Alarm Signals in Carriages on the Murtizapur-Ellichpur Railway Line, etc

1339. Mr. Govind V. Deshmukh: (a) Will the Honourable Member for Railways please state if it is a fact that no railway carriages on the Murtizapur Ellichpur line are fitted with alarm chains or any alarm signals? If so, how do Government account for it?

(b) What, if any, are the safety measures provided on this and Murtizapur-Yeotmal Railway branch lines for passengers in females' compartments?

The Honourable Sir Thomas Stewart: (a) I would refer the Honourable Member to the reply given to Dr B S Moonje's starred question No 856 on the 25th September, 1929

(b) The compartment reserved for women is in the centre of the coaching rake, adjacent to the upper class carriage, and only one carriage apart from the guard's brakevan. The windows of this compartment are barred and it is not considered that any other special measures are necessary for safety

Mr. Govind V. Deshmukh: I do not know what the answer to part (a) of the question is? Does the Honourable Member recollect anything of that?

The Honourable Sir Thomas Stewart: The answer to part (a) is:

"I would refer the Honourable Member to the reply given to Dr B. S. Moonje's starred question No 856 on the 25th September 1929"

Mr. T. S. Avinashilingam Chettiar: This is a reply of 1929 May we have that answer, Sir?

Mr. Deputy President (Mr. Akhil Chandra Datta) The Honourable Member may read out that answer because it was given long ago

The Honourable Sir Thomas Stewart: I will certainly acquiesce in your suggestion. Dr Moonje asked

"(a) Are Government aware that alarm chains are not provided in the trains on the Yeotmal, Murtizapur and Murtizapur-Elichpur lines of the Central Provinces Railways?

(b) Do Government propose to bring the matter to the notice of the Administration of the Central Provinces Railways and to see that provision is made at an early date for such means of communications as are required under section 62 of the Indian Railways Act?"

Mr P R Rau, as he then was, replied

"(a) Yes

(b) The provision of such means of communication on these narrow gauge railways is not considered necessary, the speed of trains being low and the stations near each other."

Mr. K. Santhanam: May I know if the new carriages built for those lines contain these alarm chains or not?

The Honourable Sir Thomas Stewart: The Honourable Member will realise my difficulty when I say that I am not aware that any carriages are being built

Mr. K. Santhanam: May I know if carriages are never scrapped on this line? Are they perpetual, or is the line being scrapped?

The Honourable Sir Thomas Stewart: If the Honourable Member is interested in the reconstruction programme for the rolling stock on that line, I should be glad if he will give me notice of that question

Prof. N. G. Ranga: Is the speed of the trains running on these lines the same as it was in 1929, or has it been increased?

The Honourable Sir Thomas Stewart: I am afraid I cannot inform the Honourable Member whether the trains running now are identically those that were in existence in 1929

Prof. N. G. Ranga: Has any effort been made by Government to ascertain whether the conditions that prevailed in 1929 have changed for the worse and therefore whether there is any need at all today under the present circumstances to introduce these alarm chains or not?

The Honourable Sir Thomas Stewart: Government have no reason to believe that the conditions have materially altered.

Prof. N. G. Ranga: May I know what steps Government have taken to satisfy themselves that these chains are not needed in these days?

The Honourable Sir Thomas Stewart: Surely, the matter should be looked at the other way round—what evidence is there that the safety conditions have deteriorated since 1929

Mr. Govind V. Deshmukh: Our statement that the conditions are most unsatisfactory is sufficient, because the passengers have to travel at night time over a long distance without sufficient light

The Honourable Sir Thomas Stewart: I should be very happy if the Honourable Member will give me specific instances of misfortunes to passengers travelling in these trains and I certainly will have the matter investigated.

CORRESPONDENCE *re* VISIT OF MAHATMA GANDHI TO THE TRIBAL AREAS.

1340. ***Mr. S. Satyamurti:** Will the Secretary for External Affairs please state

(a) whether his attention has been drawn to a recent statement of Mahatma Gandhi that "he knew that he would not be allowed to visit the tribal areas",

(b) whether there has been any correspondence between the Government of the North-West Frontier Province and the Government of India about the visit of Mahatma Gandhi to the tribal areas; and

(c) whether Government have refused permission?

Sir Aubrey Metcalfe: (a) The Government have seen the statement in the Press.

(b) and (c). No.

Mr. S. Satyamurti: May I know whether Government have examined the statement of Mahatma Gandhi, which has since been amplified in several speeches of his, widely reported in the Indian press, which I am sure my Honourable friend has seen, and may I know what is the Government's reaction to it? I want to know specifically whether Government will permit Mahatma Gandhi to visit the tribal areas

Sir Aubrey Metcalfe: As I have already explained, Mahatma Gandhi has made no such request and Government cannot give an answer to a hypothetical question.

Mr. S. Satyamurti: Mahatma Gandhi is a man who means what he speaks and who speaks what he means In view of the fact that he has said more than once in public speeches that he knew that he would not be allowed to visit the tribal areas, may I know whether Government have examined the position, and will themselves take steps to make it easy for him to enter the tribal areas, where he may achieve success which the Government have failed to secure?

Sir Aubrey Metcalfe: Government cannot grant a request which has not been made They do not know the conditions upon which the Mahatma might wish to go to the tribal areas.

Mr. S. Satyamurti: In the interests of the safety of India and of economy, and in view of the fact that Government have not so far succeeded, will they voluntarily invite Mahatma Gandhi, with a view to his visiting the tribal areas and helping the Government in restoring peace and harmony in those areas?

Sir Aubrey Metcalfe: No, Sir

Mr. S. Satyamurti: Why not?

Sir Aubrey Metcalfe: Because Government do not know whether the Mahatma wishes to go or not I have nothing to add to the statement I have already made

Mr. S. Satyamurti: Has not the Honourable Member read the speech of Mahatma Gandhi in which he has said this in so many words

"I have met the tribesmen and their leaders as man to man I know how to deal with them, but unfortunately I would not be permitted to visit the tribal areas"

In view of that, will my Honourable friend examine this question?

Sir Aubrey Metcalfe: If he has already met the tribal leaders and is able to deal with them, what necessity is there for him to enter the tribal territory?

Mr. S. Satyamurti: As I am asked this question, I shall place myself in my Honourable friend's place and answer If I were in the Honourable Member's place, I would certainly let Mahatma Gandhi visit the tribal areas, deal with the tribesmen and their leaders and allow him to produce better results than what Government have done

Mr. Abdul Qaiyum: Is it not a fact that under instructions from the Political Department, the Political Officers in charge of the Kohat Pass asked the people there not to accord a reception to Mahatma Gandhi when he passed through that place

Sir Aubrey Metcalfe: I have no information on that point and I do not see how it arises out of this question.

Mr. S. Satyamurti: May I know whether the Government of the N W F P have addressed the Government of India on any matter concerning the tribal areas or the visit of Mahatma Gandhi to tribal areas in recent months?

Sir Aubrey Metcalfe: I have already answered that question in the negative.

Mr. S. Satyamurti: I want to know whether, apart from correspondence which means exchange of letters, there has been any letter addressed by the N. W. F. P. Government to the Government of India with regard to the matter mentioned in clause (b)

Sir Aubrey Metcalfe: No

Mr. Abdul Qaiyum: Has the Honourable Member seen the speech of the Prime Minister of the N. W. F. P. that he was finding it very difficult to administer the Province owing to the state of lawlessness in the tribal areas, because they had no say in the policy of the tribal areas?

Sir Aubrey Metcalfe: That has no possible connection with the question before the House.

LOSS ON THE WORKING OF THE TELEGRAPH DEPARTMENT

1341. *Mr. S. Satyamurti: Will the Honourable Member for Communications please state

(a) the loss on the working of the Telegraphs Department during the last financial year,

(b) the main items under which the loss was incurred, and

(c) whether any steps have been taken, or are proposed to be taken, to minimise that loss in the first instance, and ultimately to avoid it, and if so, what they are?

The Honourable Sir Thomas Stewart: (a) Rs 16,39,000

(b) The Telegraph Branch of the Indian Posts and Telegraphs Department is treated as one unit and no account of receipts and expenditure by separate items is maintained But estimates have been made from time to time of the loss due to conveyance of press traffic at the concessional rates The loss on this account is estimated to have been about Rs 8½ lakhs in 1937-38

(c) Steps have been taken to reduce the loss The loss on the working of the Branch for the year 1937-38 is the lowest in the last eleven years with the exception of the year 1934-35 when the five per cent cut in pay was in force and the full contribution to the depreciation fund was not made. It is not possible to describe all the steps taken to reduce the loss within the limits of a reply to a question but among the principal measures are the conversion of departmental telegraph offices into combined offices involving the employment of men on lower rates of pay, stoppage of recruitment to the general service telegraphists' cadre with a view to its ultimate abolition, introduction of a circle service cadre on a lower scale of pay, increased use of highspeed machine telegraphy requiring lesser numbers of staff to work, revision of the standards adopted for determining the strength of staff to be sanctioned and the introduction of special classes of traffic on special rates.

Mr. S. Satyamurti: I am impressed by the impressive list given in answer to clause (c); but may I know whether Government have considered or will consider the retrenchment in the scales of pay of the Telegraph Department which are admittedly higher than those of the Postal Department?

The Honourable Sir Thomas Stewart: I am under the impression that there has been a revision of the scales of pay of the Telegraph Department But this, of course, will only be applicable to new entrants

Mr. S. Satyamurti: In view of the fact that, as compared with the Postal Department, the Telegraph Department, on the figures of estimate which the department has made, causes more loss to Government than the Postal Department but at the same time, the scales of salaries in the Telegraph Department in certain branches are higher, may I know if Government will consider specifically lowering the salaries, with a view to make the budget on the telegraph side a balanced one?

The Honourable Sir Thomas Stewart: No, Sir, I can see no reason for approximating the pay on the telegraph side to the pay on the postal side for the reason that the work in one department is entirely different in character from the work in the other.

Dr. Sir Ziauddin Ahmad: Is not the loss mainly due to the transfer of service from telegraph to the telephone?

The Honourable Sir Thomas Stewart: No, Sir I do not think that that deduction can be drawn

Mr. S. Satyamurti: Of the 16 lakhs loss which the Honourable Member mentioned as the likely loss on the estimates on the telegraph side, he put down 8 lakhs as loss on traffic in press telegrams May I know what are the other main categories under which the other half of the loss or nearly half the loss is incurred?

The Honourable Sir Thomas Stewart: I am afraid that, as indicated by me in reply to part (b) I could not go into details on that subject.

Dr. Sir Ziauddin Ahmad: In the late lamented Standing Finance Committee, it was pointed out several times that the Telephone Budget was a fictitious one and it would certainly lead to loss on the telegraph side and it did occur.

The Honourable Sir Thomas Stewart: I should require notice of a matter which relates to ancient history

INTRODUCTION OF NEW EXPERIMENT OF THE CHIEF ACCOUNTS OFFICERS OF RAILWAYS BEING RESPONSIBLE TO THE GENERAL MANAGERS.

1342. ***Mr. S. Satyamurti:** Will the Honourable Member for Railways please state

(a) in which two railways it is intended to introduce the new experiment of the Chief Accounts Officer of the Railways in the first instance being responsible to the General Manager, retaining his right of access to the Financial Commissioner and to the Railway Board through the Financial Commissioner;

(b) whether, in the railways so selected, the audit officers do not belong to the Auditor General's Department, and

(c) whether in choosing the railways in which this experiment is to be tried, the Railway Board are prepared to choose one railway at least in which the Chief Accounts Officer belongs to the Auditor General's Department; if not, why not?

The Honourable Sir Thomas Stewart: (a) The North Western and Great Indian Peninsula Railways.

(b) From part (c) of his question, I presume that by 'Audit Officers' the Honourable Member means 'The Chief Accounts Officers' If so, the Chief Accounts Officer on neither Railway is at present an officer of the Indian Audit and Accounts Service, though the Chief Accounts Officer on the North Western Railway formerly belonged to that Service

(c) Whether the Chief Accounts Officer for the time being on a particular Railway is an officer of the Indian Audit and Accounts Service or of the Indian Railway Accounts Service is a fortuitous circumstance, the relevance of which to this experiment Government find somewhat difficult to appreciate In any case, they do not consider that it would be a determining factor in selecting the Railways on which the experiment should be conducted.

Mr S. Satyamurti: What were the criteria on which these two railways were selected for the experiment being tried?

The Honourable Sir Thomas Stewart: I think, Sir, because they were large and important Railways.

Mr. S. Satyamurti: In view of the fact that it is an experiment, admittedly so, and has got to be reported on by the Auditor General as well as the Chief Accounts Officer and the Financial Commissioner as early as possible to the Government and next year to the Public Accounts Committee, may I know how the Government of India have come to the conclusion that the fact of the Chief Accounts Officer on both the Railways not belonging to the Auditor General's Department is not relevant at all?

The Honourable Sir Thomas Stewart: No, Sir, I cannot myself distinguish between a member of the Indian Audit and Accounts Service and a member of the Indian Railway Accounts Service

Mr. S. Satyamurti: Are both of them responsible to, and controlled by, the Auditor General?

The Honourable Sir Thomas Stewart: That, I suggest, is quite irrelevant.

Mr. S. Satyamurti: I am asking, as a matter of information I want to know whether the Chief Accounts Officers who belong to the Indian Audit and Accounts Service are on the same footing as the members of the Railway Accounts Service in so far as control by, and responsibility to, the Auditor General is concerned.

The Honourable Sir Thomas Stewart: I still think that it is entirely irrelevant.

Mr. S. Satyamurti: My friend, if he will pardon me, has not read the paragraphs of the Public Accounts Committee's Report dealing with this experiment I suggest that it is wholly relevant. The Auditor General was wholly unwilling to try the experiment He was persuaded to agree to this, on the ground that he would keep a close watch on it and he would report, and I am suggesting that the officer concerned, at least one man trained in his Department and responsible to him is very important, so that the experiment may be tried under equal conditions May I know why it happened on both the Railways selected that the Chief Accounts Officers do not belong to the Indian Audit and Accounts Service?

The Honourable Sir Thomas Stewart: So far as I can see, the Honourable Member's point is based on the assumption that a member of the Indian Audit and Accounts Service is likely to be more compliant than an officer belonging to the Indian Railway Accounts Service I should be extraordinarily reluctant to believe that our experiment would be vitiated by any such weakness of character, which I hope does not exist in the Indian Audit and Accounts Service

Mr. S. Satyamurti: My Honourable friend's reluctance notwithstanding, may I know whether it is not a fact that there is a suspicion of the Audit Department by the Agents of Railways, and that the experiment is sought to be tried in order to dominate even the audit and accounts service by the Railway Agents? May I know whether, without taking any hint from his colleague, the Honourable the Finance Member, my friend as Railway Member does or does not see any difference between the two? In any case, will the question be examined in consultation with Sir Ernest Burdon who has now returned?

The Honourable Sir James Grigg: May I intervene and assure the Honourable Member that these two Railways were chosen by me without any knowledge as to whether the accounts officers did or did not belong to the audit They were chosen by me on general grounds—because of the general character of the Railways and as they were likely to show up the points for and against the experiment most clearly

Mr. S. Satyamurti: I see the Railway Department has nothing to do with it I thank my Honourable friend, Sir Thomas Stewart, for having borne somebody else's corpse all this time May I ask the Honourable the Finance Member as to why he is ignoring the very relevant consideration that in regard to the question of the Chief Accounts Officer belonging or not belonging to the Indian Audit and Accounts Department the Auditor General must have a voice in this matter and we want to see how his Department hits off with the Railway Department?

The Honourable Sir James Grigg: I do not agree The Auditor General is an outside spectator of this experiment. He is not concerned with the success or otherwise of the experiment except in so far as he has got to report to the Public Accounts Committee on it He has no motive, I hope and believe, for proving it a success or a failure His only function is, as an agent of the Public Accounts Committee, to observe the experiment and he can observe the experiment perfectly whether the Chief Accounts Officers are members or past members of his own service or not

Mr. S. Satyamurti: In view of the fact that the majority of the Public Accounts Committee agreed on the assurance of the Finance Member of the experiment being tried on the distinct understanding that the control of the Audit Department over the Chief Accounts Officer will not be mitigated to the least extent, will my Honourable friend consider the whole position and choose one Railway in which a member of the Indian Audit and Accounts Service is the Chief Accounts Officer?

The Honourable Sir James Grigg: The Honourable Member is lumping together two things which are quite distinct There is the control of the Chief Accounts Officer, which means the control of the financial authorities, and not of the Audit Department at all The Audit Department has no such control the auditing authority has no control over the *finances* of the Railways and when the Honourable Member lumps together the control of the Chief Accounts Officer and the control of the Auditing Department, he is lumping together two incompatible things one of which does not exist

Mr. Brojendra Narayan Chaudhury: On a point of order, Sir Today is not the Honourable the Finance Member's day for putting questions to him and to be answered by him This appears, therefore, to be a running discussion Can this be allowed during question hour?

Mr. S. Satyamurti: In view of the fact that the main feature of the experiment is that the Chief Accounts Officer ought to have direct access to the Financial Commissioner even over the head of the Agent on important accounting matters and matters involving finance, does not my Honourable friend realise that the question of the Chief Accounts Officer should be considered very carefully, with a view to the experiment being tried successfully?

The Honourable Sir James Grigg: Perfectly The Chief Accounts Officer is of great importance in the matter but the Chief Accounts Officer has no right of access to the Auditor General and will have none and the fact that he is a member of the audit and accounts service or not is quite irrelevant for this purpose There is a vital person, the Financial Commissioner, who has control over the Chief Accounts Officer and that control will be just the same whether the man is an *ex*-member of the audit service or not

Mr. Deputy President (Mr Akhil Chandra Datta) Next question.

INADEQUATE REPRESENTATION OF INDIANS IN PORT TRUSTS

1343. *Mr. S. Satyamurti: Will the Honourable Member for Communications please state.

(a) whether his attention has been drawn to the fact that in respect of several major ports the composition of major port trusts is such that predominant representation is given to Europeans and very inadequate representation to Indians;

(b) whether he is aware that Indian interests have grown considerably since that composition was laid down by Statute; and

(c) whether Government propose to take legislative steps to amend the constitution of these major port trusts, so as to give adequate representation to Indian interests, if not, why not?

The Honourable Sir Thomas Stewart: (a)—(c). I would invite the attention of the Honourable Member to the answer given in this House to his question No 953 asked on the 13th September, 1938, and also to the supplementary questions and answers arising therefrom There is nothing I can add to the answers already given

Mr. S. Satyamurti: With regard to the answer to clause (c) of the question, may I know—with regard to Madras—whether the Government of India's inquiries of the Government of Madras are with a view to introducing legislation later on?

The Honourable Sir Thomas Stewart: The Honourable Member is going one step too far

Mr. T. S. Avinashilingam Chettiar: May I know whether legislation will be necessary if they want to make any change?

The Honourable Sir Thomas Stewart: My impression is that a change in the representation must be carried out by legislation

Mr Manu Subedar: May I know whether Government are considering the question of bringing in a consolidating Bill which will govern the constitution of all the port trusts on the same lines and increasing at the same time the Indian representation?

The Honourable Sir Thomas Stewart: No, Sir, Government have under contemplation no such Bill

CONSULTATION OF THE GOVERNMENT OF INDIA IN RESPECT OF THE FOREIGN POLICY OF THE GOVERNMENT OF GREAT BRITAIN.

1344. *Mr. S. Satyamurti: Will the Secretary for External Affairs please state:

(a) whether, as a rule, the Government of India are consulted in respect of the foreign policy of the Government of Great Britain, as the Dominions are being consulted,

(b) if so, the manner and the method of that consultation;

(c) whether the Government of India, in giving their opinions, consult public opinion of India, if so, how, and

(d) whether the Government of India propose to consult this House, or the leaders of parties therein, or a special committee, before giving their opinion on the foreign policy of the Government of Great Britain, if not, why not?

Sir Aubrey Metcalfe: (a) and (b) The degree and nature of the consultation which takes place depend upon the circumstances of individual cases I am unable to give any information as to the procedure adopted which is necessarily confidential in character

(c) The Government of India, in any views they express to His Majesty's Government, take full account of Indian public opinion

(d) The answer is in the negative

Mr. S. Satyamurti: With reference to the answers to clauses (a) and (b) of the question, may I know, whether, apart from the details of the consultation which my Honourable friend has claimed are confidential, what is the specific answer to this question, *viz*., whether Government are being consulted in matters of foreign policy on the same basis as the Dominions are being consulted and I am asking that only with reference to the statement by the British Prime Minister in the House of Commons with regard to the Czechoslovakian crisis, for example, that the Dominions were being consulted and were giving opinions to His Majesty's Government on that matter?

Sir Aubery Metcalfe: I regret I am unable to add anything to what I have already stated owing to the confidential nature of any consultation which took place

Mr. S. Satyamurti: I am asking my Honourable friend not to disclose the confidential consultations I am asking him whether the Government of India, looking at the reports available to us and the proceedings of the House of Commons, are satisfied that they are consulted in just the same manner as the Dominions? I am not asking about the subject-matter of the consultations but the manner is that the same as that in the case of the self-governing Dominions?

Sir Aubrey Metcalfe: I regret I cannot understand the distinction and I am unable to add anything to what I have already said

Mr. S. Satyamurti: May I ask whether the Government of India were consulted at all about the Czechoslovakian crisis, and the attitude which the British Government took with respect to that matter at various stages?

Sir Aubrey Metcalfe: I regret I am not prepared to answer that question

Mr. S. Satyamurti: Why does not my Honourable friend want to answer that question?

Sir Aubrey Metcalfe: Because the matter is confidential, as I have already said

Mr. M. S. Aney: Before His Majesty's Government took any decision in regard to the question of the Czechoslovakian affair, was this Government consulted at all?

Sir Aubrey Metcalfe: I have already stated that I am unable to answer the question. It is no use asking me again The matter is confidential and I can add nothing to what I have already said

Mr. Deputy President (Mr. Akhil Chandra Datta): May I point out that the question does not seek information about the confidential communication, but the question is whether, as a matter of fact, the Government of India were consulted or not.

Sir Aubrey Metcalfe: To that, I shall require notice.

Mr. S. Satyamurti: I ask your ruling, Sir, on that point. My Honourable friend refused to answer the question, with regard to the Czechoslovakian crisis which happened in the last week of September. I know my Honourable friend's memory is far too sharp for him to seriously ask for notice of this question I am asking now whether, as a matter of fact, the Government of India were consulted on the Czechoslovakian crisis by His Majesty's Government I expect he knows that

Sir Aubrey Metcalfe: I repeat that I shall require notice I am within my rights to ask for notice

Pandit Krishna Kant Malaviya: May I ask whether His Majesty's Government did not think it proper to consult the Government of India as it is the subordinate Government?

Sir Aubrey Metcalfe: That, Sir, is an insinuation and not a request for information

Maulvi Abdur Rasheed Chaudhury: May I know whether the Government of India were consulted in formulating the present policy of Britain with regard to Palestine?

Sir Aubrey Metcalfe: That, Sir, does not arise out of this It is not a matter of foreign policy

Mr. S. Satyamurti: I am now asking about the policy of non-intervention in Spain, the Anglo-Italian Agreement, and the proposed transfer of some Colonies to Germany May I know whether the Government of India were consulted by His Majesty's Government with regard to any of these matters, or am I to take it that the Honourable Member is not prepared to answer any of these questions?

Sir Aubrey Metcalfe: I have nothing to add to what I have already said

Maulana Zafar Ali Khan: I want an assurance, as laconic as possible, whether India is a dependency or whether it is a part of the Commonwealth? Are we to be treated as equal partners of this Commonwealth or as mere dependants?

Sir Aubrey Metcalfe: The answer will be found in the Government of India Act which the Honourable Member can study.

Mr. Abdul Qaiyum: Sir, the Honourable the Foreign Secretary in answer to a question relating to Palestine remarked that Palestine could not come under the category of foreign affairs As far as I know, Palestine is not a part of the British Empire Being a mandated territory, it does not constitute a part of the British Empire and therefore it does fall under the category of foreign affairs Therefore, the Honourable the Foreign Secretary should answer that question. I want your ruling on this point.

Mr. Deputy President (Mr Akhil Chandra Datta): His answer is that he does not recollect it, and, therefore, he wants notice.

Sir Aubrey Metcalfe: What I said and I still maintain is that His Majesty's Government's policy in Palestine is not foreign policy since Palestine is a mandated territory.

Mr. Abdul Qaiyum: It is precisely on this point that I want the ruling of the Chair Being a mandated territory, it does not become part of the British Empire, and, therefore, it does come under foreign affairs

Mr. Deputy President (Mr. Akhil Chandra Datta): Is the Honourable Member prepared to answer that question?

Sir Aubrey Metcalfe: The question was addressed to you, Sir

Mr. S. Satyamurti: Sir, we should like to have your ruling on this point I submit that Palestine is not yet part of the British Empire, and I hope it will never be Palestine is under the League of Nations and the League of Nations deals not with the domestic affairs of any country, but only with the foreign affairs of the countries concerned I submit, therefore, that the question about Palestine does arise under clause (a) of this question My Honourable friend may refuse to answer it, but he cannot say that it does not arise

Mr. Deputy President (Mr Akhil Chandra Datta) The Honourable Member may answer that question or not, but I do think that this question does arise.

Maulvi Abdur Rasheed Chaudhury: May I ask, Sir, whether the Government of India were consulted in formulating the present policy of Britain with regard to Palestine?

Sir Aubrey Metcalfe: I am not prepared to give a reply It is not in the public interest to do so

Mr. Abdul Qaiyum: What is the public interest and what are we here for? Is the Foreign Secretary to lay down the law that this is not in the public interest? I really challenge his opinion I request the Chair to give a ruling that this sort of attitude on the part of the Members of Government should be discouraged. Otherwise the entire proceedings will be reduced to a farce if they take shelter behind public opinion, and what they think is public opinion If public interest is to be given due weight, then these Honourable Members should not sit there

Mr. Deputy President (Mr Akhil Chandra Datta) The Chair has already ruled that this is a relevant question, but if the Honourable Member of the Government does not answer it, the Chair cannot compel him.

Mr. S. Satyamurti: With reference to clauses (c) and (d) of the question, may I know what are the means or the methods by which Government ascertain public opinion in these matters and, secondly, if I am allowed to put two questions together, the reasons why the Government of India do not propose to consult this House or the Leaders of Parties therein, with regard to the advice which they should give to His Majesty's Government with regard to their foreign policy?

Sir Aubrey Metcalfe: The Government of India must take their own responsibility for the views which they express.

Mr. S. Satyamurti: I know that But my Honourable friend said in answer to clause (c) of the question that they did take into account the public opinion of the country I am asking now what are the means or the methods by which they ascertain the public opinion in the country.

Mr. K. Ahmed: Sir, no question can be put on foreign affairs relating to various countries. My learned friend illegally and irregularly is putting all these questions The Government Member has already answered that these matters relate to His Majesty's Government My learned friend knows that these questions cannot be put down They are not allowed by the Rules and Standing Orders.

Mr. S. Satyamurti: May I repeat my question? May I know the means or the methods by which Government ascertain public opinion in the country on these matters, and the reasons why they will not consult this House or the Leaders of Parties therein?

Sir Aubrey Metcalfe: I have already explained that the Government of India must take their own responsibility for the views that they express

Mr. S. Satyamurti: But how do they ascertain public opinion?

Sir Aubrey Metcalfe: They are able to read the press and they do so

Mr. Manu Subedar: May I inquire, in spite of the fact that the Government of India are ultimately responsible for the foreign policy, whether the Government will institute the salutary practice of consulting the Party Leaders in this House on some of the major questions relating to foreign affairs?

Sir Aubrey Metcalfe: No I have already stated that in reply to part (d) of the question

Mr. K. Ahmed: May I raise a point of order?

Mr. Deputy President (Mr. Akhil Chandra Datta). On which question does the Honourable Member want to raise the point of order?

Mr. K. Ahmed: I wish to raise the point of order on the observations made by the Deputy Leader of the Congress Party He is unconstitutional and it does not behove a Parliamentarian like him . . . .

Mr. Deputy President (Mr Akhil Chandra Datta) Order, order that is not a matter for discussion now Next question.

TRAINING OF INDIANS AS AIR PILOTS

1345. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member for Communications state:

(a) what arrangements are made in this country for the training of air pilots;

(b) to how many private associations is subsidy given for this purpose;

(c) whether Government can state the number of Indians trained as air pilots in India; and

(d) whether any arrangements are in contemplation to enlarge the facilities for training in this matter?

The Honourable Sir Thomas Stewart: (a) and (b) There are flying clubs at seven centres in British India, *viz*, Karachi, Bombay, Madras, Calcutta, Cawnpore, Delhi and Lahore, all of which receive a subsidy from Government, and three in Indian States, *viz*, Jodhpur, Hyderabad and Jaipur. All of these give primary instruction in flying and a few of them also undertake training of commercial pilots There is, besides, a Training School in Delhi which undertakes instruction in aeronautics. This is not subsidised by Government. Government also make grants of scholarships and financial assistance to Indians for advanced training in aviation

(c) The number of Indians trained in British India as air pilots up to the end of October, 1938, was 555

(d) The problem of improving training facilities within the funds which can be spared receives constant attention from Government

Mr. T. S. Avinashilingam Chettiar: Are there any schemes to extend
12 NOON the training given to Indian pilots in this country?

The Honourable Sir Thomas Stewart: I know of no such scheme

Mr. T. S. Avinashilingam Chettiar: May I know whether Government are satisfied that 555 is a satisfactory number of trained pilots in this country?

The Honourable Sir Thomas Stewart: I have no reason to believe that it was otherwise

Mr. K. Santhanam: May I know if any pilots are trained for the Indian air force in India?

The Honourable Sir Thomas Stewart: I must refer my Honourable friend to the Defence Secretary

Mr. T. S. Avinashilingam Chettiar: Having in view the defence of this country may I know whether this number is sufficient reserve for this country in times of defence?

The Honourable Sir Thomas Stewart: I am afraid I do not understand what the Honourable Member means by reserve If he means reserve for the purpose of army air craft, I am afraid I am not in a position to answer this question.

Mr. P. R. Damzen: Do Government consider that the Aeronautical Training Institute in New Delhi under the management of Captain Eadon is a suitable place for training of air pilots?

The Honourable Sir Thomas Stewart: Yes, Sir.

Mr. P. R. Damzen: Then, why is it not subsidised?

The Honourable Sir Thomas Stewart: Sir, the Honourable Member's suggestion is an extraordinary one If one admits that an institution is a satisfactory institution, that I think does not constitute a claim for subsidy

(*b*) WRITTEN ANSWERS.

CLASSIFICATION OF ARMENIANS EMPLOYED ON THE EAST INDIAN RAILWAY AS ANGLO-INDIANS

1346. *Mr. P. R. Damzen: Will the Honourable Member for Communications please state

(a) whether it is a fact that Armenians who have been employed on the Railway, particularly on the East Indian Railway and with special reference to Asansol, are classified by the railway authorities under the heading of Anglo-Indians, and

(b) the number of Armenians who are employed at Asansol, and if these are not included in the list of Anglo-Indian employees, under what head they are classified?

The Honourable Sir Thomas Stewart: With your permission, Sir, I propose to reply to starred questions Nos 1346, 1364 and 1365 together

I am obtaining information which I will lay on the table of the House in due course

FINANCIAL EFFECT OF THE RECOMMENDATIONS OF THE WEDGWOOD COMMITTEE.

1347. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Communications Member state

(a) what has been the financial effect of the recommendations of the Wedgwood Committee so far accepted by Government,

(b) whether the Standing Railway Finance Committee was previously consulted in the matter of proposals involving fresh expenditure, and

(c) with regard to how many of the recommendations involving fresh expenditure, the assent of the Standing Railway Finance Committee has been obtained?

The Honourable Sir Thomas Stewart: (a) I would refer the Honourable Member to the reply I have just given to part (c) of his starred question No 1337

(b) Any expenditure proposal arising out of the Report in regard to which the Standing Finance Committee for Railways would be consulted in the ordinary course is referred to them.

(c) The proposals relating to the creation of one senior scale post on each of the Great Indian Peninsula and Eastern Bengal Railways, and the provision of eleven rail cars on the North Western Railway were placed before the Stading Finance Committee for approval. The proposal regarding the

running of a motor service between Lyallpore and Jhang on the North Western Railway was mentioned informally to the Standing Finance Committee.

EDUCATIONAL FACILITIES FOR THE CHILDREN OF STAFF OF CERTAIN COMMUNITIES ON THE ASSAM BENGAL RAILWAY.

1348 *Mr. Brojendra Narayan Chaudhury: (a) Will the Honourable the Railway Member please state whether it is a fact that on the Assam Bengal Railway every Anglo-Indian and European employee is given a grant-in-aid when he has got his children reading in school?

(b) What is the amount of this grant-in-aid for each child?

(c) What is the educational expense *per capita* of Indian employees sanctioned by the Railway?

(d) Is it a fact that Goanese, who are Portuguese subjects, and Indian Christians possessing European surnames are treated as Anglo-Indians and enjoy the privileges which the latter are entitled to, *viz*, educational grant-in-aid, membership of European Institute, better type of quarter, membership of Auxiliary Force, better scales of pay?

The Honourable Sir Thomas Stewart: With your permission, Sir, I propose to reply to questions Nos 1348, 1349, 1350 and 1351 together.

The matters referred to are within the competence of the Agent and General Manager, Assam Bengal Railway, which is Company-managed I am, however, sending copies of the questions to the Agent and General Manager to examine the allegations of discrimination made in these questions and to take whatever steps may be necessary to give effect to the policy of the Government in the matters

DIFFERENT SCALES OF PAY FOR INDIANS AND ANGLO-INDIANS IN CERTAIN DEPARTMENTS OF THE ASSAM BENGAL RAILWAY

†1349. *Mr. Brojendra Narayan Chaudhury: (a) Will the Honourable the Railway Member please state if it is a fact that there exist two scales of pay, *viz*, Anglo-Indian grade, and Indian grade in the Traffic and Loco running departments on the Assam Bengal Railway?

(b) If so, do Government propose to take action for its early abolition?

GRANTS-IN-AID TO EUROPEAN AND INDIAN INSTITUTES AND NOMINATIONS TO CERTAIN COMMITTEES ON THE ASSAM BENGAL RAILWAY.

†1350. *Mr. Brojendra Narayan Chaudhury: (a) Will the Honourable the Railway Member please state if it is a fact that European Institutes on the Assam Bengal Railway get higher grant-in-aid than Indian Institutes?

(b) Is it a fact that all the members of the school committee, staff welfare committee, are nominated and not elected?

(c) Is it a fact that not a single member of the school committee is a graduate? Will Government please state whether the number of graduate railway employees is very small?

(d) Will Government be pleased to state what factors are taken into consideration for such nomination?

(e) Is it a fact that only official position and not education and culture are the guiding factors of such nomination?

†For answer to this question, see answer to question No 1348

ANGLO-INDIAN EMPLOYEES ON THE ASSAM BENGAL RAILWAY.

†1351. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state whether Government propose to ask the Assam Bengal Railway to enquire whether all the employees, calling themselves Anglo-Indians, and classed as such for discriminatory treatment regarding pay, education, etc, are really Anglo-Indian or not?

THROUGH BOOKING FROM CERTAIN RAILWAY STATIONS IN INDIA TO COLOMBO

1352. *Mr. Amarendra Nath Chattopadhyaya: (a) Will the Honourable Member for Railways be pleased to state if through booking of passengers is allowed from any station on the East Indian Railway to Colombo?

(b) Is through booking of parcels and luggage from Howrah to Colombo allowed?

(c) Is through booking of passengers, luggage and parcels allowed from Madras to Colombo?

(d) If through booking of parcels from Howrah to Colombo is not allowed, what arrangements have been in vogue for the despatch of Railway parcels from Howrah to Colombo direct, or from any other station on the East Indian Railway, or Bengal Nagpur Railway, at Howrah?

(e) What arrangements for despatch of parcels and luggage are in vogue from Bombay to Colombo, Delhi to Colombo and Peshawar to Colombo?

(f) Is here any arrangement for through booking of passengers between the aforesaid stations and Colombo?

The Honourable Sir Thomas Stewart: (a) to (f) Through booking arrangements with the Ceylon Government Railway have been made only by the South Indian Railway and from Bangalore on the Madras and Southern Mahratta Railway No traffic can, therefore, be booked to Colombo from any other stations referred to in the Honourable Member's question, except Madras

CONDONATION OF BREAKS IN THE SERVICES OF RAILWAYS STAFF ON RE-EMPLOYMENT

1353. *Mr. Amarendra Nath Chattopadhyaya: (a) Is the Honourable Member for Railways aware of the fact that there is a letter No 5448-F, dated the 2nd March, 1935, of the Railway Board, purporting to the automatic condonation of breaks in the services of Railway staff on re-employment? If so, will the Honourable Member be pleased to read out that letter on the floor of the House?

(b) Will the Honourable Member be pleased to state if all employees, who had been re-employed after the period of retrenchment, have been given the benefit of automatic condonation of breaks in services in accordance with the aforesaid letter? If not, will he be pleased to lay on the table a statement showing the names of such employees who have not got this benefit, and on account of which they have been deprived of their gratuity?

(c) Is it a fact that Government have sanctioned gratuity to railway staff having breaks in service of four months and above? If so, will he be pleased to state the cases of employees who have not been given gratuity despite such sanction? Why has this discrimination been made?

†For answer to this question, see answer to question No. 1348

(d) Will the Honourable Member be pleased to state whose is the last word in the matter of giving effect to the aforesaid letter of condonation of the Railway Board?

The Honourable Sir Thomas Stewart: (a) Presumably the Honourable Member is referring to Board's letter No 5443-F, dated 2nd March, 1932. If so, a copy of the letter will be found in the Library of the House. The relevant portion reads as follows.

> "In regard to the staff who have been retrenched under the economy campaign, the Governor General in Council has decided that a break in service of an employee who has been retrenched otherwise than on grounds of inefficiency, will be automatically condoned on re-employment"

(b) The reply to the first part of the question is in the affirmative but the orders relate only to staff retrenched during the economy campaign of 1931-32 otherwise than for inefficiency, and condonation cannot be effective until the gratuity paid at the time of retrenchment has been refunded

As regards the second part, Government are not aware of any such case

(c) Yes, depending on the merits of each case In view of the reply to second part of (b) above, the later parts of the question do not arise

(d) As the cases referred to involve only the application of a definite rule with reference to facts and not any exercise of discretion, the question of whose is to be the last word does not arise

ATTACHMENT OF A THROUGH INTERMEDIATE AND THIRD CLASS BOGIE TO THE PUNJAB MAIL AT KALKA FOR HOWRAH.

1354. *Mr. Amarendra Nath Chattopadhyaya: Will the Honourable Member for Railways be pleased to state if he is aware of the fact that for the convenience of passengers from Kalka to Calcutta by the Punjab Mail, a bogie consisting of one first and one second class compartment, is attached to the Simla Mail and Kalka-Delhi Mail, respectively, to be detached at Ambala and to be attached to the Punjab Mail at Ambala *via* Saharanpur? If so, is the Honourable Member prepared to arrange for attaching a bogie of combined intermediate and third class compartments also in any of the aforesaid two trains to be attached to the Punjab Mail for the convenience of passengers from Kalka, without requiring them to change their train at Ambala? If not, will the Honourable Member state the reasons for such inability?

The Honourable Sir Thomas Stewart: During the summer months, i e, from the 1st April to the 31st October, a bogie composite first and second class carriage is provided to run through from Kalka by 14 Down Simla Mail. This carriage is sent on from Ambala Cantonment, *via* Saharanpur, to Howrah by the 6 Down Punjab-Calcutta Mail There is no similar service *via* Saharanpur on the Kalka-Delhi Mail The suggestion for a bogie intermediate and third class carriage from Kalka to Howrah, *via* Saharanpur, cannot be accepted, as third class passengers are not carried from Saharanpur to Howrah by the Punjab Mail

TRANSFER OF CERTAIN CLERKS OF THE ACCOUNTS OFFICE, TELEGRAPH STORES AND WORKSHOPS, ALIPORE, CALCUTTA.

1355. *Mr. Amarendra Nath Chattopadhyaya: (a) Will the Honourable Member for Communications be pleased to state if it is a fact that certain clerks of the office of the Accounts Officer, Telegraph Stores and Workshops, Alipore, Calcutta, transferred from the Audit Department in May, 1931, are to be repatriated in the Posts and Telegraphs Audit Office at Calcutta under the orders of the Government of India, Finance Department? If so, how many clerks have been repatriated in the course of these 7½ years? If none is repatriated as yet, will Government state what action is being taken in the matter?

(b) Is it a fact that these clerks would have had better prospects in respect of their promotion and confirmation, had they been in the Audit Office? If so, how many men will be immediate losers as a result of their retention in the Executive Office?

(c) Is it a fact that these clerks made representations for early repatriation in the Audit Department? If so, what action has been taken in the matter?

The Honourable Sir Thomas Stewart: (a) It is a fact that when the Audit Office, Telegraph Stores and Workshops, Alipore, was reorganised in 1931, some staff on audit office scales of pay was retained and it was ordered that this staff should be taken back by the Accountant-General, Posts and Telegraphs, for absorption in the Audit Department as opportunities arise Two of these clerks have since been taken back The last part of the question does not arise

(b) The reply to the first part is in the negative The last part does not arise

(c) Yes, recently The matter is under consideration, and it is hoped that orders will issue shortly.

REPRESENTATION FOR CONFIRMATION FROM THE TEMPORARY CLERKS OF THE ACCOUNTS OFFICE, TELEGRAPHS STORES AND WORKSHOPS, ALIPORE, CALCUTTA.

1356. *Mr. Amarendra Nath Chattopadhyaya: Will the Honourable Member for Communications be pleased to state if it is a fact that a large number of temporary clerks working in the office of the Accounts Officer, Telegraph Stores and Workshops, Alipore, for years together on the same pay have made representations to the Director General, Posts and Telegraphs, for their confirmation? If so, what action is being taken in the matter?

The Honourable Sir Thomas Stewart: Representations have been received from four out of thirteen temporary clerks working in the office of the Accounts Officer, Telegraph Stores and Workshops, Alipore, who were appointed on fixed pay The matter is under consideration.

GRIEVANCES OF RAILWAY COOLIES AT ALLAHABAD.

1357. *Mr. Badri Dutt Pande: (a) Will the Honourable Member for Railways be pleased to state if he has seen the note in the *Leader* of the 22nd October, 1988, page 18, under the caption "Railway Coolies Agitation", complaining of *begar* being taken from Railway coolies at Allahabad, saying that "About fifty coolies have to offer their services every day almost free for the parcel work", and that coolies visited the bungalow of Railway officers shouting "*Begar lena band karo*" (Stop the *begar*)?

(b) Have Government taken any action on the alleged grievances of the Railway coolies? If so, what?

The Honourable Sir Thomas Stewart: (a) Yes

(b) The coolies are not railway employees They are licensed by a contractor to carry passengers' luggage and railway parcels The settlement of any alleged grievance of these coolies is, therefore, a matter entirely between them and the contractor

OPENING OF A RAILWAY STATION BETWEEN KASHIPUR AND RAMNAGAR

1358. *Mr. Badri Dutt Pande: Will the Honourable Member for Railways be pleased to state if any railway station has been opened, or is to be opened, between Kashipur and Ramnagar on the Rohilkund and Kumaon Railway?

The Honourable Sir Thomas Stewart: A station will shortly be opened between Kashipur and Ramnagar

AYYALUR TRAIN DISASTER ON THE SOUTH INDIAN RAILWAY

1359. *Shrimati K. Radha Bai Subbarayan: Will the Honourable Member for Railways be pleased to state.

(a) whether the inquiry into the South Indian Railway train disaster at Ayyalur has been concluded, and what are the findings arrived at as to the cause of the disaster,

(b) whether and when the report will be published,

(c) what the total extent of casualties, dead and injured, is, and

(d) how many, if any, are maimed for life?

The Honourable Sir Thomas Stewart: (a) The Senior Government Inspector's enquiry has been concluded The cause of the accident as given in his report is the breaching of the embankment at mile 255/15-16 as a result of phenomenal rainfall in the catchment area of the small stream at mile 255/10

(b) The report will be included in the Railway Board's publication of reports by Senior Government Inspectors on accidents for the half-year ending 30th September, 1988

(c) 88 dead and 81 injured

(d) This information cannot now be obtained, as 72 of those injured have since gone to their homes.

APPOINTMENT OF APPRENTICE PERMANENT WAY INSPECTORS ON THE EAST INDIAN RAILWAY.

1360. *Babu Kailash Behari Lal: Will the Honourable Member for Railways be pleased to state:

(a) if his attention has been drawn to a letter published in the *Searchlight*, dated the 27th October, 1938, under the caption 'Beharees in East Indian Railway services',

(b) if it is a fact that applications for the posts of Apprentice Permanent Way Inspectors were invited and about 5,000 applications were received, out of which about 100 candidates were granted interviews;

(c) if it is a fact that out of the 100 candidates interviewed, only one was a Bihari, who was a Bachelor of Civil Engineering of the Patna University and had one year's practical training on the East Indian Railway with very good report of his work,

(d) if it is a fact that appointments have been made on communal basis and, out of eleven persons appointed, five are Anglo-Indians, three Muslims and three Hindus; and

(e) what are the qualifications of the persons appointed?

The Honourable Sir Thomas Stewart: (a) I have seen the article referred to by the Honourable Member

(b)—(d) Government have no information, but I have no reason to doubt the accuracy of the Honourable Member's statement

(e) Government have no information regarding the qualifications possessed by the persons appointed But for the qualifications required under the rules for such posts, I would refer the Honourable Member to the Rules for the recruitment and training of non-gazetted staff on State-managed Railways, a copy of which is in the Library of the House

INSTALLATION OF A BROADCASTING STATION AT PATNA

1361. *Babu Kailash Behari Lal: Will the Honourable Member for Communications be pleased to state

(a) if the Government of Bihar are still in correspondence with the Central Government on the question of installation of a Broadcasting Station at Patna, and

(b) what is the amount that Government have spent on the setting up of new stations in the current year, and in which Provinces?

The Honourable Sir Thomas Stewart: (a) There has been correspondence on the subject between the two Governments. The Bihar Government are aware of the position that in the present financial condition the Government of India are unable to undertake any fresh liability for a broadcasting station in Patna

(b) A statement giving the information is laid on the table.

Statement showing the amount spent out of the Broadcasting Capital Fund of Rs. 40 lakhs on the setting up of new stations during the period 1st April 1936 to 31st October, 1938.

Province.	Amount spent.
	Rs.
Delhi	15,438
Madras	80,986
Bombay	58,748
Bengal	1,80,158
United Provinces	32,339
Punjab	9,830
Cost of installation staff for executing the work in all the provinces	30,891
Total	4,08,380

APPLICATION OF THE ALLOTMENT FROM THE ROAD FUND TOWARDS THE EXECUTION OF ROAD SCHEMES IN BIHAR.

1362. *Babu Kailash Behari Lal: Will the Honourable Member for Communications be pleased to state:

(a) if the different Provinces have submitted any report on the progress of work done out of the allotment from the Road Fund;

(b) what is the amount at the credit of the Bihar Government in the Road Fund, and

(c) how much the Bihar Government have drawn and applied towards the execution of the schemes during the current year?

The Honourable Sir Thomas Stewart: (a) No, but quarterly statements of the expenditure against sanctioned schemes have been received from Accounts Officers.

(b) The unspent balance of the Provincial Government on 1st October, 1938, was Rs 15·22 lakhs out of which Rs 3·64 lakhs is held by the Governor General in Council under paragraph 3 (2) of the Resolution on road development adopted by this Assembly on the 10th February, 1937.

(c) A sum of Rs 50,000 out of the balance with the Provincial Government has been spent on approved schemes during the first six months of the current year.

PERSONS RECEIVING POLITICAL PENSIONS FOR RENDERING SERVICE ABROAD.

1363. *Babu Kailash Behari Lal: Will the Foreign Secretary be pleased to state how many persons are in receipt of political pensions for rendering service abroad, and who they are?

Sir Aubrey Metcalfe: It is not understood to what persons the question refers. In the absence of this information Government are unable to give a reply.

COMMUNAL COMPOSITION OF PERSONS RECRUITED IN THE GENERAL MANAGER'S OFFICE ON THE EASTERN BENGAL RAILWAY.

†1364. *Mr. Muhammad Nauman: (a) Will the Honourable Member for Railways be pleased to lay on the table a detailed statement before the House, showing the total number of men recruited in General Manager's office, specially in Personnel Branch and Welfare Office, Eastern Bengal Railway, community by community, from 13th December, 1934 to 30th September, 1938?

(b) If there is a marked deficiency in Muslim quota in the General Manager's office, specially in Personnel Branch and Welfare Office, how is it proposed to make up the deficiency in Muslim quota in the entire system?

(c) What is the existing strength of the total staff employed in the Welfare Office, and out of them how many are Muslims?

POST OF DRAWING OFFICE SUPERINTENDENT IN THE CHIEF ENGINEER'S OFFICE, EASTERN BENGAL RAILWAY

†1365. *Mr. Muhammad Nauman: (a) Is the Honourable Member for Railways aware of the fact that Drawing Office Superintendent in the Chief Engineer's Office, Eastern Bengal Railway, sanctioned by the Railway Board, was filled by the Superintendent, Drawing Office?

(b) Will the Honourable Member state if this post was at all advertised? If not, why not?

SITUATION IN THE TRIBAL AREAS IN WAZIRISTAN

1366. *Mr. Lalchand Navalrai: (a) Will the Foreign Secretary be pleased to state the present situation in the tribal areas in Waziristan and other neighbouring borders?

(b) Has there been any agreement between these tribal people and Government to end these feuds, or how far have mutual approaches been made to that end?

Sir Aubrey Metcalfe: (a) As regards the present situation in Waziristan, the Honourable Member is referred to the reply given to part (a) of question No 1180, asked by Mr Abdul Qaiyum on the 10th November, 1938 The situation in the other tribal areas is normal

(b) The Honourable Member is referred to the reply given to part (d) of the same question

EXPENDITURE ON MILITARY OPERATIONS ON THE FRONTIER.

1367. *Mr. T. S. Avinashilingam Chettiar: Will the Foreign Secretary state

(a) what has been the expenditure in the actions in the Frontier since the beginning of the year,

(b) the objects of continuing these military operations, and

(c) how far the objects have been attained?

Sir Aubrey Metcalfe: (a) The Honourable Member is referred to the reply given to part (a) of question No. 1184, asked by Sardar Mangal Singh on the 10th November, 1938.

†For answer to this question, see answer to question No 1346.

(b) The object of these operations was given in paragraph 14 of the official despatch issued on 24th November, 1937, on the operations in Waziristan namely "to restore peaceful conditions throughout the area" of Waziristan

(c) This object has not yet been attained

Syed Ghulam Bhik Nairang (East Punjab Muhammadan) Sir, I rise to call your attention to the fact that the Id is expected to fall on the 24th November, but there is just a possibility that it may fall on the 25th instant On account of this uncertainty, we, the Members of the Muslim League Party, are anxious that you, Sir, with the concurrence of the House, may be pleased to direct that the House should not sit on Friday, the 25th November also Some of us will have to go to our homes and it may not be possible for them to return in time to attend the meeting if it is held on 25th November

Mr. Deputy President (Mr Akhil Chandra Datta) May I know the opinion of the different parties?

Mr. S. Satyamurti (Madras City Non-Muhammadan Urban) We have no objection, but I submit we should sit on Saturday, the 26th

An Honourable Member: What about Saturday, the 26th November?

The Honourable Sir James Grigg (Finance Member) I am afraid there was a slight misunderstanding about Saturdays My understanding is that the House was only committed to the Saturday, which has just passed As regards Saturday, the 26th November, I would deprecate our not sitting on that day

Mr. Deputy President (Mr Akhil Chandra Dutta) The Chair takes it that the House agrees that there should be no meeting of the Assembly on Friday, the 25th November As regards the 26th November, the Honourable the President has ordered already that the House should sit on that day. As regards the other question, namely, the House not sitting on Friday, the 25th November, the Secretary of the Assembly has drawn the Chair's attention to the fact that the Honourable the President has already ordered that the House should sit on that day It may not be quite proper on the part of the Deputy President to reverse that decision The matter will be referred to the Honourable the President and the information that all Parties are agreed on this will also be communicated to him

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THE INDIAN INCOME-TAX (AMENDMENT) BILL—*contd*

Mr. Deputy President (Mr Akhil Chandra Datta) The House will now resume further discussion on the motion

"That the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee, be taken into consideration"

Dr. P. N. Banerjea (Calcutta Suburbs Non-Muhammadan Urban) Sir, on Thursday last, I was discussing the question of double taxation

[Dr. P. N. Banerjea]

relief. I was urging that the so-called reciprocal arrangement should be ended It may be argued that it is a settled fact. But nothing can be regarded as settled so long as it is not settled rightly. An inequitable arrangement can never be regarded as a settled fact.

A reciprocal arrangement implies two conditions. The first is that both the parties to the arrangement give their consent freely and willingly. The second condition is that the advantages derived from the arrangement by the two parties are equal or nearly equal Both these conditions are absent from this so-called reciprocal arrangement. It has been in existence for the last 14 or 15 years, but the people of India never gave their consent to this arrangement The Government of India, as it is at present constituted, does not represent the people of India If the people of India were asked to decide this matter through their representatives, I am sure the answer would be definitely in the negative If the Honourable the Finance Member has any doubt about this matter, I would ask him to refer the question to the elected portion of this Assembly for ratification

So long as this so-called reciprocal arrangement is not sanctioned by the representatives of the people its character will remain the same as that of a "forced benevolence" of the despotic monarchs of England in the Middle Ages Just as these despots of old sought to justify their exactions by calling them "benevolences", so also our Rulers seek to justify this inequitable arrangement by giving it the name "reciprocity".

As for the second condition, I have already shown that the advantages are not at all equal In fact, the advantage derived by England from this arrangement is 20, or 30, perhaps 40 times greater than the advantage derived by India Can any man in his senses call this a reciprocity unless his vision is distorted by race prejudice?

I come now to the political aspect of the question It is known to everybody that this measure has caused the greatest amount of dissatisfaction throughout the country And is it right and proper on the part of the Government to intensify the discontent which already exists in the land? Would it not be wise on the part of the Government to try to remove the root-causes of this discontent? If the Government were sincere in their desire to secure the goodwill of the people, here is an opportunity Let the Government take courage in both hands and urge on the authorities in England to put an end to this iniquitous and unfair arrangement

Sir, in conclusion, I endorse fully the appeal which was addressed by the Honourable the Leader of the Opposition to all sections of the House to discuss this matter in a calm atmosphere I hope the Finance Member will show the same coolness of temper and the same spirit of sweet reasonableness as he showed during the deliberations of the Bill in the Select Committee, and we, on our side, will assure him that there will be no display of heat or passion or any sort of obstructiveness It is true that we often express ourselves strongly, but we do so because we feel

very keenly. We have nothing but goodwill for the Finance Member or for any other European, whether in India or in England, but our sole desire is to serve our country according to the light that is in us. If the Finance Member will show the proper spirit in regard to the consideration of this measure, I assure him of the fullest measure of co-operation from this side of the House, the only condition being that we are not asked to sacrifice the interests of the country.

Mr. A. Aikman (Bengal. European) Mr. Deputy President, it is now over three years since the Income-tax Inquiry Committee commenced its labours and it is nearly two years since we received their very full report. We are now considering the results of the work of that Committee, the work of those who were entrusted with the preparation of the Bill in its original form and the very hard work of the Members of the Select Committee In introducing the Bill, the Finance Member made the point that one of the provisions which he considered the most important was that which related to the legal avoidance of tax A study of the Bill shows that the clauses relating to this subject have been considerably altered in the Select Committee and, in my opinion, I think considerably improved Everyone in this House will be with me when I say that, although legal avoidance may be open only to a few, it is something that we should aim at eliminating to the best of our ability, and so, though it may be that some of these clauses appear to be not of urgent necessity, we should remember that, if we close the door to the more obvious methods of avoidance, there is little doubt that search will be made for others and it is, therefore probably wise to deal now with any that can be anticipated

We, Sir, welcome the new definition of "dividend" That contained in the original Bill was likely to work harshly and unfairly and to result in taxing as income something that the Courts have always said was not income The new definition will exempt from taxation those capitalisations which, for want of a better term, I will describe as honest straightforward capitalisation, but will tax those which were designed with a view to tax avoidance I would commend this definition to the House But, I feel that a slight exception will have to be made which has not been anticipated and that provision must be made for a certain class of shares which exist to a great extent in this country, namely, redeemable preference shares

Now, Sir, there has been for many years considerable discontent with the working of the Department of Income-tax and this is not confined to the assessable public but it is shared by the Department itself and I think there will be a general welcome for the new class of income-tax officials as tending towards a fairer treatment and more speedy handling of income-tax matters. Government have undertaken to put forward proposals for the formation of a further appellate authority and this, in principle, will receive the support of my Group We also welcome the proposal to appoint not more than three Commissioners of Income-tax to deal with cases of a special kind. This also should tend to the more accurate handling of those types of assessment which are out of the ordinary and the result will probably be congenial to assessees and Government alike.

[Mr. A Aikman]

The proposals in the Bill regarding depreciation allowances were exceptionally severe and have been a subject of considerable modification in Select Committee They were more fully explained in very lucid language by my Honourable friend, the Leader of the Opposition, and I do not propose to enter into any further exposition of them at all. But, I do consider that before we come to these clauses Government should give us some indication of the lines on which they propose to work in fixing the rates at which future depreciation will be allowed We have at present rates which are acceptable to the commercial community and these rates are based on the original cost of the assets of the assessee and, I think, I am safe in saying, that the original cost basis worked fairly well. However, a change to the written down value has been proposed and the Select Committee have not objected but have modified the original proposals in a way as to considerably soften the blow I would refer, Sir, to the comment in the Inquiry Report where it was recognised that higher percentages would be necessary to give corresponding results to those now in vogue I am at the same time a little apprehensive that a further comment in the Report may influence Government unduly in that some of the existing rates appear to be too high Now, Sir, they may be too high as compared with those in the United Kingdom, but I feel that the life of an asset in this country should not be based on the life of a like asset in the United Kingdom We have to remember that assets in this country depreciate at a very much quicker rate, principally on account of climatic conditions and to some extent by the handling of the assets by less expert labour Therefore, as I have said, I think Government should give us some indication of the lines on which they propose to fix rates, and I suggest that these rates should be so fixed that an asset should be written down to not more than ten per cent of its original cost at the end of its present assumed life We are not entirely satisfied that the amendments that have been made to section 28A of the Act are acceptable The curious structure of limited liability enterprise in India does not make it advisable to extend the provisions of this section to all companies In the existing Act legislation of a like nature was confined to those companies which are substantially in the hands of a few persons —those companies which are very little removed from partnership, and we are rather inclined to continue on these lines A clause has been inserted which has the effect that it will be advisable for an employee to be dismissed instead of being allowed to retire No employer wants to dismiss his long service employee, but if he does not do so, any lump sum which he wishes to give to him in lieu of a pension will have to be taxed. Another point, though not a principle of taxation but, nevertheless, of some importance, refers to the qualifications of those persons who may attend before an income-tax authority on behalf of an assessee. The difficulty of interpreting income-tax law continues to produce additions to the profession of income-tax practitioners and the provisions regulating the qualifications of the persons who may represent assessees before the authorities have been considerably improved in the Select Committee I should like, however, to see an additional class of persons become entitled to appear, namely, bank accountants or bank officials. There are many banks who collect dividends on behalf of their customers, but, as I read the Bill, no officer of a bank may appear before an income-tax officer even to give an explanation I would like to see this provided for.

A further matter which I would like to emphasise very strongly and which cannot be done by any Act or legislation is the necessity for doing away with the permanently hostile attitude of the income-tax officers towards assessees I submit that these officers fail in great way in their duty A part of their duty may be to make assessments in accordance with law, but the law of income-tax is highly technical and extremely complicated Seldom, if ever, is assistance given to assessees but every opportunity is taken to benefit by the assessee's ignorance By reason of its complexity the interpretation of income-tax law lends itself to different opinions But no opportunity is lost to apply the letter of the law or the spirit of the law respectively as each suits the revenues best That is my experience I hope in the reorganisation of the department which we are promised, attention will be given to this matter and that it will be impressed on income-tax officers that they owe a very considerable duty to the public

There is one point in the Select Committee Report which I would like to be clarified as far as I am concerned. The opinion that the Government of India should approach His Majesty's Government to amend the Government of India Act so as to make pensions payable out of Indian revenues chargeable to Indian income-tax was a majority opinion and I would like to make it clear that I was not one of that majority

Mr. S. Satyamurti (Madras City Non-Muhammadan Urban). Why not?

Mr. A. Aikman: I was not

Mr. S. Satyamurti: You did not say so then

Mr. A. Aikman: There were two main points of controversy mentioned by my Honourable friend, the Leader of the Opposition—clause 4 and clause 58 (section 49 of the Act) As regards the first, involving methods under which domiciled and non-domiciled residents have been taxed, I listened very carefully to the speech of my Honourable friend, the Leader of the Opposition The picture which he painted may have appealed to many, but so far as I was able to judge it was not quite complete. I observe from the amendment paper, however, one of my Honourable friend's colleagues has submitted amendments to this clause, and if those are accepted by this House the proviso which has been so fully discussed and criticised will become superfluous The subject of double income-tax relief was also referred to at great length by my Honourable friend This measure which has gone far to maintain credit in various countries which entered into the convention was made by my Honourable friend's manner of handling the facts and figures to appear as a gross injustice I am not prepared to say that the existing method of dealing with the difficulty of double income-tax relief is the best, and that it is not possible to arrive at some formula under which part of the present hardships could be eliminated; but I am afraid that I shall have to see a great deal further than I do at present before I can think of supporting the appeal which is made to me and my colleagues in this connection

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Mr. Deputy President, let me first start by thanking the Department or Departments that were responsible for putting up the papers both to the Select Committee and to this House in connection with this very intricate legislation They were put up in a way which made our task much easier, than it otherwise would have been, and I would like to convey once again, on behalf of myself, and I am sure on behalf of many others, our grateful thanks and I trust their example will be followed, when other legislation of this importance is brought before this House. I would also allude once again —and I believe I will not be out of order in doing so—to the very happy relations, which existed between all parties in the Select Committee I may describe it as a happy family which carried out its work with good humour and without the slightest sign of ill-feeling, for which I think the Honourable the Finance Member was greatly responsible and I hope and trust that that good humour and that good feeling will continue throughout this debate, and that we shall be able to come to sound and wise conclusions

There were several clauses of the Bill on which we could see eye to eye with Government, but on several others we found ourselves on opposite benches, if I may so describe it My Honourable friend, the Leader of the Opposition, has very lucidly pointed out and explained the clauses on which we were in agreement. But the principal clauses on which we disagreed were clauses 4, 5, 17 and 53 Clause 53 is the one which deals with the present section 49 Sir, I will first devote my attention to clauses 4 and 5 Now, Sir, I do not think it is necessary at this stage to explain what they intend to do, in short, they make a revolutionary change in the system of income-tax in India They provide that all income derived outside British India by domiciled residents of India, that is Indians, shall be taxed as if the income accrued in India; for non-domiciled people resident in India, that is, our friends, the Europeans, specially our friends of the European Group, they shall not be taxed on income which arises outside British India on shares, securities and rents if such income is not brought into British India That, in short, is clause 4

Clause 5 goes a little further and exempts all companies whose control is wholly outside India I am making no comments Now, Sir, a Bill was introduced in this House by the predecessor of the present Finance Member, Sir George Schuster, and here I am sure, many of his friends would like to congratulate him on his being elected a Member of the British Parliament

Mr. S. Satyamurti: Following Mr. Neville Chamberlain.

Sir Cowasji Jehangir: Sir George Schuster introduced a Bill in this House in 1931, the discussion on which continued off and on for five months The principle of that Bill was exactly the same as the principles provided for in clauses 4 and 5 of the Bill before us.

An Honourable Member: Then throw out the Bill

Sir Cowasji Jehangir: Yes, that Bill was thrown out. It was not sent to a Select Committee Now, Sir, when Sir George Schuster brought that Bill before us, the objects and reasons were clearly laid down. On the present occasion the Honourable Member has satisfied himself by

referring us to the Income-tax Inquiry Committee of 1936. When you go to look at the Income-tax Inquiry Committee's Report for its revolutionary suggestions with regard to clauses 4 and 5, you find very few reasons I, therefore, take it, that the main objects the Government have in introducing these principles provided for in clauses 4 and 5 are to prevent the flight of capital out of British India and to add to the revenues of British India.

(At this stage, Mr. K. Ahmed muttered something which was inaudible at the Reporters' Table)

Sir Cowasji Jehangir: Mr Deputy President, it will be wise for my Honourable friend, who is muttering to himself and smelling something out of a bottle, to keep his mouth closed.

Sir, when the last Bill was before us, many Honourable Members read out long extracts from the opinions then supplied I do not propose to follow their example I only propose to read out to you with regard to clauses 4 and 5 one opinion, the opinion of the Bengal Chamber of Commerce. I do not propose on this occasion to express any opinion of my own. I will content myself by giving the House the opinions expressed by prominent Members of the House in 1931 and 1932

Mr. S. Satyamurti: Who represents the Bengal Chamber of Commerce here?

Sir Cowasji Jehangir: The Bengal Chamber of Commerce reported as follows and as this is the only opinion I am going to read out, I trust, the House will bear with me when I read it out in full

"The proposals contained in clause 4 of the Bill, if put into effect, will fundamentally change the basis of income-tax in this country The aim no doubt is to provide a possible new source of revenue; but how much is likely to be obtained from this new source is a matter on which there is a wide difference of opinion since no satisfactory statistics are available Some suggest that the new revenue may amount to as much as a crore and a half from the taxation of Indians"—*mark the words please*, 'on Indians',—"on the basis of their total world income instead of as now, on their British Indian income only, *plus* remittances from income accrued or arising without British India Others say that no more than 40 or 50 lakhs per annum can be expected Even if it is assumed that the larger estimate of new revenue will be available,—and this is at best doubtful,—it has to be considered whether it is wise in these circumstances to agree at this time to proposals for so radical a change in the whole system of taxation There are many who think that before the Government of India seeks to draw in new sources of revenue, they should make certain that all the existing sources are being properly tapped Another great difference between a comparison of taxation in this country and in the United Kingdom is the fact that the United Kingdom is in a position to enforce arrangements for reciprocal double income-tax relief with many countries with which the United Kingdom residents are liable to have important trading connections This position is not enjoyed by India In England too so large a proportion of the total national income is derived directly or indirectly from her foreign trade that the adoption of remittances as a basis of assessment would give rise to serious inequities as between one class of residents and another, namely, between domiciled residents whose total income is derived from trading in the United Kingdom and domiciled residents whose income is derived either, in whole or in part, from investments overseas The condition of British India is entirely different Only a very small section of her nationals take any part in foreign trade except in one or two cases (Burma and Ceylon). She is not in a position freely to negotiate agreements with other countries so as to avoid or reduce the possibilities of double taxation, and, finally she can neither offer the credit facilities that London can nor greatly influence other countries to give special treatment to her nationals The Chamber adheres to the attitude which it adopted towards the Income-tax Inquiry Report in 1937 when the view was expressed that the adoption of the accrual basis would result in British India receiving a greater amount of the tax from the scrupulously honest taxpayer The Chamber's opinion

[Sir Cowasji Jehangir]

was that the change from the remittance to the accrual basis would merely invite fraudulent evasion and legal avoidance on a much greater scale than is at present possible Income-tax officers, it was pointed out, will be faced with very considerable difficulties in determining what if any, foreign income accrues to assessees, and will be without any means whatever of establishing the correct amount of the foreign income accruing, if the assessee chooses to suppress the facts The dishonest taxpayer will have little difficulty in concealing the amount of his profits from sales of goods and speculations abroad, except such as are proved to have been remitted to India, so that the result of the proposed change will merely be to discriminate against the honest assessee The person who is less scrupulously careful in making his returns, will in practice be assessed as at present on his remittances to this country On these grounds it is submitted that the change from the remittance to the accrual basis is justified, neither in practice, nor in principle In the opinion of the Chamber, there is nothing in the argument that under the present system encouragement is given to the investment of money abroad, there has been no shortage of capital for Indian industry up to the present and there is, in any case, every reason why the investment of money abroad should be given immunity from taxation by countries which have no concern with either the capital or the income

The Chamber's conclusion therefore is that the basis of income-tax should remain as at present in so far as income derived from outside British India is concerned, *i e*, that remittances only should be included for the purposes of assessment to British Indian Income-tax."

Now, Sir, I have already stated that I do not propose on this occasion to give any opinion of my own I am going to content myself by giving you very short extracts from speeches made in 1931 and 1932 by prominent Members of this House, which will answer many of the arguments put forward by Government and support many of the arguments made on this side of the House on the present occasion. In the first place, I will take the question of double income-tax; that is to say, the people of India who will have to pay double income-tax due to the proposed change My first quotation will be a question I asked the then Finance Member and his reply, it was while he was making his speech asking that this House should send the Bill to a Select Committee I asked

"What about Indians trading in East Africa or South Africa?"

I asked that question with regard to double income-tax

"The Honourable Sir George Schuster: As a matter of fact, they are already, under our existing income-tax law, liable on business profits which are remitted to this country It is quite true that under the present Bill, if it becomes an Act, they would be liable to tax on profits whether they are remitted to this country or not, and I suggest to the House that there is no unfairness involved in that result

Sir Cowasji Jehangir: Would they not be liable also to income-tax in the country in which they are carrying on their trade?

The Honourable Sir George Schuster: I think my Honourable friend is raising a number of points which I hope he will have ample opportunity to raise in Select Committee

Sir Cowasji Jehangir: But the answer is very simple it must be in the affirmative, that there will be double taxation

The Honourable Sir George Schuster: Then it will be left to the ingenuity of my Honourable friend to devise some means to avoid such a harsh operation of this measure, and I am sure it will not be beyond his ingenuity to suggest some amendment which we shall be able to accept"

By that answer he accepted the argument that there will be double income-tax in certain cases which the Indians will have to pay, and his only real response was that he would accept some amendment in the Select Committee that would obviate such an oppressive measure. We have been to the Select Committee in the present instance and there is

no provision in the Bill, which will obviate this hardship to a large number of Indians. I will give you another quotation from the speech of Mr Shanmukham Chetty as he then was, now Sir Shanmukham Chetty, Diwan of Cochin, who was the Deputy President of the Assembly. He said:

"But, Sir, my Honourable friend did not inform this House that England, which has an income-tax law similar to the present Bill, has entered into reciprocity arrangements with other countries by which this double taxation is avoided and I would ask my Honourable friend whether it is not a condition precedent to the placing of such a measure on the Statute-book that such reciprocity arrangements should be arrived at between the Government of India and the foreign Governments So long as such reciprocity arrangements have not been entered into, I contend that the operation of double taxation would be a very serious injustice to the Indian subjects"

Then he referred to the report of the Financial Committee of the League of Nations That report said

"The basis of taxation should be economic allegiance, that is, only those who owe economic allegiance rather than political allegiance to the country should be subjected to its tax laws"

The last quotation on this point will be from a speech by Mr Studd who was a prominent Member of the European Group in those days. Mr. Studd said

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural) They might have changed their opinion now after such a long interval, just like Dr Sir Ziauddin Ahmad and many others

Sir Cowasji Jehangir: My Honourable friend has stopped smelling his bottle and his tongue is beginning to wag!

Mr Studd said:

"Let us not be under any misapprehension on this subject It is not the rich capitalist who is going to suffer most He can in some instances get a refund and avoid having to pay a double tax But there are hundreds and thousands of small traders trading in various parts of the world not one of whom is going to have any chance whatever of avoiding double taxation And I submit that in times like these with the tremendous depression that exists, when trading concerns are facing steadily reducing profits and steadily increasing rates of income-tax,—which I would remind Honourable Members are assessed for one year on the profits of the previous year wisely means that probably for this year the trader is assessed on a sum which he has no possible hope of earning,—to put an additional burden of this sort on a community who are already feeling the effects of the depression which now exists is, I submit, grossly unfair"

That is what Mr Studd said about double income-tax I will now go to the second point, double income-tax relief On that point, Mr Studd said:

"Therefore, while eventually the investor might be able to get a refund, he would certainly have to suffer a great deal of hardship and go through a great deal of trouble and delay before he got his refund That is only dealing with one case If you take a number of countries with whom reciprocal arrangements exist it is extremely small. The Honourable the Finance Member says that it is perfectly easy for any one who wants to invest money abroad to find somewhere either where he does not have to pay income-tax or where there is a reciprocal arrangement and he can get his money back. But why should we have to submit to regulations of that sort? Why should any one be dictated to as to where he should invest his money? It does seem to me that reciprocal arrangements ought to be made first and then after that is will be time enough to consider bringing in a measure of this sort"

[Sir Cowasji Jehangir]

I find that Mr Heathcote expressed the same opinion on the subject. Now, I will come to the question of the flight of capital and that was dealt with by Mr Studd in an exceptional manner and I will read out a few lines from his speech which will completely satisfy Honourable Members, that the claim, to stop the flight of capital by means of this Bill, should not carry the weight that the Honourable the Finance Member desires it to carry This is what Mr. Studd said

"But in any case no case to my mind was put up even then to show the amount of capital which was actually going out of the country or to give us any proof that it was actually going in order to avoid income-tax In my opinion the question of avoiding income tax was only a very minor one and if it has had any effect on encouraging the flight of capital from India, it is only a very small one; in fact the Honourable the Finance Member himself was not able to put the case very strongly; the best he could say for it was that in the absence of other causes this would act most strongly I do not think that that is a very strong argument in favour of the Bill I do not think I need spend much time in stating what really were the major causes for the flight of capital They must be very well-known to most Members of this House, but obviously the first and the most important one was the question of capital security Political and economic unrest in the country made people nervous, naturally nervous, about the security of their capital, and if there is any risk of losing your capital, the amount of return that you are going to get on it has to take a very second place The second reason for the flight of capital was the question of the exchange ratio In the first place, there were a number of speculators who thought that they could send their money out of the country at 1s. 6d., that the ratio would then come down, and that they could bring it back at 1s 4d or 1s 2d or even at a shilling In a case of that sort, the question of whether it had to pay income-tax or not was a very minor consideration if they were going to make as much as two pence or four pence or even six pence in the rupee as profit on the exchange Then there was another class of people who were also nervous about the ratio, but with them it was not a case of speculation, it was a case of being generally afraid that the ratio would come down, they felt that they had better get their money out of the country before it did"

I think that puts the question of the flight of capital shortly and very clearly Now, Sir, I will come to the fourth point,—what is the difference between the law in England and the law provided for in this Bill in clauses 4 and 5? There, I will first quote Mr Chetty (now Sir Shanmukham Chetty)

"Under the English law, if a business is carried on entirely abroad, then it comes under the classification of foreign possessions and the income derived from such business is exempt from British income tax and I find no such provision in the present Bill and I would therefore submit that on a very fundamental point there is a great difference between English law and the practice on this point in the Indian law as sought to be amended by my Honourable friend (*meaning the Finance Member*)"

On this point, Mr Mody (now Sir Homi Mody) also spoke. As he will have an opportunity of speaking in this House, I will not quote him on these two points, because he said very much the same thing as Sir Shanmukham Chetty

Now, I will come to a very important point and that is the exception that is being made in the Bill for non-domiciled residents. In trying to explain that point, I will only quote the opinions expressed by Sir George Schuster and two Members of the European Group who sat on these very benches in 1931 and 1932 Sir George Schuster said:

"After having said that much, I fully recognise that the case of India is rather a special case There is in India a community which is resident but not domiciled in the technical sense, which lives in India under very special conditions. I refer to all that class of officials and businessmen who spend the greater part of

their working lives in India and yet are not in the technical sense domiciled in India. I freely admit that in the case of the United Kingdom there is no parallel to that particular class and that, I fully recognise, does give a point to some of the objections which have been raised to this provision."

The next quotation is from Mr Heathcote 1 P.M. Dealing with the position of his community in India, he said as follows:

"Dealing with the Bill itself and particularly with clause 4 (c), which is the clause which allows the resident who is not domiciled in India to avoid the effect of this Bill, I think that it may assist matters if I try to make our position clear If it had been the opinion of members on the other side of the House that this Bill should be made law as it stands, British trading interests in India would not have refused benefits which would thereby accrue to them. But in the very difficult times through which we are passing we have decided that we would not support the Government in forcing this clause through if there was a clear feeling on the other side that with this discrimination it should not be passed"

I will now quote Mr Arthur Moore Now, Sir, just listen to this This is what Mr. Arthur Moore, the present Editor of the *Statesman* spoke about the position of Europeans in India

"It is quite true—and that is the argument used by the Honourable the Finance Member for the Bill—that under the English Income-tax Act an Indian in England would have this privileged position, that is to say, that a person who is resident but not domiciled in England is not taxed in England on his investments abroad In England under the law that privilege exists Hitherto in India no such privilege has existed The European community has had no privilege Now, Sir, when the Bill was first produced in the melancholy month of March a year ago and we saw this astonishing provision, we were naturally deeply concerned regarding it, and our opposition to the Bill began from the day we saw it and, therefore, could certainly not then have been based upon the fact that it damages our interests in any financial sense, because so far from damaging our financial interests it confers upon us a privilege What did concern us very much was that at the present time when we are asking through the Round Table Conference for complete equality with our Indian fellow-subjects in all commercial matters, we should have a privilege unloaded on us Obviously that is going to damage our case (Laughter from the Nationalist Benches) My friend I think sees the point Obviously it is going to damage us very much in our Round Table Conference discussions if we have foisted on us by Government a privilege for which we had never asked Therefore, as I say, we opposed this Bill from the beginning and when it contained a privilege in our favour"

Sir, I do not think any Member of the European Group could have expressed himself more clearly on the position as it existed in 1932 Much water has flown under the bridge since those days, and perhaps the position of the European Group has changed Comment is fruitless Well, Sir, I will now content myself by giving two or three extracts from speeches of a general character, and the one I will begin with is Sir Homi Mody's He explained very clearly the position With his permission I will quote this extract from his speech on the general discussion

"The Honourable the Finance Member, both in the Statement of Objects and Reasons and in what he stated to the House this morning has tried to make out that this Bill is going to affect only a limited class of capitalists, only too anxious to take their investments out of this country, and therefore not the least entitled to the least sympathy at the hands of this House I warn my Honourable friends on this side of the House not to be taken in by that plea It is not merely the so-called limited capitalist class which makes investments in foreign bonds and in British securities that is going to be affected if this Bill becomes law, but there are thousands and thousands of small traders in various parts of India, not by any means confined to the Bombay Presidency, who have traded for generation upon generation with places outside British India long before the Income-tax Act was even thought of, who will suffer by this Bill Their position is going to be affected very seriously"

[Sir Cowasji Jehangir]

Does that remind my Honourable friend, the Finance Member, of some of the telegrams that he has criticized? "Thousands and thousands"—that was the remark made by a responsible Member of this House who sat in 1931 and who is here to defend his position today

The Honourable Sir James Grigg (Finance Member): The telegrams that I read suggested that lakhs and lakhs of hand-loom weavers would be thrown out of employment

Sir Cowasji Jehangir: I will just give you a quotation from the speech of my Honourable friend, Dr Ziauddin (now Sir Ziauddin) Ahmad This is what my Honourable friend said:

"Coming to the general grounds, I shall first tell a little anecdote Two persons were fighting and a third man came along and gave them a very noble advice 'Please don't fight', but actually he got hold of the less favoured man and tied his hands and thus gave the opportunity to the other man to beat the less favoured man all the time This is practically what the Finance Member is doing in this case He has really given very noble advice that we ought to check the flight of Indian capital, but in actual practice he has crippled his less favoured friend the Indians"

In a long speech he wound up by this anecdote giving the general objections to the Bill of 1931-32 I have got two more quotations from Sir George Schuster and Mr Heathcote which I am not going to trouble you with; I shall make use of them on another occasion Now, Sir, so much for clauses 4 and 5 As I have said before, I express no opinions, I shall propose to do so when the clauses come before the House My Honourable friend, Mr James, says, I have not quoted Gladstone Unfortunately, Mr James was not a Member of the House in those days, but I may add that an Honourable Member of the present European Group, who was a Member of this House in 1931-32 is Mr Ramsay Scott, and he voted against the Bill He did not speak Now, I will come very shortly to clause 17 which deals with trusts It is provided by this Bill that trusts will have to be irrevocable, that is to say, both the corpus and the income shall have to pass to the beneficiary before the responsibility of paying income-tax passes, and it is further provided that you cannot make irrevocable trusts namely, part with your income and corpus even to your wife with the responsibility of the income-tax passing on to her Well, Sir, this is a very drastic change, especially for India, as conditions at present prevail, and I do not propose to deal with this clause any further, since my Honourable friend, the Leader of the Opposition, has already spoken about it and we shall have opportunities of discussing it

Now, I will come to clause 53 dealing with section 49 of the Act That is the section which gives effect to reciprocal arrangements between England and India with regard to income-tax. Now, Sir, it affects all residents in India Any resident in India who pays double income-tax, English income-tax and Indian income-tax, can get relief under this section But now that the domiciled Europeans in this country are claiming, as they never claimed in 1931, special privileges, as I have explained while talking on clause 4, is there anything to be surprised at, if some of my friends try and understand the incidence of the burden that this clause imposes upon India? The Members of the European Group themselves are making a distinction between domicile and non-domicile. They claim, as I have said, such privileges as non-domiciled people may be entitled to in England Then, surely, you cannot blame my Congress friends for looking more deeply into this clause of reciprocal arrangements between

England and India as to how it affects domiciled and non-domiciled residents in India. We find in actual practice that, while the non-domiciled residents of India get the full advantage of this reciprocal arrangement, the domiciled residents of India do not get one-twentieth or one-thirtieth part I do not know exactly what is the damage done to Indian revenues by this clause I was given to understand it was 130 lakhs and my Honourable friend, the Finance Member, said that it was 60 lakhs. Taking it to be 180 lakhs, 128 lakhs goes into the pockets of non-domiciled residents and two lakhs into the pockets of domiciled residents The same proportion goes from the contribution made by the British exchequer If the Europeans today desire us to consider them as non-domiciled and now maintain that, although they live the best part of their lives in this country, they do not claim the same privileges as the domiciled people in India, then surely they cannot expect to get the same treatment and the same privileges under clause 58 of the Bill If they had maintained the same attitude as they had done in 1931, which was a very correct attitude as I have explained from the speeches made by Honourable Members themselves who sat on the European Group Benches in those days, I could have understood them saying that they still maintain and claim the privileges of domiciled residents in India They can say that they pass the best part of their lives in this country and they go back home to retire and die and that they are here to work as Indians for the benefit and advantage of India Therefore, if there is a clause in the Bill by which they benefit more than any other section of the residents in India, surely we cannot grudge them that benefit But once they say that they claim the privileges of non-domiciled residents in India they have given up their case It is peculiar, Sir, that when that matter was being discussed in the Round Table Conference, of which I was a member, the European Group in this country should have taken up the correct attitude as they did The Round Table Conference is over and the Government of India Act is an established fact Much water has flown under the bridge since then But do not let them be swayed by the fact that the Government of India Act is an accomplished fact today It may be upset and their contention of today will go considerably against them It is now nearly a quarter past one and I do not want to delay this House any longer Whatever other remarks I may have to make, I will make them on the clauses I have contented myself by expressing the opinions of others and not those of my own I have also quoted the opinions of the Members of the European Group and I did so deliberately so as not to be misunderstood I have also quoted the opinions of other prominent Members of the House in 1931, whose arguments were supported throughout the last two days and were also supported by Dr Banerjea this morning When the occasion arises and I have to express my own opinions, I will not hesitate to do so lest I may be misunderstood by scheming people who do not understand that a man can speak his own mind freely and that without fear. I deliberately did not give any opinions of my own, because I knew that there are Honourable Members in this House, who would misrepresent any views that I may express as being one interested I have heard that remark before in the days of old, when I spoke on income-tax matters and I expect to hear the same remark again But I am not a bit afraid of that, nor am I afraid of rumours being started all over Delhi as to what individual Members of this House are doing with regard to the opposition to this Bill We shall oppose without being the slightest bit nervous as to what any Honourable Member of this House may say on this side of the House or that side of the House

Mr. S. Satyamurti: You are lucky in being in the centre

Sir Cowasji Jehangir: In 1931-32, the European Group stood shoulder to shoulder with Indians and I have still hopes,—I live in hopes—that they will stand shoulder to shoulder when the best interests of India and Indians are concerned

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

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

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadan Rural) Sir, just a quarter of a century ago, a tired *Don* at Cambridge, at the end of a long series of lectures on political science, told a class of students, even more tired than himself, that the man was still to be born who was fond of paying taxes He little knew that, not more than a few hundred yards away from where he was standing, there was a young man studying, not political science, but mathematics and preparing not to be a *Don*, but to be an administrator of men—what is euphemistically called a Civil Servant—who had already been born and who was anxious and eager to pay taxes Sir, I think my country is fortunate in having that young man, still as young and fresh as ever, while his contemporaries like myself are rapidly going downhill, as its Finance Member today He at least does not hesitate to say quite candidly, both in public and in private, that he is hopelessly undertaxed and that he should be really taxed, much more than he is at present The pity of it is that the time at which this Bill has been introduced in this House is such that long before its clauses come into effect he will have left us, and so he himself will not be taxed at the rate he thinks he should be taxed.

The Honourable Sir James Grigg: The Honourable Member may rest assured that I am going to a country where I will be taxed much higher than here

Mr. Sri Prakasa: What do I gain by it? I should like to make a sporting offer to him, and it is this He should hand over to the Congress Party all the money that he thinks he should have paid to the public exchequer both because of the affection that the rank and file of the Congress bear to him, and also because of the assistance, which, he himself has admitted, was given to him by the Leader of the Party in the Select Committee Sir, as I read the report of the Select Committee, I find that this Bill is not a financial Bill at all It is a moral Bill The object of this Bill is to raise the morality of our people I know that jurisprudence teaches us that one of the main objects of punishment is to raise the moral nature of the community, and after I heard the fervid eloquence of the Honourable the Finance Member, I felt that the spirit of my country could very well go up to him and, adapting the language of Jesus Christ, exclaim

> "And I say unto you, thou art Percy
> thou art James also, thou art
> the rock on which I shall build my morality"

Now, Sir, my Honourable friend, Dr Dalal, whom I am sorry not to find here

An Honourable Member: He is here

Mr. Sri Prakasa: My Honourable friend, Dr Dalal, not to be outdone by his master, has offered to put in the field an army of Bachelors in Law who would see to it that we, in this country, keep to the strict and narrow path of righteousness, as sharp as the razor's edge My Honourable friend, Dr Dalal, who is a happy cross between cerebral surgery and Gladstonian eloquence, forgot that what the country needs is not Bachelors in *Law*,—of them we have plenty,—but bachelors in *fact*, for if only we had bachelors in *fact*, men who could be real sex-dodgers, there would be no tax-dodgers left at all

The Honourable Sir James Grigg: You don't really believe that

Mr. Sri Prakasa: I say, Sir, that bachelors alone can be that, because we all know to our cost that it is difficult to be a celibate in married life If only we could be sex-dodgers there would be no men born to be tax-dodgers at all

The Honourable Sir James Grigg: After 30 years delay, yes

Mr. Sri Prakasa: As I read the provisions of this Bill, I have come to the conclusion that income-tax is the only decent tax and I long for the day when that will be the only tax. If only we could have a provision and in that respect the Select Committee's report disappoints me, that income-tax would be the only tax and that it will be a heavy tax, and that we shall not be taxed in any other way and that the local authorities, the Provincial Governments and the Central Government will all make arrangements to divide that tax among themselves and we shall be saved the attentions of the tax *gatherers* at every step, whether at the Customs House or at the octroi barrier, whether as *patwaris* or cess-collectors, then I think we should be living in a happy country and be at peace indeed Sir, my Honourable friend waxed very eloquent over the dishonesty that he thinks prevails in this country But I should like him to consider why we, in India, should so dislike paying taxes to this Government? There must be reasons for it My Honourable friend, Mr Venkatachelam Chetty, said the other day that in England also there were many tax-dodgers and that tax-dodging was almost a fine art with them and that there were many people willing to teach how income-tax could be dodged I believe their main recommendation is, take a "pleasure trip to Jersey" at the time tax returns have to be made up! Any way, if, on the one hand, there are people in England who, like normal human beings, dislike paying taxes, on the other hand, we cannot forget the great incident that occurred, either during the war or soon after that, when, on an appeal by the then Government, hundreds and thousands of people formed queues in order to pay their taxes in advance

The Honourable Sir James Grigg: That was in January, 1932. I was the Chairman of the Board of Inland Revenue at the time

Mr. Sri Prakasa: I am very glad that my Honourable friend had something to do with that, and he has something to do with this Bill here also. Look at the difference in his conduct on the two occasions. There he sends out an appeal in the name of his country's need asking people to pay up the taxes. I understand from him that he was the Chairman of the Board and he drafted that appeal. Here he drafts a Bill full of threats. There he was all cajoling, beseeching and praying, but here it is all threatening,

[Mr. Sri Prakasa]

and every clause here has a penalty attached to it It almost seems that this is an amendment to the Criminal Law rather than an amendment to the Income-tax Act.

Sir, if my Honourable friend adopted the same attitude towards our people that he did towards his own, and if he would also appeal to us that we should help him in his task and if he also assured us that our money is not going to be spent on flood-lit gardens, squares and statues in New Delhi, but for our own good as money is spent in his country, then, I am sure, Sir, things will be put on a very different colour The chief reason why we hate paying taxes is because we hate this Government, and because we know that all this money that is paid to this Government is going to be wasted and not spent in a manner that would bring prosperity to our country

(Interruption by Mr K Ahmed)

My Honourable friend, Mr Kabir-ud-Din Ahmed, is trying to say something Sir, I know that my Honourable friend gave a tip to the artist who made the great picture in the advertisement of Michelin tyres, but he can give no tips to me!

So far, Sir, as I read this Bill, I find that its foundations are laid in three factors The material factor, of course, is the desire for more money. The psychological factor is that the Honourable Member distrusts our people, and the method he wants to adopt for the achievement of his end is giving more power to his officials Now, the desire for more money is quite natural Governments, like individuals, like to increase their revenues But what we want to know is that the money which will be raised from us will be well spent If my Honourable friend would only spend all the money that he collects in taxes for our good, I am sure that we, on this side, and even Sir Cowasji Jehangir who is always ready with his money, will be glad to give heaps of money to the Honourable Member opposite so that all that may be spent for us

The Honourable Sir James Grigg: What about coming to the Bill?

Mr. Sri Prakasa: I will Let me first come to the waste It is because there is this waste in all these departments that so many of us feel suspicious of this Bill

The distrust of the people, Sir, is very unfortunate, and when we are told that a people get the Government they deserve, I might just as well tell the Government that a Government also get the people it deserves. It is a mutually deserving association

The Honourable Sir James Grigg: You flatter yourself.

Mr. Sri Prakasa: No, I am not flattering myself. I am trying to flatter my Honourable friend opposite so that he may be able to see some reason in what I say.

Now, this Bill gives more and more power to the official and I am going to concentrate on that factor of the Bill because I hate officials. I hate all officials And, Sir, the Indianised variety I hate more. They are Indians in nothing except their colour And so, Sir, when this Income-tax Department which, of course, they will say is manned by Indians mostly, comes to grief, it is because men there think that they are not servants of the

people but servants of someone else It is no use your coming to me and saying: "Well, these men are Indians, they are your countrymen, if they are going wrong, you are responsible" Sir, a man's loyalty is to the salt that he eats, not to the colour of his skin I will tell you a story to illustrate my point. In London a number of us Indian students lived in a house which was a vegetarian house We had an English servant She was rude to visitors The visitors who were English complained It was no use my telling them "She is your own countrywoman" We had to send her away because the master is responsible for the servant's conduct. And, therefore, if the income-tax officers in the service go wrong, this Government is responsible and not our country which has given them birth.

An Honourable Member: Send them away

Mr. Sri Prakasa: Send them away? Sack the lot What is their attitude? Their attitude is this that they would get on more quickly in their service if they brought more money, and I can give you an illustration within my own knowledge where a friend of mine was taxed a very heavy sum and when people showed the Income-tax Officer the law and said that he was doing wrong, he replied "I am here to look after my own service and not to oblige your master" The High Court ultimately reduced the tax by about twenty thousand rupees. Well, if this is the attitude of Government servants in your department, things must be very wrong indeed.

My Honourable friend—and I mean "friend" in no conventional sense; and I hope he will allow me to include myself among his friends—my Honourable friend knows very little of my country He has not been here very long Even while here, he has passed all his life in Simla and New Delhi where he only meets a particular variety of my countrymen

Mr. K. Ahmed: Why don't you mix with them in their parties?

Mr. Sri Prakasa: Therefore, Sir, he sees that all the wrong is on our side and there is no wrong on his side

The Honourable Sir James Grigg: You are in a position to know that that is not so—that I do not see that

Mr. Sri Prakasa: Well, I do think that you see more of the mote in other people's eyes than the beam in your own

The Honourable Sir James Grigg: I say you are in a position to know that that is not so.

Mr. Sri Prakasa: Well, I am not talking of the one or two cases where the Honourable Member did his best to put things right. But those were individual cases in which the persons concerned were able to bring matters to his notice I am grateful for what he did. I know he means well and tries to improve matters But what about the lakhs and lakhs of income-tax givers? Unless my Honourable friend could, by some magic, do something to improve the morals of his own servants, I do not think his department is going to be popular in the country. Things are so bad that if we take advantage of our position in this Assembly to ask questions or criticise people, we are liable to be victimised in our own districts. I have said before and I repeat it now that the Honourable Members opposite who may be back-benchers here and cooing like doves are very much front-benchers in their districts roaring like lions

The Honourable Sir James Grigg: While you go about braying like asses

Mr. Sri Prakasa: The braying at the present moment is being done by me—I realise that Where here it is cajoling, there it is bullying. My Honourable friend opposite has talked a great deal about honesty and dishonesty Sir, an Englishman is not strong in philosophy, but every Indian is, and let me tell him that honesty and dishonesty are at best relative terms When my Honourable friends opposite vote for themselves large salaries we think it is dishonest, though they think it is all right. But when we dodge a little tax and we think of it as perfectly right and proper, they say it is dishonesty. Honestly, if I were not afraid of being exposed, I should like to travel always without tickets on railways and pay no taxes at all. What I am afraid of is a seven column streamer in the *Hindustan Times* "M L A caught without ticket The Assembly humourist on his trial at last!" And so I always purchase a ticket and pay my taxes As dear old Bernard Shaw has put it very pithily "when a man kills a tiger, he calls it sport, when the tiger kills a man, he calls it ferocity" When an official kills us, it is law and order When my Honourable friend, the Law Member, purloins the letter of my friend, Krishna Das, Private Secretary of Mahatma Gandhi, he thinks it is according to law and order But if we lift a little finger against any official however dishonest and tyrannical, and if we happen to peep at any remarks that in a jovial mood the Finance Member might have written on his files, he thinks that it is atrocious and that we must be sent to a glorious paradise in the Andamans

Coming to the Bill, I was given to understand by my Honourable friend that the Bill is going to introduce a slab system instead of the step system, and that out of three lakhs of taxpayers, 260,000 are going to get some relief, and that out of the remaining 40,000 so much will be got that it will make up for the loss of the tax from the 260,000 and also bring in a crore or so more into the public exchequer I should be glad really to be a witness of the bleeding process of these 40,000 people We should be given facts and figures to verify these expectations But the Members of the Congress Party are quite right when they mention in their Note of Dissent that this thing should have been made more clear My Honourable friend in his opening speech said that the implications of this change were to be found in many of the clauses of the Bill, because many clauses of the Bill would not be there if the slab system were not to be introduced in place of the step system I take him at his word of course, but where was the harm in introducing two definitions of the 'slab' and 'step' systems respectively, and inserting a clause saying that the tax will be levied according to the slab system and not according to the step system In fact I have ventured to give amendments to that effect, and I do not know whether my Honourable friend will accept them. Of course, there are many things that may be taken for granted, for instance, the Bill takes for granted that the world will go on swimming in space round the sun and that the fatal first of April will always come for the Income-tax Officer to send his calls on every 365th day. But if those things are important—and I take it that this fact is the very basis of the Bill—then there should be no harm in specifically mentioning that point.

Then, Sir, I myself think that there should be a maximum income, that no one should be allowed to have more than a particular income and, therefore, I am no friend of the very rich. I think money is a burden for the individual and is demoralising if it is more than a certain amount. . . . .

An Honourable Member: What is your maximum?

Mr. Sri Prakasa: My maximum would be about Rs. 18,000 a year or Rs. 1,500 a month, that is all But however that may be, what I find is that as the clauses of the Bill are framed, the weight will fall on the poorer man .

The Honourable Sir James Grigg: It is not so

Mr. Sri Prakasa: Poorer in the comparative sense Trouble to them will come not legally but in fact Big men have their agents, their solicitors, their lawyers and others to go and appear for them before the various persons, but the comparatively humble man cannot do that In a country like ours where there are only 3,00,000 of people paying any income-tax at all in a population of over 20 crores the incidence of wealth is very very low In that sense every income-tax payer is rich But what I mean is that the humbler tax-payers have to look after their affairs themselves and if my Honourable friend would only remain in my country for one year as a non-official he would know what troubles the officials can put on non-officials Even Europeans are not exempt, though they do enjoy a certain amount of privilege and are sheltered people in our country Even my friend, Mr. Aikman, complained, and I was rather surprised because I had thought that his white skin would save him from the attentions of the Government official Evidently that is not so and what happens to us? A time is given when we are to appear and we are asked not to go away till we are allowed to do so We have to cool our heels all the time outside the offices in the cold or the sun The income-tax officer takes his own time. Then there are a host of other people with whom I am sorry my Honourable friend is not familiar because with the best will in the world, sheltered as his own life has been in this country, he cannot possibly be familiar with them There are a number of sharks round every Government office, in the form of *chaprassis*, clerks and others The *chaprassis* in New Delhi are an exception to the rule, because here I have met such nice and courteous treatment at their hands that I was surprised, for I had never imagined before that a Government *chaprassi* could possibly be courteous Outside, in the districts, the *chaprassis*, clerks and others are not like that, and, as soon as you get out of the income-tax office, they jump upon you and want all sorts of payments for I do not know what services And if you are not willing to make all those payments, well, your case gets delayed and you are put to extra difficulty I ask my friend in all seriousness to take some steps to prevent all this from going on in the districts If he can do that, he would have been perhaps the most successful administrator in India and earned the blessings of all Here, we are not afraid even of him We talk quite freely across the House and in the lobby to him, but dare we do that to men under him who are in power in the districts?

The Honourable Sir James Grigg: Do you mean the *Chaprassis*?

Mr. Sri Prakasa: I will tell you another story There is a distinguished journalist in our country whose name I must not take, and, from whom I myself learnt my first lessons in journalism He started journalism at a fairly early age, and, at the start, he, in his home town, published a weekly paper. He attacked the Secretary of State

3 P.M.

[Mr Sri Prakasa]

roundly, week after week in his paper. no trouble came to him One day he wrote against the local police inspector for something that he had done That evening, unfortunately for himself, he had been invited to a friend's house, and as he was coming out late in the evening, and turned a dark corner, thick and fast came blows of *lathis* and canes upon him, and an anonymous letter was slipped into his hands saying "Beware when next you talk about the police inspector" And so this esteemed friend of mine, almost on the very first day of my taking up the study of journalism under him, said to me "If you want to be a journalist, take a tip from me If you so like, attack the Secretary of State, nothing can happen to you; if you want to attack the Viceroy you can still do so with impunity, if you want to say something against the Governor of your own province, be a little more careful, but when you come to the *thanedar* be very very careful indeed!

Mr. K. Ahmed: This is income-tax and not *thanedar.*

Mr. Sri Prakasa: And, Sir, no one has spoken the truth about our Government servants with greater precision than Mr Justice Young of the Punjab High Court. He said that our people join Government services in order to get a lift in the social scale so that they may be able to show themselves off before their own people and feel superior to them all A *chaprasi* is superior to his brother who tills the field, a Deputy Collector is superior to his brother who keeps a shop, and so on, grade by grade Therefore, Sir, what should be done is not to give more powers to the officials in the districts, but to see that whatever powers they have, are properly, equitably, courteously and justly exercised. If, by some wave of the magician's wand, my friend opposite can change the psychology of our people in that respect, he will have earned the blessings of us all.

Now, Sir, it is no wish of mine to dilate upon the more legally important clauses of the Bill That I must leave to other hands Sir, there is a talk in the Bill of world income I do not know what "world income" is Only those who are representatives of British Imperialism, and who hold the world in fee, can know what 'world income' is So far as I am concerned, Sir, I belong to that class about whom the Poet said

> "Happy is the man whose wish and care
> A few paternal acres bound
> Content to breathe his native air
> In his own ground "

Sir H. P. Mody (Bombay Millowners' Association Indian Commerce) Very appropriate to you.

Mr. Sri Prakasa: Sir, I come from Benares where the people go on thinking not of the present world income, but of the other world income all the time! So much about the world income

Then, there is the clause about the double income-tax relief of which we have heard much, and which I do not understand at all. What I am told is that there will be a *quid pro quo* of about a crore and a half for a lakh and a half That reminds me of another story.

Mr. K. Ahmed: You are really a story teller.

Mr. Sri Prakasa: There was a young bride, Sir, who came to her husband's house for the first time Among us Hindus there is a custom, specially in those families which observe *purdah*, that a bride when she first comes to the House is unveiled, friends and relatives come and see her face for the first and perhaps the last time On that occasion, they make presents to the bride. So this new bride came; and the Deputy Commissioner of the District wanted to be very friendly and came with his wife to see the face of the new bride and gave her Rs 4 as a present. Then, Sir, the father-in-law was very much touched and said to himself and everyone else 'This Magistrate is a paragon of perfection; he keeps good relations with Indian friends?' He was wondering how he could pay back in gratitude to this District Magistrate. And so he asked 'What can we do for you' The District Magistrate said. 'Oh, is that your trouble? Why not see the face of my own wife for the first time and make presents to her' And not only did the father-in-law but the whole of the bridal procession made a present of Rs 4 each for the pleasure of casting their eyes for the first time on the beautiful face of the District Magistrate's wife So, instead of Rs. 4 he got many a four-rupees So if in this Double Income-tax Relief we are going to pay a crore and a half for a lakh and a half, I think we had better not show the face of our bride

And, Sir, I come to another sore point which touches me, and that is the unfortunate joint Hindu family I want my friend opposite to look on the institution of joint family in our country with a little more sympathy In England, I understand, provisions are made for wife and child before the income is assessed for purposes of tax. I am not familiar with the Income-tax Act of that country, nor do I want to make myself familiar with it It would be too much trouble But I certainly think that the Income-tax Department should make some provision by which married adult members of a Hindu family, even if they do not separate, may be able to return their incomes to the amount to which under the co-parcenary laws they are entitled The expenses of a joint family, except the kitchen part of it, are fairly heavy, and I think we do deserve some relief You encourage the breaking up of joint families Breaking them up may be good or bad,—I am still a believer in old institutions, and I think it is not so bad as it looks,—but whether you regard it as good or bad, the fact remains that in our country this is a very old institution which has its foundations in long traditions I do not think that the Income-tax Act should be allowed to come by the back door so to say, in such a manner as to batter down this joint family institution I think our friend opposite,—and in this matter I am almost inclined to make an appeal to him,—should please look into the matter with sympathy What happens in many cases is this. When the income of a whole joint family is returned in one sum it becomes a very large sum It used to be the case with my own family, let alone others The amount of tax we paid was more than many individual members of the family were entitled to as their own separate incomes if they were divided. This, I think, is not right. I don't know what my Honourable friend thinks about it I am sure many of my Honourable friends here will think that this is wrong, and so something should be done to give the needed relief.

Then, there are the provisions about insurance. I find that the proviso which excluded income-tax being charged on the realisations of insurance money has been deleted I remember my Honourable friend opposite

[Mr. Sri Prakasa]

said once in this House in some other connection,—I hope my memory is not deceiving me—that there are rulings of the High Court because of which the realisations of the capital money from insurance company when the insurance policy has matured, are not liable to income-tax. This thing is specifically mentioned in the present Act itself; and I take it that judicial judgments are based on that provision of the law But if that is taken off, it may be that when these capital sums of money are realised they may be taxed I hope they will not be. I see that my Honourable friend is shaking his head: I am glad, but when a case goes up before a Court, he may not be there to shake his head and the Court of law may decide that such sums are taxable Therefore, I think that is a point which my Honourable friend may take into consideration

Then, there is also a limit of the amount that can be exempted from income-tax if it is paid as premia I sympathise with my Honourable friend opposite. I know that there have been companies who have been trying to dodge this tax or help others to dodge it by a system of short term policies for extraordinarily large sums of money That might be so; but I still feel that if this slab system could be applied even to this and that up to a certain amount one-sixth may be excused and beyond that up to a certain sum one-twelfth; and so on, we might come to some equitable basis of taxation

There is one other thing which also I think should be exempted in all equity; and that is the salaries of legislators Up here we get a fairly heavy daily allowance, and, as it is given in the name of allowance, it is not taxed But in the provinces they are making provision for a small monthly payment as salary, and when it is salary it is liable to income-tax so far as I understand it My Honourable friend here says that it is below the taxable minimum In many cases it may be more, or the minimum of taxable incomes may be decreased in the future Moreover, a Member may have and actually has other items of income. After all, the membership of a legislative body cannot be and should not be a profession with anybody So if he gets a certain amount of money as a salary, he has to return it with the rest of his income, and that may make it taxable and, sometimes, taxable at a heavy rate. I thought that was another matter to which I could draw the attention of my Honourable friend.

Then, there is a clause about exemption under property Under property a collection charge up to six per cent is allowed My Honourable friend, the Law Member, will bear me out when I say that there are families, including my own, who own property in Calcutta whose collection charges, as recognised by law as such, may not be very heavy, but they have to spend in other ways which are really part of collection charges For instance, in the case of our own family property, Rs. 2,000 worth of sweetmeats are distributed once a year on a particular day, and one big nice sweet *laddu* is given for every rupee that the tenant brings. That is an incentive to paying up the rent. Now, whenever we put forward this Rs. 2,000 spent on the sweetmeats, the income-tax officer turns it down, and if we take off this, then the amount becomes less than six per cent and so we do not get a full allowance for the expenses really and legally incurred. So, I say that when according to the customs of a community, these are actual *bona fide* expenses for collecting revenue and

rents, they should be included in the allowances It would be best if we had a statutory provision that six per cent. would be allowed in all cases.

Then there used to be a provision in the existing Act which said that in the case of a dwelling house the amount charged will in no case exceed ten per cent. of the income of the assessee. That was a wholesome provision and is being deleted I should like that clause to be restored. In a town like Benares which is a very old town, there are houses of solid stone built long ago the annual value of which, according to the municipality, is very heavy, but the families living in which have been quite broken. They have lived in these houses for centuries, and they have now come down in life Unless we have a provision that only one-tenth of their actual present income can be taxed as the annual value of the house in which they live, it will work a great hardship upon them So, I should plead for the restoration of that clause

Then there is much harassment possible if you permit entry into private premises I am not one of those who shut their eyes to facts I know that double books are kept at many places. I know that people hide their income whatever the causes may be I know that it is the duty of the administration to find out who those people are and to punish them, and I will not deny the justice of the claim that is made, and very rightly made, by my Honourable friend opposite But we must see to it that all unnecessary harassment is avoided, and if this clause regarding entry into private premises is not completely deleted, I should still press upon my Honourable friend the desirability of limiting the entry to business premises and not into private dwelling houses Those of us who are Congressmen and have suffered in the Civil Disobedience Movement know that the policemen and others who enter the houses with a search warrant go far beyond the needs of the situation and I cannot help feeling that there may be unnecessary harassment of small men by Income-tax officials Rightly or wrongly, the atmosphere of our country being what it is, an individual is likely to lose his 'caste' or his 'face', if the news goes round that his books have been searched, even though in the end he is declared innocent When such is the feeling in the country, all unnecessary penal provisions should be avoided In England we all know that even neighbours do not know each other The Englishman is a cold, reserved type of man At Cambridge, there were two English students on the same staircase in which I lived, during my first year there For a whole year, I saw these people going up and down the staircase, day after day, and they never wished me The rule is that a junior is not to wish a senior first, and, therefore, the whole year we did not know each other In India, such a thing is impossible Neighbours know each other and each others affairs, and, therefore, they are liable to lose their position in society if they are subjected to unnecessary official attention. It cannot be the wish of my Honourable friend that any one should lose caste. So, some provision should be made in the relevant clause of this Bill so that all such moral hardships and social disabilities may be avoided

The Honourable Sir James Grigg: Then they will have to go in disguise?

Mr. Sri Prakasa: I am putting forward these things as I know them and I hope that my Honourable friend will see to it that something is done. After all when big people's houses are visited—and visit is the word that the Select Committee has put in instead of the word 'enter' in

[Mr. Sri Prakasa]:

most cases—a visiting card has to be sent and other formalities have to be observed: but a small man's house is entered into without any let or hindrance. Therefore, we should like to save him if we can

Sir, this Bill is the last big effort of my Honourable friend opposite to improve the morals of my race I think that it is his parting gift and I pray that it may not be his parting kick I wish, Sir, that the Bill, which consists of 78 clauses and seeks to amend an Act of only 68 clauses, had been a consolidating Bill instead of an amending Bill; but whether it is a consolidating Bill or an amending Bill, I feel that it is the last big effort of my friend at self-purification and at world-purification My great and earnest desire is that he may really make this Bill a Bill worthy of acceptance I should like to warn him in the words of a poet of his own country.

"There are lightnings struck from midnights,
There are fire flames noon days kindle,
Whereby piled up honours perish,
Whereby swollen ambitions dwindle,
And just this or that poor impulse,
Which for once had play unstifled,
They seem the whole work of a life time,
That away the rest has trifled"

Sir Muhammad Yamin Khan (Agra Division. Muhammadan Rural): Sir, I agree with my Honourable friend, Sir Cowasji Jehangir, at least on one point, that we kept up very good spirit and harmonious relations in the Select Committee We tried to understand each other's point of view We were always willing to understand the views of those with whom we even differed, and I must congratulate my friend, the Leader of the Opposition, for the great help which he gave in the Select Committee by his vast knowledge of income-tax law It was really a great pleasure sometimes to see that while other members of the Select Committee were discussing certain problems among themselves, he had to give a lecture to some of his own party members and make them understand this complicated law and we tried to get some kind of lesson from him too. His wonderful speech disclosed a great power of advocacy and he has shown that he could make people believe what could not otherwise be believed He has enumerated to the House the points on which we agreed, and, in spite of the amendments which have been tabled, it will be agreed that the Select Committee took great pains to go into the clauses thoroughly.

I will now enumerate a few of the salient features of this law and show the direction in which this law has made progress and given relief to the people which they do not enjoy at present I will first take clause 8. This has got the words "association of individuals", and any income made by an association of individuals is taxable That had been misunderstood and misinterpreted by some people and in this category they started taxing the Muhammadan family which inherits the property of their parents, and, before they have divided it, they come up under this category. This law makes a change in this respect and lays down clearly that it was never the idea of the Legislature to tax the property jointly of the Mussalman members of one family; because, in respect of the Hindu undivided family, there are some advantages in taxing them jointly and some disadvantages too If a Hindu joint family consists of two brothers and both the brothers

jointly have got a property of Rs. 1,950 a year, each is getting something like 975 rupees That is not taxable Then, both the brothers separately make Rs. 1,500 or Rs 1,800 a year and their accumulated income comes to Rs 2,700. Even then they escape the tax, because this income which they have derived from the undivided Hindu family is not taxable under the present law, even when it is joined with the income which they derive by their own personal exertions. So, I say there is a disadvantage when the two members are taxed jointly, but, at the same time, there is an advantage to certain individuals who derive this benefit by remaining members of the undivided Hindu family

An Honourable Member: We don't understand you

Sir Muhammad Yamin Khan: I will explain again Suppose there are two brothers, A and B, in a joint family, and the income of this undivided family of A and B is Rs 1,900 a year This is not taxable. These two brothers get out of this income Rs 950 each Now, A and B have separately earned by their own exertion an income of Rs 1,500 each Then, the sum of Rs 950 which each of them got from the joint family and the Rs. 1,500 which was earned by each, taken together, become Rs 2,450, but that is not taxed, because, each income which he has got separately is not taxable That is the present law under which he is enjoying this benefit

An Honourable Member: Where did you get that law from?

Sir Muhammad Yamin Khan: That is the present law

An Honourable Member: You better go to the Law Member

Sir Muhammad Yamin Khan: I have been to tax-experts and that has been admitted by the income-tax experts of the Government of India

The Honourable Sir Nripendra Sircar (Leader of the House) I do not remember that.

Sir Muhammad Yamin Khan: This income cannot be added

The Honourable Sir Nripendra Sircar: If I may interrupt my Honourable friend, that is because many people do not realize the difference between the joint family under the Bengal School and that under the other Schools

Sir Muhammad Yamin Khan: I am not going into details, it may be under the Dayabhaga or under the Mitakshara, but I say that the Hindu joint family has got some kind of disadvantage, and it has also got some kind of advantages too; but, under the Mussalman law, because that does not recognize any joint family property, Mussalman property cannot be taxed jointly even if it is owned by several members collectively They are individually the owners of their respective share in the property, and here, under the existing law, it is laid down on account of the ruling in Patel's case in the Bombay High Court that the Mussalman family, if it is jointly owning certain property, will be taxed as a whole, and that was the greatest injustice done to the Mussalman families and Mussalman property-owners. This change has come into this law.

An Honourable Member: Where is the change?

Sir Muhammad Yamin Khan: Section 9 is altered in a way in which it is made out clearly that any persons owning some specific shares in the property will not be treated as an association of individuals, and that takes out the present law as it has been interpreted recently.

Then, Sir, we have found that there have been lots of difficulties in case of vacancies. If there was a man owning ten or twelve houses or shops together and two or three of them remained vacant, then certain income-tax officers did not take those two or three shops as vacancies and did not make any allowance for those vacancies, but what they thought was this that the property or the block of the whole building should be treated as one thing and the vacancy should not be allowed for The present law, as the change is made by the Select Committee, gives it out clearly that all the vacancies of a property or a portion of the property will be so treated as to receive the benefit

Then, we have got another important change which has been made by the Select Committee, and it is this that when a general notice was to be issued, under that general notice everybody was bound to make a return of his income and that was very hard on the people who did not understand the law or who would not have known whether a general notice had been issued or not In this country, it is very difficult to secure that everybody may know what is being written or what general notice is issued Therefore, taking everything into full consideration, the Select Committee has made the limit up to Rs 3,500 of income, *viz*, that if anybody does not send his return after a general notice is issued and his income does not exceed Rs 3,500, he will not be liable to any penalty, because people, having an income of more than Rs 3,500, are expected to know what the general notice is, but people owning an income of less than this are not expected to know whether a general notice has been issued Secondly, Sir, another change also comes in, *viz*, that when this Bill becomes law, the accounts for the previous eight years would not be liable to be reopened It has been rightly suggested by my friend, Mr Sri Prakasa, that an income-tax officer entering a house will cause a great deal of nuisance. We realize that an income-tax officer entering a house during sunrise to sunset, or the other way, from sunset to sun-rise would be equally a kind of nuisance to the person who has the house which he enters, but the difficulties could be got over by the change which had been brought in, because it was pointed out that it would not be in all the cases that an income-tax officer would enter a house, but at present there are some cocaine smugglers, there are people who indulge in this sort of thing, and, of couse, if a man is violating an excise law, the excise officer gets a warrant and he enters the house. Similarly, if the income-tax officer satisfies the Commissioner of Income-tax that a man is really concealing his books which he does not want to produce before the income-tax officer, and he is preparing some other books for production before the income-tax officer while his real account books are different, then and then alone, if the Income-tax Commissioner is also satisfied that this kind of thing is going on in a particular case, then permission will be issued that he may go and search the books and stamp them

Mr. S. Satyamurti: Is all that in *the* clause? It is not there.

Sir Muhammad Yamin Khan: I am convinced that it is there.

Now, another important change which has come in is about the tribunal I expect that the amendment about the tribunal will be moved by Government to put up a tribunal which will be above the Assistant Income-tax Commissioner, and between the Assistant Income-tax Commissioner and the High Court there will be a tribunal that will go through different appeals which nowadays go to the Income-tax Commissioner, and the Income-tax Commissioner will have nothing to do with the appeals I do maintain that the appellate side should be made absolutely impartial They will have nothing to depend upon the executive in their judicial work A man may not depend for his promotion simply because he has disallowed so many appeals, but a man should go into the details of the different works and be an impartial body to decide on the merits of the case Of course, there will be some appeals which will be decided by the Assistant Income-tax Commissioner, but if the man chooses to go in appeal, he can go before the Tribunal which may consist of two or more members We are expecting that the Government will send in their amendment to this effect

Mr. Husenbhai Abdullabhai Laljee (Bombay Central Division Muhammadan Rural) Only rich people can go

Sir Muhammad Yamin Khan: Only rich people are taxed. poor people are not taxed These are, Sir, great changes which are made

Then, there is another very important change which has been made in this Bill, and if this Bill is not passed, those people will not get that benefit at all Now, there are three lakhs of people who pay income-tax, and, out of these, 2,60,000 are those whose income is less than Rs 8,000 per annum All these people will benefit by the slab system Of the other 45,000 people whose income is between Rs 8,000 and Rs 24,000, some will benefit and some will not Or we may say that their position will remain unaffected The only body of people who are going to lose are those whose income is above Rs 24,000 We advocate here day after day that we are standing here for the poor people Are we going to give relief to these three lakhs of people or should we care only for these 10,000 persons who are carrying on their propaganda in the country? These persons have sent telegrams that lakhs and lakhs of handloom workers are going to lose if this Income-tax Bill is passed I fail to understand how the handloom workers can lose if this Income-tax Bill is passed I call these 10,000 persons as wire pullers, and it is they who do not want to pay the income-tax which they ought to pay They make all sorts of submissions to you and they make appeals to you in the most patriotic manner. They say that the country is going to lose What we have to see is this that these 10,000 people ought to pay their income-tax in the same manner as everybody else pays in the country Out of these 10,000 people, about 5,000 are Europeans All those officers who are drawing more than Rs 2,000 a month are going to lose under this Bill The cry that India is going to lose if this Bill is passed is engineered by self-interested persons who are carrying on their propaganda in the name of those persons who do not understand what they are writing and what they are sending. If we are here to support the cause of the poor people, then their consideration must be the primary consideration of this House and not the consideration of the rich people who can afford to pay even at a higher rate of income-tax. Some people have said that the trade of India would be killed if we put a tax on the income which an Indian derives from outside India. May I ask what is the difference between a

[Sir Muhammad Yamin Khan]

man who invests all his money in India in the most patriotic manner so that his capital may not go outside this country, and the man who invests 50 per cent. of his money in this country and the other 50 per cent outside this country? The only difference that I can see is this that the man who has invested half his capital outside India wants to get all the protection which the other man is getting, and yet he does not want to pay the same income-tax in India because he has thought it fit to invest his money outside India as it suits him better Is this the argument which is advanced by these people who are making their money outside India, and, therefore, they should be shown a differential treatment *vis-a-vis* those people who have invested their money in this country?

Now, Sir, some people say that income-tax should not be levied on the accrual basis, but on the remittance basis The fact of the matter is that a law is made after finding out that the people are violating it If the people did not kill other people, there would not have been a section making it penal to commit murder This law was made in 1933 that the income which accrued outside India would be liable to tax if it belonged to Indians who lived in India What they did was this They sent their money to banks outside India where there is no tax, such as banks in France, and thus they augmented their capital The Honourable Members know that here the income-tax officer wants you to give your return on your past year's income If a man has earned two years ago, that is not his past year's income His income of the past year will be that which he earned in the past year

Sir Cowasji Jehangir: What is the law which the Honourable Member is propounding?

Sir Muhammad Yamin Khan: These people started collecting their income and putting this income and the interest which arose into their capital

Sir Cowasji Jehangir: The Honourable Member is quite mistaken in his exposition of the law as it stands today without the amendment All interest accumulated in England which may be the income remains income, and it does not become capital at any length of time

Sir Muhammad Yamin Khan: My Honourable friend will have to get it treated as income under the new law He will not be allowed to turn it into capital in future That will be the position

The Honourable Sir Nripendra Sircar: The Honourable Member is not expounding correctly the proposition. That is not what the changed law means

Sir Cowasji Jehangir: I would suggest to my Honourable friend that he should get another lecture delivered by my Honourable friend, the Leader of the Opposition, as he did in the Select Committee and then he might be able to make a more coherent speech.

Sir Muhammad Yamin Khan: I had a very nice lecture this morning from my Honourable friend, Sir Cowasji Jehangir, himself I am going to put before the House what the normal law is. It is this differentiation

which the tax-dodgers were doing that made the Government wake up to the loss which the Government suffered If they get any income in France or in any foreign country, they put that income in foreign banks in those countries instead of bringing it to India They put the income along with the capital. In this way the capital went on accumulating. They did not bring it into India until it was converted into capital, and, therefore, this income could not be taxed in India That was how these investors dodged the Income-tax Department in India As soon as the present law becomes an Act, the income that is derived in foreign countries, that has accrued there after 1938, whenever it was brought, will be treated as income and it will not be treated as capital That is the change which the present law is bringing in order to meet the people who have been dodging taxes It is not justifiable that these tax-dodgers should expect any help from this House in their tax evasion process My Honourable friend, Sir Cowasji Jehangir, went on to make out this morning that there was a difference in the treatment meted out to domiciled residents and non-domiciled residents of India, to this extent that the non-domiciled resident does not pay any tax He said it in this manner that he does not pay on his income from investments and rent in foreign countries He did not put it before the House that he had to pay on his profession, business or vocation as much as any Indian would do If my Honourable friend, Mr Aikman, has got any income from outside India, from any foreign country which arises from business or profession or vocation, that is liable to taxation as much as my income that is made in India or outside

An Honourable Member: How can there be profession outside India?

Sir Muhammad Yamin Khan: Take the case of my Honourable friend, Dr Deshmukh Supposing he goes to Hyderabad which is an Indian State and is, therefore, a foreign country so far as British India is concerned, and supposing he gets a fee of Rs 2,000 a day for his surgical work, and supposing he puts that income in a Hyderabad Bank, then that is not liable to taxation under the existing law

Dr. G. V. Deshmukh (Bombay City Non-Muhammadan Urban) I pay tax even now.

Sir Muhammad Yamin Khan: Under the existing law, it is not liable to taxation, if it is not brought to India Under the amended law, my Honourable friend, Dr. Deshmukh, will have to pay income-tax on the income which he derives from the Hyderabad State Take another case There is a businessman living in Delhi Supposing he takes jewels worth Rs. 50,000 to Jaipur State and sells them for a lakh of rupees and thus makes clean profit of Rs. 50,000 If he does not bring this income to Delhi, he will not be liable to taxation here If he converts this extra income of Rs 50,000 into jewels and brings them, he escapes taxation altogether But, under the present law, the tax-dodgers are going to be taxed now This is what the clause says:

a "Provided, further, that, in the case of a person resident but not domiciled in British India, income, profits and gains which accrue or arise to him without British India shall not be so included unless they are derived from a business, profession or vocation or unless they are brought into or received in British India by him during such year."

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This means that supposing my Honourable friend, Mr. Aikman, is living here in British India and is carrying on business in Hongkong or Rangoon or any other place, then the income which he derives from his business in those places is liable to taxation here I am dealing with this point because my Honourable friend, Sir Cowasji Jehangir, said that the European would benefit by this measure. I am trying to show that the European is in a much worse position than an Indian A European carrying on business all over the world is liable, as far as clause 4 is concerned, to taxation, whatever be the relief he is given I am not concerned with the relief I am dealing with the clause as it stands and as it affects him. He is liable for all the income which accrues to him outside British India, and also the income derived from property, rent, interest on the securities which he has invested outside which he has brought here That is, the income from other sources besides the profession, business or vocation when brought in India, will be taxed My friend, Sir James Grigg, is receiving his salary here; he is liable to pay taxation on his salary here. Not only that, but if he has got any business, he is liable as much to taxation as any Indian would be. The only difference would be in regard to property which he owns in England

Mr. Deputy President (Mr Akhil Chandra Datta) May I point out that, although there is no time limit and I have no right to interfere at all, still it is the feeling in the House that at least one more Member may be allowed a chance to speak today If there is nothing very important to add, then may I request the Honourable Member to cut short his speech to such an extent as he may do without prejudice to his case

4 P M

Sir Muhammad Yamin Khan: Yes, Sir, I know that because there are some difficulties in the House when there are two sides to a question and when there is one side which is very quiet and patiently wants to listen to the other's point of view, and there is the other side who, while they expect that others may listen to them, do not want to listen to the others, certainly this kind of feeling must arise So I can understand it Because, when Mr Bhulabhai Desai was speaking or when Sir Cowasji Jenhangir was speaking, both Members of the Select-Committee, I think Members of our Party kept very quiet and listened to them, and I expect the other Members to have the same patience and listen to the other Member's point of view I did not put a limit to Mr Desai's speech

Mr. Deputy President (Mr Akhil Chandra Datta): I am sorry. In trying to cut short your speech, I am prolonging it. The Honourable Member may resume his speech now

An Honourable Member: Aren't speakers interrupted in the House of Commons?

Sir Muhammad Yamin Khan: I know that. But there are some Members whose desire it is not to know the law. Some Members there are who would not like to have things explained to them, but I hope that they will have patience and see what the real law is and what is going to be amended and not to make up their minds beforehand

An Honourable Member: Why not delete the proviso?

Sir Muhammad Yamin Khan: The proviso is most justifiable, and I do not think that as an Indian I would like to be differently treated in England than this proviso. Because, if I go and happen to be in England for 182 days, I would not like to be taxed in England for all the income which I have got in India and other places, but I would like to pay my income-tax on the income which I would be making in England. Here justifiably an Indian is an Indian and he is not to be treated differently as between Indians and Indians Well, there comes up the question of a foreigner; an Englishman here comes in, as far as his income is concerned, as a foreigner, and we expect every foreigner to pay tax on the income which he makes in India and we cannot expect him to pay tax on an income which he makes outside India It will be a funny position for this House to put down a law that if an American happens to be travelling in India for 182 days and he comes under the category of a resident in India, then all his income in America and other places should be taxed We do not want any foreigner to be treated unjustly in India and simply to pay tax on income with which India is not concerned

An Honourable Member: What is the law in England? A resident pays income-tax on his total income

The Honourable Sir James Grigg: No, it is not

Sir Muhammad Yamin Khan: And if we are asking that English people should get the benefit, we are going to get the same treatment in England whenever an Indian happens to be there It may be an unfortunate position that on account of the British association with India for a long time and on account of the capital which they have invested in this country that they may be in a position to have more income here than there I am not going into that But the position is this, that any Englishman, who happens to live in India as a resident, is placed in the same position as we would be placed in England and we are not going to be differently treated The only thing we do want is that every Indian must be treated equally here on an accrual basis What this Bill wants to show is that if any Indian living in India makes an income whether in India or outside British India, he must pay tax like the others do, and if he does not choose to pay the income-tax, he may change his residence and go outside India. But as long as he derives the benefit of belonging to the Indian nation, as long as he wants the machinery of the Indian Government to come to his aid, he must pay the tax Nobody cares for thousands of Indians who die in India, but if even a single Indian is treated badly outside India, the whole country is up in arms

Now, Sir, if we want to achieve whatever our desire is, that not a single Indian outside should be badly treated or be differently treated from what other nationals are treated, then those Indians must be prepared to pay for the support of the Indians outside the country. We can go on pressing for what we have not got If an Indian is a resident of some other country, if he lives more than 182 days in some other country, then he is not liable to any tax in India except on the property which he has got in India Then, an Indian, who lives for seven months, say, in Persia, and five months in India, is not liable to pay income-tax here in India for income which he derives outside India. He is only liable to pay tax on income if he is living inside India for more

[Sir Muhammad Yamin Khan.]

than six months, that is, more than 182 days And if he wants to live for seven months outside India and does not keep a residential house here for six months, then, he is not liable to any kind of tax in British India, and that gives you the greatest benefit that you want to enjoy. If a man lives continuously for 360 days in four years at home, he enjoys the benefit of Indian residence and you cannot call him a foreigner. If an Indian lives in India and keeps a house and occasionally goes outside, why then should he be differently treated from others? We pay our income-tax on income derived in British India· he chooses to go to some State outside India—a dominion or somewhere and makes some money and comes back and says "I do not want to pay any money, because I have been enjoying all these trips outside" Some say they have been adventurous and brought wealth to India; but, at the same time, they say they have not brought the money into India and should not, therefore, be taxed The income-tax is not on the business or the capital, but it is on the income which a man makes If a man has made a lakh of rupees by his business outside India and another lakh by his business in India, then why should he escape paying tax on the lakh he has made outside India? He says "I choose to bring only 10,000 rupees out of the lakh I had made outside, and you tax me only on that" I say, there is no reason for treating him differently from other Indians Nobody would like to go outside his own country unless he can make more money elsewhere. If a man cannot make even 2 per cent in his own country and is able to make, say, 10 per cent outside, he takes his capital there and invests it there after making good profits outside, he comes here and says he should not be taxed as the profits were made outside It would have been justifiable if he had said that he should not be asked to pay two taxes, one here and one in the country where he had made the profits—on the same income He might ask for the same kind of relief or protection that we are giving to Englishmen who have to pay income-tax in England and in India If a man is carrying on business in Rangoon or Ceylon or Siam and comes and says that he must be placed on the same footing, as far as income-tax relief is concerned, as an Englishman, then it would be justifiable But here that is not the question. He says. "Do not tax me at all I do not want to pay any tax." I cannot accept it as equitable. Equity demands that all Indians should be treated equally

My Honourable friend, Sir Cowasji Jehangir, was not correct when he only quoted one instance that the income of an Englishman is not liable from such and such sources, but he ought to have explained that it is also liable under such and such conditions . . .

Mr. Deputy President (Mr. Akhil Chandra Datta). I am afraid the Honourable Member is repeating it too many times.

Sir Cowasji Jehangir: On a point of personal explanation, Sir. What I said was that non-domiciled people whose income outside British India from investments, such as stocks, shares, and rents, are not liable to be taxed under this Bill unless brought to India—that is perfectly correct and I stand by it . .

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural)· And interest on monies lent.

Sir Cowasji Jehangir: . and interest on monies lent are not liable to be taxed unless brought to India That is a correct statement of facts, and I challenge the Honourable Member to say it is not correct It is no use to muddle up everything It does no good

Sir Muhammad Yamin Khan: I quite agree that it is quite correct—the proposition which he has put—but what I am saying is that he put half the thing before the House and not the thing as a whole

Sir Cowasji Jehangir: I did not mention income from business, profession or vocation, because, I expected people to know what was the provision If the Honourable Member will remember, I said that it is not necessary to explain what clauses 4 and 5 contained at this stage when everybody is expected to know it I did not go into details

Sir Muhammad Yamin Khan: I am glad that the Honourable Member is putting it like this

Sir Cowasji Jehangir: Not putting it that is what I said

Sir Muhammad Yamin Khan: Perhaps what he expected to have said

Sir Cowasji Jehangir: No It is what I said Let him take the official report. I challenge him Mr Deputy President, may I ask him to withdraw the phrase "what he expected to have said"?

Sir Muhammad Yamin Khan: I am not giving way . .

Sir Cowasji Jehangir: I challenge him to take the official report of my speech

Sir Muhammad Yamin Khan: I accept my friend's challenge absolutely and I also stand by the statement which I have made I have said this: that Sir Cowasji Jehangir said these things which he has said now. I have also said that he did not say other things Now, he comes and says that he expected every Member to have read these provisions Why should he not have expected Members to have read these other things also If he believed everybody to have read, he ought not to have made any speech at all, but when he made his speech and concealed half the portion of the section . . .

Sir Cowasji Jehangir: I object to the word "concealed" I must ask for a ruling. No Honourable Member has a right to say that another Honourable Member has concealed anything, unless he can prove it He must withdraw that word.

Mr. Deputy President (Mr Akhil Chandra Datta) If the Honourable Member has said that Sir Cowasji Jehangir has concealed anything, I think he should withdraw it.

Sir Muhammad Yamin Khan: All right, Sir As it is the ruling, I withdraw the word. I meant no harm and no kind of aspersion on Sir Cowasji Jehangir that he had a deliberate intention to mislead the House. My idea was that he did not put it before the House, and I withdraw the word. I understood him . . . .

Mr. Deputy President (Mr. Akhil Chandra Datta). The controversy need not be carried any further. Let the House come back to the Bill.

Sir Muhammad Yamin Khan: Another point which has been made is this It was said that some Members think,—I am very glad that the Honourable the Leader of the Opposition very nicely put it,—that this Bill has been introduced with a view to giving protection to some English people, but the Honourable the Leader of the Opposition added "I am not foolish enough as to believe this". I am very glad that my friend, the Leader of the Opposition, does not think that this Bill is designed in any manner to benefit the English people, because, to my mind, the most powerful people is the body of British officials in this country, especially the Civil Servants who control the Government of India Nobody can dare doing any harm to them If anybody dares doing any harm to them, we cannot say that any sinister motive lies behind to protect the English people Up to now the services have been enjoying a special privilege It has been the long established practice that whenever English officials went on leave out of India, their leave salaries were not taxed Here I must congratulate my Honourable friend, the Finance Member, on the bold step he has taken for giving help to India, because he has made this distinction that anybody, who goes out of the country on leave and who hitherto escaped income-tax on his salary, will henceforth have to pay income-tax on his salary that he will draw in England when on leave, and this sum will come to something like 16 lakhs a year I think this is a very bold step which the Finance Member has taken, and it will help this country to a considerable extent We cannot accuse him of having made any sinister attempt to benefit the English people for taking this bold step

Then, Sir, another point which we find is this Mr Aikman took exception and said that he was not one of the majority who thought in the Select Committee that there should be a tax on all pensions paid out of the Indian Exchequer outside India Such pensions are not taxable at present, and, under the Government of India Act, we cannot touch them, but the Honourable Sir James Grigg,—and I take it that along with him other Government Members too have agreed to put it down in the Select Committee's Report,—that a request be made to His Majesty's Government to alter the Government of India Act in such a manner as to give power to the Indian Government to tax such pensions also I think this is perfectly right Why should an Indian Civil Servant who serves in India, and who, after completing his service, leaves India to settle down outside India and draws his pension there, should pay income-tax outside India, although the pension is paid from the Indian Exchequer? This is a very right course which the majority of the Select Committee have taken, and I am very glad that the Honourable the Finance Member took this bold step in this matter. Mr Aikman was not one of the majority,—as far as I remember, he was the only single minority against the rest of the elected Members That being the position, I think it cannot be said that there is any sinister motive behind to benefit the English people.

Another point I wish to make in connection with clause 42 is this. Formerly, under section 42, foreigners were only liable to pay tax on their assets and property Now, the section has been amended in such a way as to levy a tax on all kinds of income which they may be making

in India or all incomes which they may be receiving in India on monies lent abroad. Formerly, most people were escaping income-tax on such incomes For instance, a contract to give a loan was made by an Englishman to an Indian in Aden The man received the money in Aden, and, after making payments, the interest was payable at Aden So this man escaped the income-tax altogether, and, therefore, now this income also is brought under clause 42

Then, again, I would give another instance where an Englishman is treated differently from what he used to be treated heretofore Up to now, after an Englishman had left the shores of this country, there was no remedy by which any tax could be collected from him on his incomes, because he was out of India But now this Bill gives power to the income tax officer to get the income-tax from him if he, the income-tax officer, finds that the officer is not likely to return to this country, the income-tax officer is authorised under the new Act to catch the officer and make him pay the tax before he leaves the country for good I can assure the House both on my behalf and on behalf of my friend, Mr Abdul Sathar Essak Sait, that if we had found any differential treatment meted out to Englishmen, or if we had found that there was any sinister motive behind the Bill to help the English people as against the Indians, we would at once have strongly opposed the Bill tooth and nail But our position is this We ask from others what we expect from them That is the only position which an Indian can take up equitably We want justice to ourselves That is the only position which will take India to a higher goal Sir, I am not one of those who harbour any hatred or ill-will against others I may like or dislike something, but I do not bear any grudge or hatred towards others Therefore, I cannot agree with the view which is held by some that there is some sinister motive behind all this or that English men are going to benefit by this, because we must all remember that it is an irony of fate that for the last 200 years the Englishman has found himself grafted in this country and he has invested his capital in this country. That is no fault of theirs It is the fault of those people who allowed them to come to the shores of this country, but as English people happen to be now in this country,—whoever allowed them to trade in this country, whoever gave them shelter in this country, we don't want to quarrel over that question now,—because it is all a past history But the fact remains that the English people have invested large capital in this country, and I don't want that it should be confiscated by others I want to stand for justice I am ready to give justice to the outsider, and I want the same justice to be extended to us also At the same time, I stand for equality of treatment,—I do not want that any differentiation should be observed between an Indian and an Indian I do not want to give any benefit to any unpatriotic man who wants to enrich himself at the expense of India.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 22nd November, 1938.

LEGISLATIVE ASSEMBLY.

Tuesday, 22nd November, 1938.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr Deputy President (Mr Akhil Chandra Datta) in the Chair.

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS.

NEGOTIATIONS FOR INDO-BRITISH TRADE AGREEMENT.

1368. *Mr. Abdul Qaiyum: Will the Honourable the Commerce Member please state

(a) the latest position about the Indo-British Trade negotiations

(b) when these negotiations are likely to conclude,

(c) whether Government have finished consideration of the non-official advisers' report, and, if so, with what result, and

(d) whether the agreement is proposed to be placed before the House before Government comes to any decisions thereon?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b), (c) and (d). I would invite the Honourable Member's attention to the answers given to Mr Satyamurti's question, No 1231, on the 14th instant and to the supplementaries arising therefrom.

Mr. Manu Subedar: May I know what would be the position in view of the Anglo-American trade agreement with regard to outstanding transactions of articles to which preferences have been altered under that agreement?

The Honourable Sir Muhammad Zafrullah Khan: That is a question of which the Honourable Member has given notice and the answer will be given when it is reached.

Mr. S. Satyamurti: May I know whether in respect of the negotiations which have not been completed, and, before they are completed, the effect of the Anglo-American trade agreement will be considered by Government in conducting further negotiations?

The Honourable Sir Muhammad Zafrullah Khan: Yes, Sir.

Mr. S. Satyamurti: With reference to the answer to clause (d) of the question, my Honourable friend told the House, if my memory serves me aright, that Government are not in a position to say whether they will accept the verdict of the House or not but that they propose to place the results of the negotiations before the House. May I take it that they will be placed before the Government come to any decisions thereon?

The Honourable Sir Muhammad Zafrullah Khan: What sort of decision has the Honourable Member got in his mind?

Mr. S. Satyamurti: Decisions on the results of these negotiations I take it there will be certain tentative proposals in the mind of both Governments I am now asking with regard to the India Government's intentions whether they propose to place these proposals before they come to final decisions on these matters themselves

The Honourable Sir Muhammad Zafrullah Khan: So far as any proposals to be placed before the House are concerned, some sort of understanding must be arrived at with the other side before the proposals are placed before the House but if the Honourable Member means whether after the House has expressed its opinion Government will take that opinion into consideration before deciding whether they will put the agreement into force or not on that I can say 'Yes'

Mr. K. Santhanam: Was the Honourable Member consulted about the changes in the Ottawa agreement which have been made in the present treaty between the United States and Great Britain?

The Honourable Sir Muhammad Zafrullah Khan: That is part of the question of which Mr Manu Subedar has given notice

LIFE OF THE LEGISLATIVE ASSEMBLY.

1369. *Mr. Abdul Qaiyum: Will the Honourable the Leader of the House please state

(a) whether Government have come to any decision about the life of the present Assembly,

(b) whether any consultations have been held between the Governor General since his return from leave in England and the Government of India on this subject, and

(c) if so, the nature of the consultations and the decisions arrived at, if any?

The Honourable Sir Nripendra Sircar: (a) The Honourable Member is referred to my reply to Mr Satyamurti's starred question No 1230 asked on the 14th November

(b) No

(c) Does not arise

Mr. Badri Dutt Pande: Having failed to find a federal astrologer in India the Honourable Member went in search of one in England. Was he able to find one who could predict on this Federation?

(No answer)

Mr. Abdul Qaiyum: With reference to part (b) of the question, I have not followed the answer I want to know whether there was any consultation?

The Honourable Sir Nripendra Sircar: No consultation

Mr. Abdul Qaiyum: Does that mean that the Government of India do not take any interest in the matter?

The Honourable Sir Nripendra Sircar: You may draw such inference as you like I am only giving information in reply to the answer The answer is 'No'

Mr. S. Satyamurti: May I know whether Government will be in a position to say before the end of the Budget session whether they will be able to make an announcement about the future life of this Assembly?

The Honourable Sir Nripendra Sircar: I cannot commit myself on that

Mr. Abdul Qaiyum: May I know when it will be possible to make a statement on this point?

The Honourable Sir Nripendra Sircar: I cannot say

ALLEGED DISCOVERY OF DEPOSITS OF COAL AND PETROLEUM IN ASSAM.

1370. *Mr. Abdul Qaiyum: Will the Honourable Member for Labour please state

(a) whether he has read the report in the *Tribune*, Lahore, dated the 10th October 1938, about the alleged discovery of vast deposits of coal and petroleum in Assam, and

(b) whether the above report is correct, and, if so, the extent and the nature of these new discoveries?

The Honourable Sir Muhammad Zafrullah Khan: (a) Yes

(b) Government have no information regarding any recent discovery of reserves of petroleum in Assam as the Geological Survey of India has not been concerned with exploration for oil in Assam in recent years The figures relating to reserves of coal given in the report have been greatly exaggerated An estimate of the reserves of coal in Assam will be found in a note on 'Coal in Assam" prepared by the Geological Survey, a copy of which is being placed in the Library of the House

Mr. Abdul Qaiyum: With reference to part (b), may I know whether it is a fact that large reserves of coal remain untapped in Assam?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member had better read the note to which I have referred

RATE WAR BETWEEN SHIPPING COMPANIES.

1371. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Commerce Member please state

(a) whether instances of rate-war between shipping companies have been brought to Government's notice in the last three years, and if so, in how many cases;

(b) in how many cases, they have interfered and effected a settlement between the parties concerned, and

(c) whether Government have legal powers to interfere in the matter; if not, whether they have considered the advisability of introducing legislation to give them legal powers?

The Honourable Sir Muhammad Zafrullah Khan: (a) Four cases of alleged rate-war between shipping companies came to the notice of the Government of India during the years 1935—38.

(b) Government used their good offices in three cases in one case they were able to effect a settlement; two cases are still under negotiation.

(c) The answer to the first part is in the negative As regards the second part, Government's attitude on the question of legislation was explained during the debate on Sir Abdul Halim Ghuznavi's Bill to control the Indian coastal traffic and more recently in answer to the supplementary questions arising from Mr Abdul Qaiyum's question No 1213

Mr. T. S. Avinashilingam Chettiar: May I know, in the cases in which the Government used their good offices, whether it has come to the knowledge of Government that the agreement arrived at has not been observed by both the parties?

The Honourable Sir Muhammad Zafrullah Khan: I have already answered questions on that on the previous occasion

Mr. T. S. Avinashilingam Chettiar: I submit that to refer us to answers to previous questions is not proper Either he must refer to the answer or give an answer now

The Honourable Sir Muhammad Zafrullah Khan: A number of questions were put as to whether this agreement was being observed or not. I said that allegations had been made on both sides which were under investigation

Mr. T. S. Avinashilingam Chettiar: I am asking about the three cases in which Government mediated and helped to arrive at a decision In these cases, may I know if it had come to the knowledge of the Government that the agreement has not been observed?

The Honourable Sir Muhammad Zafrullah Khan: With regard to one case in which a settlement had been arrived at, the settlement is being observed This was between the conference lines and the small companies, with regard to a particular part of the coastal traffic

Mr. T. S. Avinashilingam Chettiar: In view of the fact that they have received allegations that the agreements are not being observed, may I know whether Government propose to arm themselves with legal powers to enforce their decision

The Honourable Sir Muhammad Zafrullah Khan: I said on the last occasion that Government will consider the matter if they are convinced that the agreement is not being observed

Mr. S. Satyamurti: In view of the fact that in every case Government have found great difficulty in using their good offices and the results have not been entirely satisfactory from the point of view of Indian interests, may I know what are the insuperable difficulties in the way of

Government arming themselves with suitable legislation, especially in view of the fact that private attempts at negotiation have not been conspicuously successful?

The Honourable Sir Muhammad Zafrullah Khan: That is more an argument than a question

Mr. S. Satyamurti: What are the difficulties in the way of Government trying to introduce legislation on their own initiative, and arming themselves with legal powers?

The Honourable Sir Muhammad Zafrullah Khan: This is an attempt to argue the question out Government have not felt the necessity for introducing legislation

Mr. Abdul Qaiyum: Which are the two cases where they have not arrived at an agreement?

The Honourable Sir Muhammad Zafrullah Khan: Negotiations are still going on in respect of those two cases I think it is the rate war on the Konkan coast between the Bombay Steam Navigation Company on the one side and the Indian Co-operative Navigation and Trading Co and the Ratnagar Steam Navigation Company on the other The second is the Haj pilgrim rate war.

Mr. Abdul Qaiyum: In both these cases Indian companies are pitted against British companies Will Government come to some conclusion immediately and introduce effective legislation and put a stop to this practice?

The Honourable Sir Muhammad Zafrullah Khan: That is what I have been trying to answer

Maulana Shaukat Ali: Has the Honourable Member made inquiries into the allegations which have reached us that the Scindia Company have broken the agreement We have had reports from pilgrims that they sold tickets for Rs 100 and on the paper charged Rs 138 I want to ask if the Honourable Member will kindly inquire and stop this in the interests of the pilgrims It is better that there should be honest competition rather than this kind of underhand dealing?

The Honourable Sir Muhammad Zafrullah Khan: Allegations have been received to that effect, but the trouble is that it is so difficult to prove allegations of that kind

Maulana Shaukat Ali: Government never interfered before in these competitions. Why should they introduce a discrimination now? Would it not be better that there should be a general competition so that the rates may go down, in the interests of the pilgrims? I am talking only of the interests of the pilgrims· it does not matter what happens to the Mogul line or the Scindia line I am talking only of the interests of the pilgrims.

(No answer.)

NEGOTIATIONS WITH THE PROVINCES WITH REGARD TO FEDERATION.

1372. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Leader of the House please state

(a) whether Government have made any progress in the matter of negotiations with the Provinces with regard to Federation;

(b) if so, whether Government can make a statement in the matter; and

(c) whether any suggestions have been made to amend the Government of India Act by any of the Provincial Governments concerned and if so with what effect?

The Honourable Sir Nripendra Sircar: (a) I would refer the Honourable Member to my reply of 1st February last to part (c) of his question No 40 to which I have nothing to add

(b) Does not arise

(c) I regret I am not in a position to furnish any information on the subject.

Mr. T. S. Avinashilingam Chettiar: May I know whether any progress is being made?

The Honourable Sir Nripendra Sircar: That is the exact question that was answered by me—whether any progress has been made—and I have given my answer I cannot disclose that, and I have stated my reason

Mr. Abdul Qaiyum: Sir, in view of your ruling of yesterday on the point whether any suggestions have been made by the Provincial Governments this question must be answered by the Honourable Member, only the details of the information need not be given Is the Honourable Member in order in not giving the desired information to the House?

The Honourable Sir Nripendra Sircar: Sir, if you want to give a considered ruling, I would like the matter to be discussed, I do not mind it being discussed to-morrow I said that it is opposed to the public interest to give certain information and if it is contended that there is a further power in the House or in the Chair to compel me to reverse that decision, this matter I may say is covered by the notes in May's Parliamentary Practice If you want that to be discussed, I am quite ready to discuss it The situation as I understand, is this It is for the Member in charge to take up that objection on the ground of public interest If that is done, there is no further power to compel him to answer the question, but there may be other ways in which information can be sought.

Mr. Abdul Qaiyum. Sir, yesterday a similar situation arose and you were pleased to rule that the Government Member must state the fact without disclosing details I want to know whether suggestions for amending the Act have been made by the Provincial Governments or not As to the details of those suggestions, that of course we are not asking

The Honourable Sir Nripendra Sircar: The question has been put to me twice and I have given the same answer, and no questions were raised

Mr. Deputy President (Mr Akhil Chandra Datta): What is the exact point? If the Honourable Member in charge says he is not bound to disclose the communications and insists upon that, then the matter may be fully argued to-morrow, but if the question is as to whether as a matter of fact any representations were made, on that point, as at present advised, I think the question should be answered,—i e , only to that extent whether as a matter of fact any suggestions were made

The Honourable Sir Nripendra Sircar: As to that, there can be only one answer · the correspondence has been going on for years because, apart from anything else, certain inaccurate and inapt expressions may have been used in the Act

Mr. S. Satyamurti: I want to know specifically with regard to the answer to clause (a) of the question whether at any time there were any negotiations between the Government of India on the one hand and the Provinces on the other with regard to Federation, or whether there are any negotiations just now going on

The Honourable Sir Nripendra Sircar: On the point whether there has been any progress or not, it is a matter of opinion Though not bound to answer, I may say, in my opinion, progress has been made.

Mr. S. Satyamurti: I asked whether at any time there have been any negotiations between the Provinces on the one hand and the Government of India on the other with regard to Federation, and secondly whether any such negotiations are now going on

The Honourable Sir Nripendra Sircar: That question I declined to answer on the ground of public interest, and I decline to answer that question now on the ground which I have already taken, *viz* , public

Mr. S. Satyamurti: I am asking now whether, with regard to clause (c) of the question, there have been any suggestions made to the Government of India by the Provincial Governments for amendment of the Government of India Act.

The Honourable Sir Nripendra Sircar: I require notice of that question Then I shall consider whether it can be answered

Mr. T. S. Avinashilingam Chettiar: What does he mean by that?—that he will answer, if notice is given?

Mr. S. Satyamurti: The Honourable Member cannot claim notice of a specific question given notice of ten days before, the notice is only asked for when supplementaries are asked that are not covered by the original question

Mr. Deputy President (Mr. Akhil Chandra Datta)· I think this point is really identical with part (c) of the question

The Honourable Sir Nripendra Sircar: I have answered part (c) The answer to part (c) was that "I regret I am not in a position to furnish any information on the subject".

Mr. S. Satyamurti: Is it on the ground of public interest?

The Honourable Sir Nripendra Sircar: That is implied

Mr. K. Ahmed: Are the Government of India aware that the Deputy Leader of the Congress Party, Mr Satyamurti, is trying to ask the Government of India to adopt certain suggestions and saying that he will not attack election and also for the satisfaction of himself without the agreement of the other leaders of the Congress party of whom he has incurred displeasure in the political sphere of the country .

Mr. Deputy President (Mr Akhil Chandra Datta) The Chair disallows the question

PROPOSAL TO SETTLE THE JEWS IN KENYA

1373. ***Mr. S. Satyamurti:** Will the Secretary for Education, Health and Lands please state

(a) whether Government are aware of any proposal to settle the Jews in Kenya;

(b) whether Government have consulted, or propose to consult Indian opinion in Kenya in respect of this matter,

(c) whether the Jews are going to be settled in the highlands of Kenya, to which access has been denied to Indians, and

(d) if so, why?

Sir Girja Shankar Bajpai: (a), (b), (c) and (d) The attention of the Honourable Member is invited to the reply given by me on the 14th of this month to Mr T S Avinashilingam Chettiar's starred question No 1223

Mr. S. Satyamurti: With regard to the answer to clause (c) of my question, may I know whether one of the proposals, or a proposal, is to settle these Jews in the highlands of Kenya to which access has been denied to Indians?

Sir Girja Shankar Bajpai: The point is that the proposal relates to giving facilities to these Jewish settlers in the highlands which, as my Honourable friend is aware, under the existing administrative practice are not open to Indians.

Mr. S. Satyamurti: May I know whether the Government of India are vigorously protesting against this racial discrimination trying to oblige people who are outside the so-called British Empire while depriving British citizens, as they are called, from occupying portions of these highlands?

Sir Girja Shankar Bajpai: I informed the House on the last occasion that that is the point on which representations have been made by the Government of India.

Mr. S. Satyamurti: Have the Government of India heard from His Majesty's Government in answer to this?

Sir Girja Sankar Bajpai: No, Sir, because representations were made only early this month

Mr. S. Satyamurti: Will the Government of India press upon the British Government very earnestly that there should be no such insult added to the injury already committed upon the Indians in Kenya by permitting these people, who are foreigners, to settle at the expense of those who are citizens, or who are called "citizens" of the British Empire?

Sir Girja Shankar Bajpai: I can assure my Honourable friend that all relevant considerations have been taken into account in framing the representations of the Government of India.

Mr. Abdul Qaiyum: Will the Government of India resign if the answer is not satisfactory? I am putting this question quite seriously

Sir Girja Shankar Bajpai: The Government of India will consider my Honourable friend's suggestion not so seriously perhaps

Mr. T. S. Avinashilingam Chettiar: What is the answer to clause (b) of the question?

Sir Girja Shankar Bajpai: The Indian community in Kenya submitted a memorandum to the Secretary of State for the Colonies on this point and also forwarded a copy of that memorandum to the Government of India; so the Government of India are in possession of the views of the Indian community in Kenya

Mr. S. Satyamurti: Have the Government of India informed His Majesty's Government that the Indian Legislature—I am talking of both the Houses—is behind them in this matter?

Sir Girja Shankar Bajpai: That is the view which has been expressed by my Honourable friend now, but I am sure that the Government of India have taken all considerations into account.

Mr. S. Satyamurti: Have the Government of India told His Majesty's Government that, according to their judgment, opinion in both the Houses is entirely behind the Government of India in respect of this matter?

Sir Girja Shankar Bajpai: I can assure my Honourable friend that in presenting their case to His Majesty's Government the Government of India have laid the fullest possible emphasis upon opinion in this country in all sections of the country inside and outside this House.

WORKING OF CLOVE AGREEMENT IN ZANZIBAR.

1374. *Mr. S. Satyamurti: Will the Secretary for Education, Health and Lands please state

(a) the manner in which the clove agreement is now working in Zanzibar,

(b) whether Indians are satisfied with the working of the agreement, and

(c) whether Government are carefully watching the working of the agreement, to see that all legitimate Indian interests are adequately protected?

Sir Girja Shankar Bajpai: (a) and (b) So far as Government are aware the agreement is working well and Indians in Zanzibar are satisfied.

(c) Yes

Mr. S. Satyamurti: May I know what is the agency by which Government keep themselves in touch with the working of the agreement?

Sir Girja Shankar Bajpai: There is the Indian National Association in Zanzibar Apart from that, under the amended decree the Government of India's Trade Commissioner in East Africa is also an observer on the Board which regulates the working of the agreement.

Mr. S. Satyamurti: Does this Agent send to the Government of India from time to time reports on the working of this agreement?

Sir Girja Shankar Bajpai: That is what he would do I have had no representation from him so far

Mr. S. Satyamurti: Will my Honourable friend ask him to send a report to Government now and later on from time to time on the working of this agreement?

Sir Girja Shankar Bajpai: The Trade Commissioner has instructions to report to the Government of India on any point relating to the working of the agreement which, in his opinion, ought to be brought to the notice of the Government of India

Mr. Abdul Qaiyum: Will the reports of the Trade Commissioner in East Africa about the manner in which this agreement is being worked be published or at least copies of them be supplied to the Members who are interested in the subject?

Sir Girja Shankar Bajpai: That is a point which can be considered

[At this stage, Mr K Ahmed was noticed to be reading a newspaper]

Mr. Deputy President (Mr Akhil Chandra Datta): The Honourable Member should not read a newspaper in the Chamber

Mr. K. Ahmed: Sir, I am getting ready for my speech.

Mr. Deputy President (Mr. Akhil Chandra Datta): Speech or no speech, the Honourable Member should not read the newspaper There is a limit to all this We are here to do serious business.

MIXED MARRIAGES AND LAND OWNERSHIP IN SOUTH AFRICA.

1375. *Mr. S. Satyamurti: Will the Secretary for Education, Health and Lands please state·

(a) the latest stage with regard to the two commissions regarding mixed marriages and land ownership in South Africa,

(b) whether the Government of India are taking steps, through their Agent, to see that the Indian point of view is pressed strongly before these commissions, and

(c) when those commissions are expected to report?

Sir Girja Shankar Bajpai: (a) and (c) The Commissions have not yet completed their work It is not possible to say when they will report

(b) The Agent General in the Union has not only helped the local Indian community in placing their case before the two Commissions but has also submitted memoranda to both Commissions

Mr. S. Satyamurti: May I know whether the Agent General is acting in full concert with the Indian community in South Africa in presenting the evidence before these two Commissions?

Sir Girja Shankar Bajpai: My Honourable friend will permit me to read a part of my answer to clause (b) The Agent General has not only helped the local Indian community in placing their case but he has also submitted memoranda to both Commissions

Mr. S. Satyamurti: Do the Government of India expect to get the reports of these Commissions in time for them to make such representations as they may feel called upon to make, both to the South African Government and to His Majesty's Government?

Sir Girja Shankar Bajpai: I have no doubt that the Government of India will have plenty of opportunity to study the reports and make their comments on them before any decision is taken on them

COMING INTO FORCE OF THE INSURANCE ACT

1376. *Mr. S. Satyamurti: Will the Honourable the Commerce Member please state

(a) whether the rules to be framed under the Insurance Act are now ready; if so, when they will be placed on the table of the House;

(b) whether Government intend to introduce an amending Bill of the Insurance Act; if so, when; and

(c) when the Insurance Act will be brought into force?

The Honourable Sir Muhammad Zafrullah Khan: (a) The Rules under the Insurance Act, 1938, are not yet ready. It is expected that they will be placed before the House by the end of February, 1939. Meanwhile draft Rules were published in the Gazette of India dated the 19th November, 1938, and opinions and criticisms have been invited

(b) Yes. Government hope to introduce an amending Bill in the forthcoming Budget Session

(c) The attention of the Honourable Member is drawn to the Press Communiqué issued by the Department of Commerce on the 3rd October, 1938.

Mr. S. Satyamurti: With reference to the answer to clause (b) of the question, may I take it that the scope of the amending Bill to the Insurance Act will be confined to drafting points or to obvious defects disclosed by a subsequent study of the Act?

The Honourable Sir Muhammad Zafrullah Khan: They are all minor amendments.

Mr. K. Santhanam: If the Act is going to be enforced soon, will the opinions and criticisms be received by the 1st of January, 1939?

The Honourable Sir Muhammad Zafrullah Khan: That is dealt with in the communiqué to which I have referred

BOYCOTT OF INDIAN SHOPS IN MANDALAY.

1377. ***Mr. T. S. Avinashilingam Chettiar:** Will the Secretary for Education, Health and Lands please state

(a) whether the news in the *Hindu*, dated the 30th September, 1938, (page 9) that Indian shops are boycotted in Mandalay, is true,

(b) whether Government have enquired into the matter, and

(c) what is the present state of affairs, and what steps Government have taken in the matter?

Sir Girja Shankar Bajpai: (a), (b) and (c). Such an incident was reported to have occurred in the beginning of October So far as the Government of India are aware, there has been no recurrence since

Mr. T. S. Avinashilingam Chettiar: What was the reason for this boycott? Was there any private reason or was it due merely to the hatred towards Indians?

Sir Girja Shankar Bajpai: I could not very well say what exactly the reason was. I gather that a certain number of *phongyis* started the boycott.

Mr. T. S. Avinashilingam Chettiar: Have Government read the report of their Agent in Burma and whether he had inquired into this matter?

Sir Girja Shankar Bajpai: If I had not read his report, I would not have been able to answer this question this morning

Mr Abdul Qaiyum Who are these *phongyis*?

Sir Girja Shankar Bajpai: They are Buddhist priests.

Mr. T. S. Avinashilingam Chettiar: I never meant to say that the Honourable Member has not read the report. What I meant to say was whether the reports of their Agent in Burma can be read here so that we may have the first-hand information?

Sir Girja Shankar Bajpai: Unfortunately I have not got a copy of the report here But my Honourable friend may take it for certain that whatever I have said in the House is based upon that report

Mr. Badri Dutt Pande: Are there any Indian shops which are still boycotted?

Sir Girja Shankar Bajpai: That is the point which I have already answered The incident took place early in October and, according to our Agent, there has been no recurrence of these incidents

Mr. K. Santhanam: Will the Honourable Member kindly place a copy of the report on the table of the House?

Sir Girja Shankar Bajpai: I cannot say, because communications between the Agent and the Government of India are normally confidential

Mr. S. Satyamurti: Where is the end to this? Every day I hear this We began with the Secretary of State, then the Provincial Governments and then the Agents I can understand with regard to certain types of communications the Government of India saying that they relate to really confidential matters But when we want to know about the state of Indian life and property in Mandalay and when we ask for some information about it, why should my Honourable friend say that it is confidential? Which is the law which says that all communications between the Agents and the Government are confidential? They seem to claim confidentiality for all their doings.

Sir Girja Shankar Bajpai: I am afraid my Honourable friend has misunderstood the purport of my answer I did not say that all communications, even those intended for publication, are confidential. What I wanted to convey was that normally the correspondence between the Government of India and the Agent is in the form of demi-official letters which are confidential.

Mr. S. Satyamurti: Confidential as against strangers! But we are Members of this House and we claim to have a right to know the facts which are available to Government.

Sir Girja Shankar Bajpai: I have communicated to the House the facts which I have heard from the Agent.

Mr. K. Santhanam: Will the Honourable Member get a report which can be published?

Sir Girja Shankar Bajpai: My Honourable friend may rest assured that the Agent in Burma will follow the practice of Agents in other countries, namely, prepare a six monthly report of his activities

Mr. C. N. Muthuranga Mudaliar: May I ask if this report will be made available to the Members of the Standing Emigration Committee?

Sir Girja Shankar Bajpai: I have already answered this on the question of publicity put by Mr Santhanam It will be available to the members of the Committee or to anybody else

Mr. Abdul Qaiyum: In view of the importance of the problem in Burma, will the Government consider the desirability of curtailing the period of six months, which seems to be too long a period?

Sir Girja Shankar Bajpai: It is a normal rule that the Agent presents his report every six months If there is an emergent situation which calls for a special report, that is a point which can be examined on its merits

Mr. K. Santhanam: Will not the Honourable Member call a meeting of the Standing Emigration Committee to consider this point?

Sir Girja Shankar Bajpai: A sporadic incident of which there has been no recurrence since the beginning of October is not a matter of sufficient importance to justify the calling of a meeting of the Standing Emigration Committee

Dr. Sir Ziauddin Ahmad: In view of the great excitement among the public will Government consider the advisability of publishing this report at an early date?

Sir Girja Shankar Bajpai: Sir, I think there is a misunderstanding I have already told the House that the Agent in Burma like the Agents in other parts of the British Empire will prepare a report for publication every six months He has not been there for more than two months and so there is no report at present in the possession of the Government of India that can be published

Dr. Sir Ziauddin Ahmad: In view of the special circumstances of the case, will Government instruct the Agent to issue at least a communiqué every fortnight till the whole unrest is over?

Sir Girja Shankar Bajpai: I have tried to give all the information to the House in answer to questions and at the present moment as I have already informed the House, the position is one of tranquillity and so there is nothing for the Agent to report

IMPOSITION OF AN IMPORT DUTY ON COCOANUTS.

1378. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Commerce Member please state

(a) whether Government had considered the representations made to them by the cocoanut growers on the advisability of imposing an import duty on cocoanuts,

(b) if so, what is the result of the consideration, and

(c) whether they have taken any action in this matter?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b) and (c) At the request of the Government of India, the Provincial Governments concerned are collecting certain essential statistical information relating to the cocoanut industry No decision can be reached on the question of assistance to the industry until this information becomes available

Mr. T. S. Avinashilingam Chettiar: May I know whether Government expect to introduce any amending Bill in the coming session on this matter?

The Honourable Sir Muhammad Zafrullah Khan: No decision can be taken till we have this information.

Mr. Manu Subedar: May I know whether any decision can be taken in view of the Ottawa arrangements applying at present to Ceylon and in view of the fact that Ceylon would be particularly affected in this?

The Honourable Sir Muhammad Zafrullah Khan: That is more or less a hypothetical question

Mr. Manu Subedar: May I enquire whether this representation is not mainly against the competition of cheap stuff coming from Ceylon into this country and since these people are asking for protective tariff against the importation of cocoanut products whether the Government of India are free under the Ottawa arrangements to impose such a tariff?

The Honourable Sir Muhammad Zafrullah Khan: Yes

Prof. N. G. Ranga: How long is it since Government began to get at the facts in regard to this country?

The Honourable Sir Muhammad Zafrullah Khan: I cannot give the exact date

Prof. N. G. Ranga: Is it not a fact that this thing has been hanging fire for over three years?

The Honourable Sir Muhammad Zafrullah Khan: The question has been agitated for some time Since the last deputation came up the question has been examined in the Departments concerned in the Government of India and as a result of that examination this information has been asked for.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government can tell us what are the particulars on which they want information?

The Honourable Sir Muhammad Zafrullah Khan: I would require notice.

Prof. N. G. Ranga: Is it not a fact that this agitation was stopped primarily in view of the fact that Government gave answers to questions in this House that they were considering the special report submitted to them by, I think, Mr Patel or Mr Parameswaran Pillai or somebody who was specially deputed and that thereafter they would come to their own conclusions as to what action they should take?

The Honourable Sir Muhammad Zafrullah Khan: Which one does the Honourable Member refer to? Dr Patel's report or Mr Pillai's representations?

Prof. N. G. Ranga: Both of them.

The Honourable Sir Muhammad Zafrullah Khan: Mr Parameswaran Pillai had no business to make a report

Prof. N. G. Ranga: I distinctly remember that Government said that they were considering a particular report and after finishing their consideration, they would be able to come to some definite conclusion as to what kind of protection should be given to cocoanut and copra industry of this country In view of that answer the agitation was stopped What is it that Government have done thereafter?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member is very far out in his facts Dr Patel's report has nothing to do with the present situation.

EXCISE DUTY IMPOSED ON IMPORTS OF YARN FROM BRITISH INDIA INTO MYSORE STATE.

1379. ***Mr. Sami Venkatachelam Chetty:** (a) Will the Honourable the Commerce Member please state whether Government are aware that the Mysore Government have imposed an excise duty on imports of yarn from British India into the State territory?

(b) Are Government aware that no countervailing duty on Mysore manufactured yarn is levied in British India?

(c) Do Government propose to consider the advisability of levying a countervailing duty on the imports of Mysore State yarn into British India? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan: (a) No such duty has been imposed by the Government of Mysore.

(b) and (c). Do not arise.

AMENDMENT OF THE INDIAN MEDICAL COUNCIL ACT.

1380. *Mr. Abdul Qaiyum: Will the Secretary for Education, Health and Lands please state

(a) whether the Indian Medical Council have requested Government to amend the Indian Medical Council Act to bring it in conformity with section 120 of the Government of India Act,

(b) whether it is desired to vest additional reciprocal powers in the Indian Medical Council in regard to the recognition of British medical qualifications, and

(c) whether Government have taken, or intend to take, any action in the matter, if not, the reasons therefor?

Sir Girja Shankar Bajpai: (a) No such recommendation has reached Government so far

(b) and (c) Do not arise

Mr. Abdul Qaiyum: May I know whether it is a fact that the Indian Medical Council is not vested with the same powers as the British Medical Council in the matter of recognition of foreign degrees?

Sir Girja Shankar Bajpai: My Honourable friend can verify what the powers of the Indian Medical Council are by reference to the Indian Medical Council Act

Mr. Abdul Qaiyum: Can they refuse to recognise British degrees?

Sir Girja Shankar Bajpai: It is not possible for me to repeat here the provisions of the Indian Medical Council Act which runs into 24 sections

FAMINE PREVAILING IN THE RURAL AREAS OF THE DELHI PROVINCE

1381 *Mr. Badri Dutt Pande: (a) Will the Secretary for Education, Health and Lands be pleased to state the nature and extent of scarcity and famine prevailing in the rural areas of the province of Delhi?

(b) Have any relief works been opened? If so, where?

(c) Have any remissions been made in the land revenue? If so, in which area?

(d) Have any *taccavi* fodder, or seeds, been distributed among the suffering people?

(e) Have any arrangements been made for the supply of water in villages where there is scarcity of water?

Sir Girja Shankar Bajpai: (a) The failure of the *kharif* harvest on unirrigated land has caused a severe scarcity of fodder in the Delhi Province. The scarcity is general, but is most severe in the Dabar and Kohi assessment circles (round Najafgarh and Mahrauli respectively)

(b) No But the road fund programme has been accelerated and additional work is being put in hand between Najafgarh and Kapas Hera, and also between Puth Khurd and Ochandi.

(c) The question of suspension of land revenue is under consideration.

(d) For petty repairs to wells and for seed Rs. 45,000 have been distributed. For wells in villages recently consolidated Rs. 10,000 have been or are being distributed Rs. 35,000 are being used for the financing of fodder distribution against *taccavi* loans.

(e) Yes, where canal water can be made available

Prof. N. G. Ranga: If no relief works have been started, is it because there is no unemployment prevailing in that area?

Sir Girja Shankar Bajpai: That is precisely the position.

Prof. N. G. Ranga: Have Government started any test works and as a result thereof found there were not sufficient numbers of workmen forthcoming?

Sir Girja Shankar Bajpai: My Honourable friend is perfectly well aware of the procedure prescribed by the Famine Code Test works are generally prescribed when ordinary works cease to provide employment for the people concerned As it now happens that the ordinary public works programme of Government absorbs all people who offer themselves for work, no test works are provided.

Mr. Badri Dutt Pande: In view of the fact that the scarcity is very great, may I enquire if any poor houses have been opened in any part of the country?

Sir Girja Shankar Bajpai: The Chief Commissioner's report is that hitherto the need for gratuitous relief has not arisen

Prof. N. G. Ranga: Are Government co-operating with the private famine relief committee that was recently started in Delhi?

Sir Girja Shankar Bajpai: That is a point which is within the knowledge of the Chief Commissioner and not within my knowledge

Prof. N. G. Ranga: Is it a fact that full land revenue collections are being made from this area from peasants?

Sir Girja Shankar Bajpai: I should hardly think so because the Chief Commissioner in his letter definitely states that he proposes to make suspensions and remissions of land revenue

Mr. K. Ahmed: Are Government aware that the wages of labourers in the City of Delhi are three to five times higher than in any other Province?

Sir Girja Shankar Bajpai: No, Sir I have not made a study of the comparative wage rates of Delhi and other cities

Mr. K. Ahmed: The wages of a mason here in Delhi, for instance, are from Rs. 1-3-0 to Rs. 2-8-0? Is it not a fact?

Sir Girja Shankar Bajpai: Not being a contractor who employs masons, I cannot say

Mr. K. Ahmed: The Public Works Department being under the Government of India, and my Honourable friend has got something to do with it . .

Mr. Deputy President (Mr. Akhil Chandra Datta): That question does not arise. Next question.

1382. ***Mr. Badri Dutt Pande:** Question No 1382 having been answered already, I will put the next question, No. 1383.

FAMINE IN AJMER.

1383. ***Mr. Badri Dutt Pande:** Will the Secretary for Education, Health and Lands be pleased to state if there is famine in Ajmer and, if so, what steps Government have taken so far to cope with the situation?

Sir Girja Shankar Bajpai: According to reports received from the Chief Commissioner, Ajmer Tahsil and the northern half of Beawar Sub-division have been badly affected by the scanty and uneven rainfall during the last monsoon The usual measures, namely, the provision of fodder for cattle, the distribution *taccavi* and remissions of land revenue will be taken and it may become necessary to open test works later on.

Prof. N. G. Ranga: Is it proposed, or has it already been done, to suspend the collection of land revenue there?

Sir Girja Shankar Bajpai: The Chief Commissioner has, I am sure, taken all the action that he considers to be opportune

Prof. N. G. Ranga: What is the information of Government? Have they satisfied themselves whether land revenue collections are suspended or not?

Sir Girja Shankar Bajpai: My Honourable friend comes from Madras He probably knows the procedure there better than he knows the procedure in Northern India With us, the *Jenswar*, that is to say, the return of produce is not received by the Administration much before the beginning of November Therefore, it is not possible for me to say what the measure of the remissions or suspensions that may be made by the Chief Commissioner will be

Prof. N. G. Ranga: Is the supply of fodder made free or at concession rates?

Sir Girja Shankar Bajpai: I take it that that depends upon the necessity of the individual concerned. In some cases it may be distributed free, in other cases it may be given at concession rates

PAMPHLET REGARDING PROVISION OF FACILITIES FOR HIGHER EDUCATION TO INDIANS IN MALAYA.

1384. ***Mr. Badri Dutt Pande:** Will the Secretary for Education, Health and Lands be pleased to state if he has seen a pamphlet regarding provision of facilities for higher education to Indian youths in Malay issued by 18 Indian Associations in the Federated Malay States? If so, have Government given any thought to it?

Sir Girja Shankar Bajpai: Government have read the memorandum submitted by the Central Indian Association of Malaya to the Commission on Higher Education in Malaya, to which the Honourable Member presumably refers. The Agent of the Government of India is in touch both with the local Indian community and with the Commission in regard to this matter.

Prof. N. G. Ranga: Will Government consider the advisability of advising their Agent to press for the introduction of adult education facilities for our labourers there on the estate?

Sir Girja Shankar Bajpai: As far as I can make out, this particular Commission is dealing with secondary and higher education, not with adult education for labourers

Prof. N. G. Ranga: In view of the fact that the provision of adult education facilities is much less costly than High School education facilities, will Government consider the advisability of pressing for this also?

Sir Girja Shankar Bajpai: I submit that I can only answer questions which arise out of this question If my Honourable friend is interested in adult education in Malaya, perhaps he will be so good as to give me notice of a question and then I shall deal with it

Dr. Sir Ziauddin Ahmad: With reference to higher education, may I ask whether there exists any College or University in the whole of Malaya?

Sir Girja Shankar Bajpai: There is no University My information is that there are two Colleges one called the Raffles College in Singapore, and another a professional College dealing with instruction in medicine

Mr. Badri Dutt Pande: May I ask if Indians are admitted to those Colleges?

Sir Girja Shankar Bajpai: My Honourable friend has a question about that later on I will answer that in due course

Dr. Sir Ziauddin Ahmad: The standard of the first College is not higher than that of the school here

Sir Girja Shankar Bajpai: That is probably the position I think it really corresponds to the Intermediate

Dr. Sir Ziauddin Ahmad: Less than that

DENIAL OF FACILITIES FOR HIGHER EDUCATION TO INDIANS IN THE FEDERATED MALAYA STATES.

1385. ***Mr. Badri Dutt Pande:** Will the Secretary for Education, Health and Lands be pleased to state why Indians, who have contributed so largely to the progress of the Federated Malaya States, are denied any facilities in the matter of higher education, and Chinese and Japanese are given preference over them in these States?

Sir Girja Shankar Bajpai: Government are not aware that there is racial discrimination against Indians in Malaya in regard to facilities for higher education

Mr. S. Satyamurti: In view of the allegations made in this memorandum, will Government cause inquiries to be instituted through their Agent or by means of other agencies as to whether there is in fact or in law any discrimination against Indians in respect of facilities for higher education?

Sir Girja Shankar Bajpai: What the memorandum says is not that there is discrimination against Indians What it says is that the provision for higher education is inadequate to the requirements of different sections of the community. That is the point which is being examined by the Commission. On the subject of discrimination I may inform my Honourable friend that Mr. Sastri, in his Report, stated categorically that he had satisfied himself that there was no discrimination in the matter of admissions to the institutions stated

Dr. Sir Ziauddin Ahmad: Are not Government aware that a large number of Malaya students come to Indian Universities for admission?

Sir Girja Shankar Bajpai: That is not because, as my Honourable friend is as well aware as I, there are not adequate facilities in Malaya for higher instruction

Mr. S. Satyamurti: Have Government found out that such facilities for higher education, as exist for Chinese and Japanese students, are not available to the same degree or extent to Indian students?

Sir Girja Shankar Bajpai: That is the point which I made earlier—that Mr Sastri went into the question of discrimination against Indians and he recorded a definite and clear finding that in the matter of admission no discrimination is made against Indians as compared with any other section of the community

INADEQUATE REPRESENTATION OF MUSLIMS IN THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS AND CERTAIN OFFICES ATTACHED TO IT

†1386. ***Syed Ghulam Bhik Nairang:** (a) Will the Secretary for Education, Health and Lands please state whether it is not a fact that in the Department of Education, Health and Lands the number of persons whose salary is Rs 850, or more, is five, of whom none is a Muslim?

(b) Is it not a fact that in the Imperial Agricultural Research Institute, out of 17 officers, 15 are Hindus and no Muslim, and in the Agricultural Marketing Department, there are eight officers, seven of whom are Hindus and no Muslim?

Sir Girja Shankar Bajpai: (a) No There are ten such officers at the moment of whom six are Europeans, three are Hindus and one an Indian Christian The substantive incumbent of the post of Joint Secretary is a Muslim

(b) No

INADEQUATE REPRESENTATION OF MUSLIMS IN THE OFFICES SUBORDINATE TO THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

†1387. ***Syed Ghulam Bhik Nairang:** Will the Secretary for Education, Health and Lands please state whether it is not a fact that in all the Departments subordinate to the Department of Education, Health and Lands, there are 71 officers, of whom only one is a Muslim?

Sir Girja Shankar Bajpai: No A statement showing the distribution of posts among Muslim, Hindu and other officers in the Departments

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

subordinate to the Department of Education, Health and Lands is laid on the table.

Statement showing the distribution of posts among Muslim, Hindu and other officers in the Departments subordinate to the Department of Education, Health and Lands

	Total number	Number of Muslim officers.	Number of Hindu officers.	Number of European and other officers
(a) Posts to which the orders relating to communal representation in the services apply	117	22	52	43
(b) Posts excluded from the scope of the orders relating to communal representation in the services	147	11	63	73

INADEQUATE REPRESENTATION OF MUSLIMS IN THE OFFICES SUBORDINATE TO THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

†1388. *Syed Ghulam Bhik Nairang: Will the Secretary for Education, Health and Lands be pleased to state the name of any Muslim in any office subordinate to the Department of Education, Health and Lands appointed since 1933 and retained for two years?

Sir Girja Shankar Bajpai: A statement giving the information in respect of gazetted officers is laid on the table Information about non-gazetted staff is being collected and will be supplied to the House in due course

Statement showing the number of Muslim gazetted officers in the offices subordinate to the Department of Education, Health and Lands appointed since 1933 and retained for two years

Serial No.	Name of offices	Name of officer	Date of appointment	Remarks.
1	Archæological Survey Department	Mr Mohd Abdul Hamid (Curator, Central Asian Antiquities Museum, New Delhi)	4-8-1933	Still in service.
2	Zoological Survey of India	Dr H A Hafiz (Assistant Superintendent)	5 9-1935	Do.
3	Imperial Agricultural Research Institute Class II	Dr Tashkir Ahmad (Assistant Entomologist)	14-10 1935	Do.
4	Ditto	Mr S M Jamaluddin, Cattle Superintendent, Agricultural Sub-Station, Karnal	2-3-1936	Do
5	Survey of India, Class II	Mr. Mohd Allauddin (Extra Assistant Superintendent)	27 11-1933	Do.
6	Ditto	Mr. Kabir Ahmed Sheikh (Extra Assistant Superintendent)	27-11-1933	Do.
7	Imperial Veterinary Research Institute, Class I	Mr. Syed Raizul Hassan (Officer in charge of Biological Products Section, Izatnagar)	5-11-1934	Do.
8	All-India Institute of Hygiene and Public Health, Calcutta."	Dr. Bashir Ahmed, M.Sc., Ph D (London) (Assistant Professor of Bio-Chemistry and Nutrition).	2-1-1934	Do.

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

LIFE OF THE LEGISLATIVE ASSEMBLY AND MODIFICATION OF THE FEDERAL SCHEME.

1389. *Mr. C. N. Muthuranga Mudaliar: Will the Honourable the Leader of the House be pleased to state

(a) when the life of the present Legislative Assembly, whose term has been extended to 1st October, 1939, will come to an end,

(b) when it is proposed to bring the Federal Scheme into operation,

(c) whether there is any proposal to modify the Federal Scheme in any material particulars,

(d) whether it is proposed to convene a round table conference, or adopt any other method, to consult public opinion in this country,

(e) whether Government are aware that the Indian National Congress is stoutly opposing the Federal Scheme as envisaged in the Government of India Act, 1935, and

(f) whether the Government of India have communicated to the Secretary of State the public opinion in this country with regard to the Federal Scheme?

The Honourable Sir Nripendra Sircar: (a) The Honourable Member is referred to my reply to Mr Satyamurti's starred question No 1280 asked on the 14th November

(b) I have no information.

(c) and (d) I am not aware of any such proposals

(e) Government are aware of the attitude of the Congress towards the Federation.

(f) The Secretary of State is also aware of the attitude of different parties in the matter

Before supplementaries are put, will you allow me to give a reference, to which I alluded on a previous occasion, today? I won't argue the matter I am referring to page 240 of May's Parliamentary Practice

"An answer to a question cannot be insisted upon, if the answer be refused by a minister on the ground of the public interest, nor can the question be replaced upon the notice paper The refusal of a minister to answer a question on this ground cannot be raised as a matter of privilege while a motion for the adjournment of the house under standing order * * * to discuss a similar refusal has been ruled out of order"

This is what I referred to on a previous occasion

Mr. S. Satyamurti: I find that May's Parliamentary Practice is constantly quoted, whenever it suits the Treasury Benches I want to make a submission I do not want a final ruling You can take time to give a ruling. May's Parliamentary Practice applies to a House in which the Government can be sent out of office by a vote of no-confidence So far as our rules and standing orders are concerned, they are complete in themselves; and it is only where there is no contradiction and where there is nothing inconsistent with our rules and standing orders that you should rely on May's Parliamentary Practice to the extent

to which the Chair thinks it is binding. But I do submit with some confidence that for the Treasury Benches to quote May's Parliamentary Practice whenever it suits them and try to confine themselves to the rules and standing orders when it suits them to do so is to try to make the best of both the worlds I submit that each question should be judged on its merits, and May's Parliamentary Practice should not be conclusive in respect of a House to which these gentlemen are not in any way responsible at all My Honourable friend did not want any ruling I do not also want any ruling, but I want to know, Sir, with reference to clause (c), whether there have or have not been in Government Departments themselves notes made and suggestions made for amendment of the Government of India Act, 1935, in respect of administrative and other difficulties which have already arisen or are expected to arise in the working of the Act.

The Honourable Sir Nripendra Sircar: The question was whether there is any proposal to modify the Federal Scheme in any material particulars and I said I was not aware of any such proposals

Mr. S. Satyamurti: I want to know whether in the Government Departments themselves notes have not been put up and suggestions have not been made for amending the Government of India Act in respect of administrative difficulties which have arisen or which are expected to arise in the working of the Act

The Honourable Sir Nripendra Sircar: That does not arise, but there is not any subject under the Sun on which there are not to be found notes in the archives of the Government of India

Dr. Sir Ziauddin Ahmad: Has any note been put up as regards the manner of election of the Members of the Federal Legislative Assembly?

The Honourable Sir Nripendra Sircar: I submit, Sir, he cannot ask me that question As regards Mr Satyamurti's point, I do not want to argue the matter at length When the occasion comes I shall do so. My friend brushed aside May's Parliamentary Practice saying that this is not Parliament in the strict sense of the term There is a ruling of the President Mr Satyamurti argued at great length It is on page 887 of the Legislative Assembly Debates of 12th August, 1938, Vol IV, No 4 The President ruled:

"The Chair thinks that question was raised before It is quite open to Honourable Members to put questions as regards the communications that have passed between the Government of India and the Secretary of State, but at the same time, the Chair thinks, the Governor General has authority to disallow any information being given which he considers to be detrimental to public interest, and when Honourable Members, sitting on the Treasury Benches, representing the Government of India, refuse to disclose any communication that has passed, it is to be presumed that they do so on grounds that it will be detrimental to public interest to disclose any such information."

The matter can be reconsidered.

Mr. Manu Subedar: May I inquire whether Government have considered the meaning of the word 'public' as used in 'public interest', and the word 'public' as it is used in 'public opinion'?

Mr. Deputy President (Mr Akhil Chandra Datta): Before the Honourable Member puts that question, the Chair really does not know whether any ruling is invited from the Chair on this matter. The Chair understands that there is no ruling wanted now.

Mr. Manu Subedar: I repeat my question

The Honourable Sir Nripendra Sircar: Will my Honourable friend make it clear how it arises from this question?

Mr. Manu Subedar: May I make it clear? The Honourable Member said he was entitled to refuse to give any information when the refusal is based on the ground that it would be detrimental to the public interest I merely want to know from him if the connotation of the word "public" as used in "public interest" is distinct from the word "public" used in "public opinion"

The Honourable Sir Nripendra Sircar: The Honourable Member can put supplementary questions only to question No 1889 and not supplementary questions on the arguments which have been advanced here As regards the meaning of the word "public", I refer my Honourable friend to the Oxford Dictionary

Mr. Lalchand Navalrai: May I know from the Honourable Member if he can refer me to May's Parliamentary Practice and say if this phrase "public interest" is defined anywhere there?

The Honourable Sir Nripendra Sircar: I would ask my Honourable friend to read the book apparently he has not seen it so far

Mr. Lalchand Navalrai: The Honourable Member is Law Member and knows much more than I do and, therefore, I am asking where that definition is to be found in May's Parliamentary Practice or anywhere?

The Honourable Sir Nripendra Sircar: I do not want to deprive my Honourable friend of the pleasure of going through the book or authorities to find out what the definition is

Mr. S. Satyamurti: With reference to the answer to clause (f), may I know whether the Government of India communicated to the Secretary of State that the Indian National Congress, the All-India Muslim League, and the All-India Liberal Federation and all political parties in this country have expressed their opinion against the Federal Scheme?

The Honourable Sir Nripendra Sircar: My Honourable friend's question is limited to the Indian National Congress .

Mr. S. Satyamurti: No I am taking part (f)

The Honourable Sir Nripendra Sircar: Yes.

Mr. S. Satyamurti: Have Government communicated to the Secretary of State the opinions of these bodies?

The Honourable Sir Nripendra Sircar: I do not understand what is meant by the question whether the Government of India have communicated these opinions: but all these opinions which have been expressed have gone to the Secretary of State in the ordinary course.

Mr. S. Satyamurti: What is the ordinary course?

The Honourable Sir Nripendra Sircar: The ordinary course is for somebody to send all relevant papers from here to the Secretary of State.

Mr. S. Satyamurti: The Government of India send them?

The Honourable Sir Nripendra Sircar: That I cannot say, but he gets them without the help of the Government of India

Mr. S. Satyamurti: I should like to have a serious answer to a serious question; my Honourable friend may try to answer it by raising a laugh, but it is a matter of some importance to us, though not perhaps to him. I am asking whether the Government of India as a Government have communicated to the Secretary of State the public opinion of all political bodies in this country that they are against the Federal Scheme

The Honourable Sir Nripendra Sircar: That is quite a different question. He now wants to know what is the communication which has passed between the Government of India and the Secretary of State on this matter . . .

Mr. S. Satyamurti: No, I am not asking that I am simply asking, as a matter of fact, whether the Government of India have communicated the opinions of the public bodies I have named in this country to the Secretary of State that they are against the Federal Scheme as envisaged in the Government of India Act, 1935?

The Honourable Sir Nripendra Sircar: My Honourable friend can go round and round As I said, the papers are before the Secretary of State What the Government of India have said or if they have said anything at all I do not propose to disclose, nor as to who sent them

Mr. S. Satyamurti: I do not want that at all May I take it that the Government of India have formally communicated these opinions without any comments? Or if they have made any, I do not want to know what they are

The Honourable Sir Nripendra Sircar: I am not prepared to say whether it was formal or informal It has gone through the post (Laughter)

Mr. S. Satyamurti: Through what? I could not hear him.

The Honourable Sir Nripendra Sircar: It has gone through the post.

FALL IN THE PRICE OF PADDY AND RICE.

1390. *Mr. C. N. Muthuranga Mudaliar: Will the Secretary for Education, Health and Lands please state

(a) whether the price of paddy and rice this year has fallen below the level of last year, and

(b) what action Government propose to take to raise the price level of rice and paddy?

Sir Girja Shankar Bajpai: (a) and (b) The Government of India are not aware of any decline in the price of rice which calls for any action open to them Figures for the price of paddy are not available

Mr. C. N. Muthuranga Mudaliar: May I draw the attention of the Honourable Member to the statement of the Director of Industries, Madras, dated the 11th November, which appears in the *Hindu* of the 14th, and ask him to give me a correct answer?

Sir Girja Shankar Bajpai: My answer is based upon a study of quotations for prices from different markets received up to the end of October.

SECURING OF FULL RIGHTS OF CITIZENSHIP TO INDIAN SETTLERS IN KENYA.

1391. *Mr. C. N. Muthuranga Mudaliar: Will the Secretary for Education, Health and Lands be pleased to state

(a) whether the attention of Government has been drawn to the state of great alarm that exists amongst the Indian settlers in Kenya and Tanganyika that they may be handed over to Germany, and

(b) whether the Government of India are prepared to take steps to secure full rights of citizenship to the Indian settlers in Kenya?

Sir Girja Shankar Bajpai: (a) The attention of the Honourable Member is invited to the reply given by me on the 17th November, 1938, to Mr Abdul Qaiyum's question No 1294 Government are not aware of any agitation in regard to Kenya

(b) I have informed the House on a number of previous occasions what action the Government of India have taken regarding Indian rights in Kenya and have nothing to add.

Mr. K. Santhanam: May I know whether the attention of Government has been drawn to the news in this morning's papers that 10,000 square miles are going to be allotted to Jews in British Guiana?

Sir Girja Shankar Bajpai: I have read that statement in the morning's papers, yes

Mr. K. Santhanam: Will the Government of India press upon His Majesty's Government that Indian settlers should be given at least the same facilities?

Mr. Girja Shankar Bajpai: As far as I am aware, in British Guiana there is no differentiation between Indians and anybody else. Land can be bought by any one

Mr. K. Santhanam: If another 10,000 square miles can be allotted, will the Government of India be able to acquire the land same as the others?

Sir Girja Shankar Bajpai: The Government of India cannot take steps to acquire any areas for the Indians there The Indian community can acquire lands for themselves

Mr. K. Santhanam: I am asking whether the Government of India will take steps to acquire land for the Indian community here for Indian settlers

Sir Girja Shankar Bajpai: In India? That question does not arise out of this

Dr. Sir Ziauddin Ahmad: Is it not a fact that the British Government is acquiring land for the benefit of Jews, and will not the Government of India follow this example and acquire land for the benefit of Indians also?

Sir Girja Shankar Bajpai: My Honourable friend is perhaps unaware that Indians in British Guiana can acquire land for themselves

TERMINATION OF THE INDO-BURMA TRADE AGREEMENT.

1392. ***Mr. C. N. Muthuranga Mudaliar:** Will the Secretary for Education, Health and Lands be pleased to state

(a) when the Indo-Burman agreement terminates,

(b) whether the Government of India propose to impose an import duty on Burma rice immediately on the termination of the Indo-Burman agreement, and

(c) whether Government propose to consider the advisability of fixing a quota on the import of Burma rice into India in the meanwhile?

The Honourable Sir Muhammad Zafrullah Khan: (a) I would refer the Honourable Member to the answers given by me on the 14th instant to part (a) of Mr Santhanam's starred question No 1235 and its supplementaries.

(b) Does not arise

(c) The Government of India are precluded from fixing a quota for imports of Burma rice by paragraph 3 of Part II of the India and Burma (Trade Regulation) Order, 1937

MEETING OF THE EMIGRATION COMMITTEE.

1393. ***Mr. C. N. Muthuranga Mudaliar:** Will the Secretary for Education, Health and Lands be pleased to state whether no meeting of the Emigration Committee was held during the last Simla Session of the Legislature? If so, why?

Sir Girja Shankar Bajpai: As no subject of major importance was at a stage at which the Committee could usefully be constituted, no meeting was held during the last Simla Session.

GIRLS OF SCHEDULED CASTES RECEIVING EDUCATION IN THE CENTRALLY ADMINISTERED AREAS

1394 *Mr. Sham Lal: Will the Secretary for Education, Health and Lands be pleased to state the number of girls of each scheduled caste respectively under instruction on the 31st March, 1938, in mixed schools and girl schools conducted in centrally administered areas by Municipalities, District Boards and the Government?

Sir Girja Shankar Bajpai: A statement showing the number of depressed class girls reading in recognised schools in the centrally administered areas during the year ending 31st March, 1937, is placed on the table of the House Similar figures for the year ending 31st March 1938, will be available by about July, 1939 Separate figures by castes and sub-castes are not available

Statement showing the number of depressed class girls reading in all recognised schools in the centrally administered areas during the year ending 31st March, 1937

Areas	Number of pupils		
	General education	Vocational and special education	Total
Delhi	316	36	352
Coorg	53		53
Ajmer-Merwara	188		188
Baluchistan			
Bangalore	1,268		1,268

Mr. Sham Lal: May I ask if special facilities are being provided to encourage female education amongst the scheduled classes?

Sir Girja Shankar Bajpai: I would like to have notice of that question I could not say off-hand

Mr. Abdul Qaiyum: May I know what tests are applied by Government to find out whether a boy or girl belongs to the depressed classes or not?

Sir Girja Shankar Bajpai: I do not know that there is any specific test common repute

RESEARCH WORK FOR GROWING TOBACCO FOR THE MANUFACTURE OF CIGARETTES AND CIGARS.

1395. *Mr. Sham Lal: Will the Secretary for Education, Health and Lands be pleased to state

(a) whether any research work for growing in different soils of India different varieties of tobacco meant for the manufacture of different kinds of cigarettes and cigars on factory scales is being undertaken by the Imperial Council of Agricultural Research; and

(b) if so, whether the results achieved so far are being placed by the All-India Industrial Bureau before the public for industrial purposes?

Sir Girja Shankar Bajpai: (a) The research work undertaken is not yet of so comprehensive a character The Imperial Council of Agricultural Research has initiated two schemes of research on tobacco

(i) The first is a co-operative scheme of flue-curing experiments in Bombay, Bengal, United Provinces, Punjab, Bihar, Central Provinces and Berar, Baroda and Hyderabad,

(ii) The second is the establishment of a tobacco sub-station at Guntur in the Madras Presidency to investigate manurial and curing experiments, chemical analysis of leaf, breeding of new types, etc

(b) The schemes have been in progress only for a short time and the results are not yet ready to be brought to the notice of the public

Mr. M. Thirumala Rao: With reference to the answer to part (b), and the station at Guntur, I find that the grant of Rs 20,000 has been reduced to Rs 13,000 Is it the explanation that the research is going to be stopped or the station abolished?

Sir Girja Shankar Bajpai: There is no question of abolishing the station.

12 NOON. The grant is to be spread over a period of five years

Mr. M. Thirumala Rao: Has the gentleman in charge of the station represented to the authorities saying that the funds placed at his disposal are not sufficient to carry on elaborate experiments which he is expected to do?

Sir Girja Shankar Bajpai: I have no knowledge of any such representations.

Mr. Manu Subedar: May I know, Sir, if it is a fact that Indian tobacco is exported to Hamburg where cigars are made on a large scale, and if it is so, have Government looked into this question as to why these cigars cannot be made in India?

Sir Girja Shankar Bajpai: That question does not arise out of this If my Honourable friend puts down a question on paper, I shall try to answer it.

Prof. N. G. Ranga: I understand this grant of Rs 25,000 is made over a period of five years, if so, do Government propose to get these experiments made on the grounds of the local agricultural demonstration farms?

Sir Girja Shankar Bajpai: As far as I know, it is not a grant of Rs 25,000 spread over a period of five years. It is a grant of over a lakh spread over a period of five years. The farm is owned by Government, and it is only seed distribution to the cultivator which takes place there.

Mr. K. Ahmed: Are Government aware that in my constituency in the district of Rangpur, there is good soil for growing Manilla cigars and for research work, but nothing is being done there?

Sir Girja Shankar Bajpai: Sir, I did not know that cigars grew out of land

(b) WRITTEN ANSWERS.

PURCHASE OF LANDS FROM CULTIVATORS IN THE DELHI PROVINCE

1396. *Mr. Sham Lal: Will the Secretary for Education, Health and Lands be pleased to state

(a) whether it is a fact that in the Delhi Province notified agriculturists, who have taken to Government services in the Civil Departments and held posts carrying a monthly salary of more than one hundred rupees, or who have adopted professions such as Law or Medicine, are purchasing land from actual cultivators and are themselves becoming non-working land-holders, and

(b) if so, whether any action is intended to be taken in the matter for the Province of Delhi?

Sir Girja Shankar Bajpai: Information has been called for and will be furnished to the House as soon as possible

PROPOSAL TO ESTABLISH AN ALL-INDIA INSTITUTE FOR ANIMAL HUSBANDRY AND ANIMAL GENETICS NEAR DELHI

1397. *Mr. Sham Lal: Will the Secretary for Education, Health and Lands be pleased to state

(a) whether there is a proposal to establish an All-India Institute for animal husbandry and animal genetics somewhere near Delhi; and

(b) if so, when it is likely to mature?

Sir Girja Shankar Bajpai: (a) No.

(b) Does not arise.

GRADING OF GHEE.

1398. *Mr. Sham Lal: Will the Secretary for Education, Health and Lands be pleased to state

(a) whether any scheme of getting *ghee* (clarified butter) graded into classes after laboratory tests has yet engaged the attention of the Imperial Council of Agricultural Research; and

(b) if so, what the result has been?

Sir Girja Shankar Bajpai: (a) Yes.

(b) The scheme has been put into operation. A Central Ghee Control Laboratory has been established and eleven firms have been authorised to grade and mark ghee in accordance with the rules made under the Agricultural Produce (Grading and Marking) Act, 1937. Further applications

for similar authorisation have been received and are under examination Quantitatively, about 15,000 maunds of ghee valued at approximately Rs 7½ lakhs have been graded and packed

VILLAGE FRANCHISE ORDINANCE PASSED BY THE CEYLON STATE COUNCIL.

1399. *Seth Govind Das: Will the Secretary for Education, Health and Lands please state

(a) whether his attention has been drawn to the Village Franchise Ordinance passed by the Ceylon State Council recently,

(b) whether he is aware that the amendment which excludes all the estate labourers from franchise has been regarded by Indians as the most unsatisfactory solution of the rights of Indian labourers,

(c) whether it is a fact that Mr H M Desai had placed his viewpoints of the Indian labourers in Ceylon before Government bearing on this matter,

(d) the attitude of Government in the matter,

(e) actions, if any, taken by Government in the matter,

(f) whether it is a fact that His Excellency the Governor of Ceylon has referred the amended Bill to His Majesty's Government for fresh consideration, and

(g) whether Government have represented the grievances of Indian labourers in Ceylon to the Secretary of State for Colonies with regard to this amended Bill?

Sir Girja Shankar Bajpai: (a) to (c) Yes

(d), (e) and (g) The attention of the Honourable Member is invited to the reply given to Mr Satyamurti's question No 1300 on the 17th November, 1938

(f) The Bill has been reserved by the Governor of Ceylon for the signification of His Majesty's pleasure

TERMINATION OF THE INDO-BURMA TRADE AGREEMENT.

1400. *Seth Govind Das: Will the Honourable the Commerce Member please state

(a) the duration of the current Indo-Burma Trade Pact and when it terminates,

(b) whether he has been contemplating to renew the Trade Pact or terminate it for replacement by a fresh agreement, and

(c) the chief industries that were benefited in India as a result of the Trade Pact?

The Honourable Sir Muhammad Zafrullah Khan. (a) and (b) The attention of the Honourable Member is invited to the answers given to part (a) of Mr. Santhanam's question No. 1235 on the 14th November, 1938, and to the supplementary questions arising therefrom.

(c) Judged by the value of the export trade to Burma the chief Indian industries which have benefited are the cotton textile, jute, tea, tobacco, sugar, coal and the oil crushing industries.

DECREASE IN THE EXPORTS FROM INDIA TO ARGENTINE

1401. *Seth Govind Das: Will the Honourable the Commerce Member please state:

(a) whether it is a fact that exports from India to Argentine have decreased during the past six or seven months,

(b) the extent to which the volume of trade with Argentine has been reduced during the past six or seven months,

(c) the value to which such trade has been reduced corresponding to that of last year;

(d) causes for the decrease in trade, and

(e) actions, if any, he has taken to prevent further decrease in business in future with Argentine?

The Honourable Sir Muhammad Zafrullah Khan: (a) No

(b) to (e). Do not arise.

THE INDIAN INCOME-TAX (AMENDMENT) BILL—*contd*

Mr. Deputy President (Mr Akhil Chandra Datta): The House will now resume consideration of the following motion moved by the Honourable Sir James Grigg

"That the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee, be taken into consideration"

Sir Muhammad Yamin Khan (Agra Division Muhammadan Rural) Sir, when the House rose yesterday, I was on clause 4, and I was endeavouring to show that no injustice of any kind was going to be done to Indians by the amendment of clause 4 as it has emerged out of the Select Committee, and that, if there was any invidious distinction, that has been removed My point was and still is that everybody should be placed on the same level Now, how is it done? Till now, foreign income was liable to taxation provided it was brought to India. The only difference which is made by the amendment of clause 4 is that not only the income which is brought into British India will be taxed, but even if it accrues outside to a person who is resident in British India for more than 182 days, it will be liable to tax, and you cannot say that any injustice will be caused thereby to any one There appears to be some misapprehension in the minds of some of those who are living in India and carrying on business in Burma, Ceylon or other parts of the British Dominions that they will be taxed doubly, in that they will be taxed not only in those countries but also in India, but I can assure them that they will find there is no foundation for this apprehension when they go through the clauses of the Bill carefully Another fear in the minds of such people who have trading connections outside British India is that they may be asked to produce their account books from long distances and they may not be able to produce such books from places outside British India for placing the documents before the Income-tax officer in India That also I may assure them is an apprehension which cannot have any foundation Nobody will be asked to bring his account books from such long distances What Government will probably do will be this, the Income-tax officers in India will be directed to accept all the accounts which have been accepted by the Income-tax officers in those countries outside British India and proceed

[Sir Muhammad Yamin Khan]

to examine the accounts on that basis For instance, if an Income-tax officer in Burma has accepted a man's income in Burma as, say, a lakh of rupees, Government cannot ask the same person to produce his account books again here

Now, Sir, after having dealt with clause 4, there is not much left in the Bill where we differed, except sections 17 and 49, otherwise the Select Committee seem to have been practically unanimous in other matters With regard to clause 17, my friend, the Leader of the Opposition, and Sir Cowasji Jehangir said there was some difficulty about incomes arising from trusts My friend, the Leader of the Opposition, only wanted a change to be made in respect of irrevocable trusts I think the majority of the Committee would have agreed to any definite proposal if it had been made somewhat to the effect,—that if a trust was created for people other than for legal heirs, or if a trust was created with *bona fide* intentions to benefit the public, and not to benefit one's own wife or children in order to escape income-tax There may be some *bona fide* cases, because as everybody knows there are some people who create trusts to benefit their own wives and children, there may be children from a deceased wife and the man in order to escape from being influenced by his second wife may be inclined to create a trust for the benefit of his children by the first wife There may be cases like that When one creates a trust in favour of his own legal heirs, who are bound to inherit his property after his death, in his life time, then there is a suspicion whether this is a *bona fide* transaction or not The law says that that will be considered to be the income of the settlor I am not an expert in trust law and I have never practised on the side where trusts are created I cannot, therefore, give my opinion as to how a trust can be legally created or whether it will be valid or not or if it is irrevocable or not if the corpus is reserved to the person or not I have not seen that kind of trust being created but one thing I can understand that there was a desire in the Committee that people be allowed to keep up the corpus to themselves for their whole lifetime and only divest themselves of the income arising out of the corpus If the ownership does not remain in the man, that of course is the real trust but if anybody wants to retain the ownership in the property to himself and give only the income to his children and call it a trust so that it may not be included in his income then in fairness it ought to be considered his income. It is only a family arrangement in order to provide his children in a particular manner It is quite a different thing if it is given to some other people If such an amendment had been moved in the Select Committee then the majority would have been on that side.

An Honourable Member: What about *wakf*?

Sir Muhammad Yamin Khan: The Honourable Member is a lawyer and he ought to know that, when a *wakf* is created, a man divests himself of the ownership of the property for ever, while here the income only is transferred If my Honourable friend, the Leader of the Opposition, could convince the House that there will be real hardship, then there is no harm in giving this benefit to the real and *bona fide* trusts and not to those intended only to escape income-tax or super-tax.

The only other thing about which there was some disagreement in the Committee was about section 49 or clause 58. My Honourable friend, the Leader of the Opposition, made a brilliant and very eloquent speech on this point and he succeeded to a great extent in creating the impression that an Englishman comes like a beggar and he tells us, "You are rich people living in this country. You make a *gift to us*" I do not see the point in this light. I do not think that an Englishman comes like a beggar or I would have been willing to give him double income-tax relief as a charity if he had come to me as a beggar. I stand on one principle only. It is this. Whatever may have been the reasons, the Englishman finds himself carrying on trade for several centuries in India. He has invested his capital in this country. He finds it pays more. There is no such thing as patriotism in business. An Englishman sees to his business first and wherever he can make money he is ready to go. He found that investments in this country are more profitable than in other countries. He has helped to make certain improvements in this country. Unfortunately, I have to confess that we Indians did not think of sinking our capital in industries at the time when the Englishman was finding his way and developing this country. We are copying them now. The entire money of our capitalists was invested in money-lending to the zamindars and the tenants. Therefore, our capitalists did not invest the money in developing our country. Now, it is a question whether it is justifiable or not to place these Englishmen at a disadvantage. That is a proposal that cannot be supported on equitable grounds. If an Englishman carries on business in this country and if he is resident in this country, then his income is liable to taxation in this country under clause 4. If he has got a branch in this country and he has got several branches elsewhere, under clause 4, he is bound to make a return of all the income which he has got outside this country. Section 49 only gives him this relief that whatever tax he pays on his income which he has not made in India, that amount will be paid back to him. (*Cries of* "No, no" "Read the section.") Please listen. I ask those gentlemen who say "read it" to read it a hundred times and they will not understand.

Then, Sir, with regard to the amount of relief which is given to them, there is in some quarters this apprehension that if an Englishman is taxed at five annas six pies in England, then the relief which is going to be given to him will be half of the relief of the tax on the rate of five annas six pies which he pays in England. I say that is an absolutely wrong impression created on their minds. The wording and proviso say that the relief in no case shall exceed half the rate of Indian income-tax. People are thinking that if an Englishman is paying on his ten lakhs an income-tax in this country and on five lakhs in England, when he gets back the tax which he paid at the rate of five annas six pies in England, that being higher, then he will claim half of this ten lakhs which he has paid because three annas six pies happen to be the lesser rate, *and that* he will benefit because he was charged at the rate of five annas six pies there. I say this is an absolutely wrong impression created on them, because, the clause clearly lays down that the relief will be based in India on the rates prevailing in India and not on the rates which are obtaining in England. So that impression is totally wrong. But leaving that aside, I want that there should be no double taxation for anybody. If an Englishman wants to save himself from double taxation, he is saved from paying double tax, and I want Indians also to be saved from

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double taxation I do not want any Indians to be subjected to paying double income-tax in this country when he is already subjected to one income-tax outside India The only thing is that at present the Government is giving relief about the dominions and the other British possessions or the Indian States, but there will be some difficulty about those Indians who are carrying on their business in countries other than British dominions or possessions or Indian States and those people will be subjected to paying income-tax in that country as well as in this country. Surely, Sir, the relief may only come to this extent that whatever income-tax they have paid in a foreign country that will be deducted from the total income in this country, but that is a poor relief With regard to the Indians who are carrying on their business in foreign countries, we should, of course, see that this may not cause hardship to them or that they should not be driven away to change their residence from India to other foreign countries One difficulty has been pointed out by some Honourable Members and some of my friends from a certain Presidency, *viz* , that agricultural income which is earned outside India will be taxed in this country If a man is owning land in Burma, then the income arising from that agricultural land in Burma is becoming taxable in this country Certainly, Sir, when we know how this land was acquired, we know that this property was built up entirely from the Indian capital and it was out of the earnings in the shape of interest on the Indian capital that this property was acquired We know that certain individuals went out to Burma or to other countries carrying on their money-lending business there while they were carrying on business here in India also but they found it more profitable to lend their money outside India They did so This is how these people have acquired their land in Burma Indeed the income which is coming from the agricultural income from what has become agricultural property has become their property on account of the money-lending business, and because the debtors in that country could not repay back the lands on account of decrease in price of agricultural products, their lands were sold and these Indians purchased them Well, they are in the same position as that in which we find several money-lenders having purchased lands here in India and having become zamindars

An Honourable Member: What about you? You are a Zamindar?

Sir Muhammad Yamin Khan: I did not become a Zamindar through money-lending, nor any of my family for generations. But the position of these people cannot be different to that of people who are owning land in this country

Now, in the Congress provinces, wherever Congress has got the power, they are introducing a kind of income-tax on agricultural income Then, is there any justification that the man who is living within the province should pay the tax on his agricultural income but he should not pay any tax on the agricultural income which he derives from outside his province, if in that province there is taxation on the agricultural income? Take the case of a man living in Madras owning his agricultural property in Madras He says that "I am liable to pay taxation in Madras because I have got my agricultural income here", but supposing he lives in Madras but purchases the property in Burma, he may then say, "oh, no, Burma is outside Madras" Of course the Madras Government connot tax him because the

Madras Government has got only power within their own jurisdiction, that is, the Madras Presidency. But the man is living in Madras and he is drawing his income from Burma. Therefore, his income is not liable to taxation by the Madras Government. Then the Indian Government comes in and says: "Why not this thing come to us?" Certainly, I would have been the last person to support any agricultural income to be taxed at all in this shape if I had found that the taxation of the zamindar's property had not been taken up by the Congress Ministries in several provinces. When they have begun to tax the agricultural property in those provinces where they have got the majority, then it is not justifiable for some people to say 'Oh, do not tax those people because that tax will go to the Indian Government and not to our province'

Now, they said that they will pay income-tax in Burma If they are paying income-tax in Burma, they will get the relief and if they are escaping any income-tax in Burma, they will have to pay tax in British India So, it is not a double tax upon them A man who owns his property in the United Provinces and also in the neighbouring State of Benares is liable to taxation under this Bill on his property at both the places. Is it reasonable that because a man is owning his property in the neighbouring district, he should be made to pay the income-tax, but if he is deriving all his income from a place just a few yards away, he should not be asked to pay the income-tax? So, I do not think any kind of hardship is created in this behalf when everybody is going to be placed on the same level Some people suggest that as long as the Congress has not brought into effect the income-tax on the agricultural income, till then it may be deferred in case of that agricultural income which arose out of the other provinces Well, that is a different matter The only question now is that it is one of the proposals of some Provincial Governments who are guided by one Central authority, and which directs them to do a certain thing whether it suits the other provinces or not and we think that that authority should recommend taxing these people also simultaneously. There may be some justification for saying that it may be deferred up to that time when everybody will be placed on the same level

Sir, there is nothing more for me to say except to make a few comments about my Minute of Dissent There has been a misapprehension in the minds of certain Members that the waqf-alal-aulad is a private waqf and it is not a charitable waqf There was a ruling of the Privy Council to the effect that the waqf of the property which is made in favour of the family or the benefit of which goes mainly to the family is not a charitable waqf and, therefore, it was not treated as a legitimate waqf When the Muhammadans came to know about it, they brought the matter before the Indian Legislature and, in 1913, the Waqf Validating Act was passed which has clearly laid down that any waqf created in a manner by which the major portion of the income goes even for the benefit of the family is a valid waqf provided ultimately the benefit of it is for the good of the public at large. The principle of this kind of waqf is not based really on any other ground except on the Koranic words, where the words are.

"Zawil qurba wal yatama wal masakeen."

The meaning is that you have to give in charity first of all to your nearest relations, which may include children, brothers or sisters Then

come the orphans and then the other needy people The general public comes in the third category

Mr. M. S. Aney (Berar Non-Muhammadan) That is, *kafirs*

Sir Muhammad Yamin Khan: Even *kafirs* can get the charity I can inform my Honourable friend that the Holy Koran enjoins a Muslim to make no distinction in his charity between a Mussalman and a non-Mussalman In this connection, I will mention the story of the Prophet Abraham He never used to take any meals without having at least one guest He went out in search of a person to eat with him for three days, but he could not find any On the fourth day, he found a man who was a wood-cutter He was an old man of 80 The Prophet Abraham brought him Home and asked him to eat along with him This old man did not begin his meals with the name of Allah and the Prophet Abraham got angry with him and told him "How is it you have not begun with the name of Allah who has given you this good food?" The old man replied· "I do not believe in God" Then a quarrel ensued and the old man left his place After this incident, the Prophet Abraham did not have any revelation for many days and then he prayed to God and said "Oh, Allah, why are you angry with me? What sin have I committed?" The reply came "You are a messenger sent by us We gave food to the man who was your guest for 80 years although he does not believe in us? You are our messenger and you could not tolerate him even for a day"

Dr. G. V. Deshmukh (Bombay City: Non-Muhammadan Urban) So, no difference between domicile and non-domicile

Sir Muhammad Yamin Khan: So, Koran has not laid down that a Mussalman may not give his charity to any non-Muslim or not to tolerate the *kafirs*, as my friend has put it I do not use the word 'kafir' at all The Koran lays down the highest morals by which we abide ourselves and we follow them blindly because we believe in their eternal truth The law as applied by us is the right law, it is the most humane law and we have to fight for the maintenance of that law so far as we are concerned Therefore Waqf-alal-Aulad stands on the same footing as other waqfs under the Muhammadan law Here in clause 4 a distinction is sought to be made between a charitable waqf and non-charitable waqf The one is considered to be a kind of charity and the other is not called a charity Here a man divests himself altogether from the ownership in the property; he has got no ownership left in the property at all and his children and children's children cannot claim any ownership in the property. They may be given some money by way of charity, but they do not hold any proprietory rights They are only provided for poor people I submit these people also should be placed on the same footing because they can neither sell nor convert it into capital They cannot sell their interest in the income of the property. The position being what it is, we were justified in putting forward our minute of dissent We were not able to explain at this length to other Honourable Members I think we will have to make an amendment in this respect that income arising out of trusts should not be taxed as one entity. Of course, we have to discuss this point at length later on and we have also got to see how we can accommodate other people's views I have explained my point of view and with these few words, I give my support to the Bill as it has emerged from the Select Committee.

Sir H. P. Mody (Bombay Millowners' Association. Indian Commerce) Mr Deputy President, income-tax payers may be divided into three categories dishonest, not quite honest and fools By fools I mean those innocent minded people who declare their full income and pay up without a murmur The Bill before the House is calculated to sharpen the wits of the dishonest and to worsen the lot of the innocent There is a principle which is held as one of the great principles of British criminal jurisprudence and that is that it is better that a hundred guilty men should escape than that one innocent man should be condemned The Bill before the House is based on a different principle altogether, and that is that it is better that a hundred innocent men should suffer than that one guilty man should escape

The Honourable Sir James Grigg (Finance Member): Rubbish

Sir H. P. Mody: What is rubbish I agree that the principle is rubbish

The Honourable Sir James Grigg: What the Honourable Member said.

Sir H. P. Mody: I will take my Honourable friend straight on to that point What is the principle underlying clause 4? What has been its greatest justification not only in the present discussion, but also at the time when Sir George Schuster introduced a similar provision in 1931? It is that some multi-millionaires send their investments out of the country and do not pay income-tax, forgetting, on the other side, that there are thousands and tens of thousands of honest traders and industrialists who send out their money from this country not because they want to evade income-tax, but because they are plying a trade, and who, for various reasons, do not bring their income back to this country If the principle of clause 4 is to penalise the many for the sins of the few, why does not the Finance Member carry the principle into the domain of public morality? There are people who carry on flirtations in public parks Why does not my Honourable friend come forward with legislation which would compel every couple which goes about for a stroll to be followed at a respectable distance by a policeman? I am sure the greatest indignation, if this law were to be enacted, would well up from the Treasury Benches I should like to see a few policemen following my Honourable friends over there, when they stroll about in the parks

Income-tax law being what it is, is it any wonder that there are people who keep three sets of books, one set for themselves, another for their partners and a third for the Income-tax Department In this connection, I want to voice the complaint made by my Honourable friend, Mr Aikman, and by one or two others that instead of amendments of the law Government should have recodified the whole piece of legislation on income-tax, it could then have been made much simpler, and more intelligible, to use the words of my Honourable friend, to the meanest intelligence, instead of us all having to look up the Act, then the Bill and then the Select Committee's report and then finally the various amendments which are being put before the House Instead of this, there should have been a new Act, entire by itself, which might have become more intelligible It is not a reflection upon Honourable Members that nobody understands the Income-tax law. As a matter of fact, the only man who in the United Kingdom understood income-tax, outside the Board of Inland Revenue which my Honourable friend once adorned, was recently sent to a mental home! If

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I may make a suggestion, instead of cheap reprints of the amended Act, let there be a booklet illustrating with pictures, if necessary, what income-tax law means, and if the income-tax people have any leisure I would also suggest that they may hold morning and night classes for income-tax payers!

Sir, it would almost appear as if I was unmindful of the many inequalities sought to be removed by this piece of legislation There is one which has gratified me particularly, and that is, the provision with regard to carry forward of losses Some of us have in this House been for many years crying aloud about it, and it is a matter of great satisfaction that the Finance Member has recognised the necessity of doing justice to business men in this respect But I am afraid the justice has been done in a rather half-hearted fashion My Honourable friend, the Leader of the Opposition, in his very illuminating speech on the position of the Income-tax law in this country, said that relief was not to be given in the matter of carry forward of losses unless the losses arose out of the same kind of business What is the principle of carry forward of losses? The principle is that you tax income and not capital To illustrate, supposing I made a profit of Rs 3 lakhs this year and a loss of Rs 5 lakhs next year I am taxed on Rs 3 lakhs this year but I get no satisfaction on my loss of Rs 5 lakhs But to me, in these two years, the net loss is Rs 2 lakhs, and yet I have been taxed on a profit of Rs 3 lakhs In other words, it is a sort of capital levy, and if the provision in the Bill were to stand as it is, it will still remain a capital levy Suppose I have got business in cotton and seeds and I make a loss in cotton this year and next year I make a profit in seeds Well, the loss is there Why should it not be deducted out of my profits on seeds Otherwise, it would be a tax on my capital.

The other satisfactory feature of the Bill is the slab system. I do not know who invented the word "slab", but it seems to me to be a very appropriate word, because huge slabs of income are going to be taken off us Now, the Finance Member claimed—and rightly claimed—that he was tempering the wind to the shorn lamb, and that the main feature of the slab system would be that people enjoying a modest income would have to pay less and people enjoying larger incomes would have to pay more I am not quarrelling with that principle It has become the fashion all the world over to soak the rich, and up to a point I agree that it is the right thing to do

The Honourable Sir James Grigg: Up to what point?

Sir H. P. Mody: Up to the point at which it will touch me On that issue we shall see what the Finance Member has to say when he comes to us with his proposals next March I want to tell the Finance Member that I really enjoyed the little dig he had at those people who urged him in telegrams to resist very strongly the proposals of Government. It was a good joke. My enjoyment was heightened when I saw the Select Committee Report. If I may refer to it, it says:

"The Bill proceeds on the assumption that the 'slab' system of rates of tax will be adopted We are of opinion that this system is definitely preferable to the present 'step' system, but we wish to reserve our right to criticise any particular application of it which may be included in the annual Finance Bill. * * *

(Sd.) P. J GRIGG, etc"

Sir, I take my hat off to P. J Grigg for the very impartial attitude which he is going to adopt towards the proposals of the Finance Member in March next I am very glad when he says "We reserve our right" I hope he will criticise himself Now, Sir, in whatever way you work the slab system and fix the scales, one thing at least ought to be made clear. To use the words of the Chief Justice of Nagpur, this must not be made a pretext for larger revenue. By all means alter the incidence; soak the rich, lighten the burden on the people with modest and small incomes, but do not make the slab system a pretext for getting in the aggregate a larger amount of income-tax than what the country has been paying In this connection, I would like to invite the Finance Member's attention to what his predecessor said, namely, that attempts to extract heavy taxation from a limited class seemed almost to have reached their limits Nor, I hope, is the slab system going to be a device for the purpose of incorporating into the income-tax the surcharges on income-tax which the Government solemnly promised on more than one occasion to remove at the earliest possible opportunity

Then, Sir, I want to make another suggestion, and here I will put myself forward as the friend and father of the poor I say, fix your minimum at a smaller figure than what you contemplate Do not make it Rs 1,500 or Rs 2,000, make it even Rs 1,000, and give allowances for wife and family Why should a man with 7 or 11 children have to pay the same

An Honourable Member: Whose fault?

Sir H. P. Mody: I hope it is his own Why should a man with 7 or 11 children have to pay the same rate of tax as a bachelor? It seems to me that the hand of the Finance Member and of the Income-tax Department is heavy against domestic life Otherwise, what was the meaning of the proposal which figured in the original Bill that the husband's and the wife's income should be aggregated and tax levied on it? God knows that there are enough trials in married life without this being added If you want really to follow the English law and equitably distribute the burden, I say, it is essential that you should fix the minimum lower, but, at the same time, give allowances for wife and family, as is being done in England, and I strongly press for that Of course, the Finance Member has got a sort of fear that we in this country are in habit of producing large families To use the words of a South African native who was turned out of his employment, "We are very bewifed and much childrenised gentlemen "!

There is one other point which also arises from the topic on which I am now on, and that is in respect of irrevocable trusts My Honourable friend, the Leader of the Opposition, pressed on the first day that so far as irrevocable trusts are concerned, the income should not be taxed in the hands of the donor but in the hands of the person in whose hands it has passed What is more natural than that a man should make a trust in favour of his wife? Why otherwise, marry at all? And if a trust is made in favour of one's wife, I do not see why the income should not be pursued in the hands of the wife rather than that the donor should be taxed.

Now, Sir, I come to clause 4 on which my Honourable friend, Sir Cowasji Jehangir, spoke at some length yesterday, and on which he gave many arguments arising mostly out of the discussion in 1931 In view

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of that, I do not propose to go over the same ground. I will run through very quickly what I wanted to say The first thing that I want to impress upon the Finance Member is that there was vehement opposition in 1931 on this very provision from most of the officials and Provincial Governments. The analogy with Great Britain is very misleading There, there is an enormous amount of capital which is always seeking employment in other countries That being the case, and millions of pounds being involved, if this accrual basis had not been established there, though with certain qualifications, then there would have been inequalities between one class of tax-payer and another, and that is why in England it was thought necessary that, not remittances, but the accural basis should be established

Now, much has been said about the flight of capital I shall quote what the Commissioner of Bhagalpur Division said on this point He said

"The most ignorant of us know perfectly well"—(*this is not an allusion to any particular Member of this House*)—"that the flow of money for investment outside India has very little to do with the income-tax but is mainly due to the lack of opportunity for profitable investment in the country and the shaken condition of India's credit"

Another Commissioner stated

"All that could be hoped if the Bill were passed would be that the conscientious would pay and the unscrupulous would not"

That, I think, is a good statement of the case, particularly in view of the fact, which we all know, that double income tax relief does not obtain in all countries and that if foreign income was to be taxed, then it is quite possible that it would be taxed twice over in the same hands

1 P.M.

But there is a stronger argument and that was put forward in the course of the discussion, but I forget by whom, and that argument is that the Government of India—and I say so without any disrespect to them—do very little to promote and foster Indian trade abroad, and is a matter of fact Indian trade abroad is carried on in the face of a great many difficulties created not only outside in those countries where the trade is being carried on but also from this end I want to quote to them in this connection, not the view of any Chamber or association or individual, but no less an authority than the Madras Government, and the old Madras Government at that—not the present one This is what they said in their representation in 1931

"One of the opinions received by the Madras Government was 'that the taxing in India of income earned abroad without any assistance from the Government of India is unjust The analogy with the English system is unsound, in that the Government of the United Kingdom contributes towards the protection of British trade the whole world over, and renders political, commercial and financial assistance to such trade'"

The Madras Government goes on to add.

"The Madras Government consider that there is much force in these criticisms and endorse them for the consideration of the Government of India".

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural) What about our Trade Commissioners?

Sir H. P. Mody: How many Trade Commissioners are there?

Mr. K. Ahmed: At least half a dozen

Sir H. P. Mody: If they were of the size of my Honourable friend, I would say that there was a very weighty representation of India!

Now, there are a few matters to which I really must take exception. One is the provision about depreciation A new basis has been adopted in the Select Committee, they did a great deal to modify the rigour of the provision as it stood originally, but all I can say is that if the only justification for the written-down value is what was stated in the Income-tax Enquiry Report, namely, that it is at least as good a system as the present one, then I say that it is a very poor argument for changing the law The law has worked reasonably well, and it ought not to be changed At any rate, we should want to know early on in the course of the discussions on this Bill what rates of depreciation Government are going to allow, because that was one of the points which were left over, and on it would naturally depend the view which we take of this particular provision

Again, another matter on which the Select Committee have come to a conclusion which I have not been able to follow is with regard to clause 25 which refers to the powers given to the income-tax officers to lay down in the case of companies in which the public are not substantially interested, that is to say, not interested to the extent of 25 per cent, that if those companies have reserves which exceed then assets, then all the profits of the company should be distributed more or less wholly I do not know whether it is right that such powers should be invested in the income-tax department, I know a great many companies in Bombay, Calcutta and other places whose reserves built up in times of prosperity are greater than their assets, and it is quite possible that in their case owing to the large interest held by, say the managing agents or their friends, it may be that the public are not interested to the extent of 25 per cent In their case, regardless of the conditions which may face them, regardless of what the position of those companies would be, are they to be compelled by the income-tax department to distribute the whole of their profits? I think the Finance Member was led away by the frauds perpetrated by what are more or less bogus firms Probably his experience has been unfortunate He is thinking of the sort of partnership in which two Hebrew gentlemen entered, and in which the first term was that in the event of failure the profits were to be equally divided!

Then, I want to know why there should be any sort of obligation to make a return on the part of every man who enjoys an income of say Rs 3,500, and more Why should any one be asked to do the income-tax department's job? I do not see that at all After all, here is a department which is adequately staffed if it is not let it be adequately staffed But why should there be an obligation on anybody that he should make a return? Are they going to put in advertisements in the newspapers and see that the newspapers are sold in every district, taluk and village, or are they going to beat batakis and bring home to the people concerned that income-tax is due, and whoever does not send in a return, does so at his own risk and cost?

The Honourable Sir James Grigg: I do not want to interrupt the Honourable Member but if he had attended our debates rather more frequently, he would have found that an answer was given to his questions on an earlier occasion

Sir H. P. Mody: If my Honourable friend had given an actual answer, probably it would have been shorter. If I had been present in the House as often as he has, I am quite sure I would have had to go to sleep on

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many occasions, but in any case he is obliged to be here, and I am not Why should I be here and listen to the discussions when the sum and substance of it all is that my throat is to be cut? Am I to add to my agony by listening to all kinds of arguments as to why I should be executed?

Here, Sir, let me quote the opinion of the Revenue Commissioner of Orissa He says

"It is difficult to conceive any single provision which would offer a wider scope for departmental corruption or be more conducive to departmental inefficiency As the Collector of Ganjam has remarked, the provisions of this clause and of clause 32 seem to be designed to give to the Income-tax Officer a life of leisure, and to the assessees a life of harassment, and no amount of tax evasion, or in fact any other consideration would, in my opinion, justify such a proposal The proposal displays a complete failure to appreciate conditions in this country or the consequences of such a change"

There is one point, and that is, why should the tax-payer be made an agent of the department? The employer has to fill in a return of the income-tax of his employees An obligation has now been sought to be imposed on the employer to calculate the super-tax as well. I do not see the necessity of the employer being made to do all these things, and his being subjected to the harassment and worry of ascertaining exactly what sums have to be deducted There is still another imposition In the case of banks which up to now have been sending in returns of interest earned of a thousand rupees or more, the limit is now to be reduced to Rs. 200 The position was bad enough, if I may give the instance of a Bank with which I am concerned, we already have to go through 75,000 accounts in Bombay city alone in order to be able to prepare a list for my Honourable friend, and what is actually supplied is thirty sheets containing nearly a thousand items It takes a month and several clerks to compile this list, and if instead of a thousand rupees the Bank has to look into small accounts of Rs 200 and more, then the task will become a much heavier one, and I see no justification as to why it should be imposed on the shoulders of any class of assessees I do not see why without payment I should be asked to do any sort of work for the Income-tax Department If I want a copy of a simple thing from the Government, they charge so many rupees for so many folios, even though their typists may be doing nothing in the office, but if it comes to a question of our having to undergo an amount of labour and our having to employ special staff for the job, we do not get paid for it

There is only one other point with which I wish to deal, and that is about the company super-tax, and here I shall content myself with merely drawing attention to the arguments advanced by the Millowners' Association, and which are to be found at page 324 of the large volume of opinions which have been circulated I want to know whether the Company super-tax is really an addition to the income-tax or is regarded as a corporation tax If it is to be a corporation tax, is it to be allowed as an item of expense before assessing profits? It cannot be both at the option of the Government. I will content myself, as I said, by merely drawing the attention of the Government to the opinions advanced by the Millowners' Association

And, finally, Sir, I would like to echo the plea for sympathy put forward by my friend, Mr. Aikman, yesterday. I am not suggesting for

a moment that the department are harsh, or anything of that kind,— the treatment of myself, for instance, by the department has always been very good,—but I say that the income-tax law being so complex and so unintelligible even to the brightest intelligence, it should be administered with a degree of sympathy. How poor people are harassed I can only put before the House in the language employed by a shopkeeper of Jullundur in 1932 I think I have quoted it once, but it will bear repetition:

"Opened a petty shop without experience, only the last year, no gain, rather loss of capital Income-taxed for income of Rs. 1,200. Good God! Poverty and starvation facing Exercising utmost economy Trying invention of any means by which body can live without food, still a failure Disposing of old members and stopping of further generation by living alone, forced by public laws"

I am quite sure, there will be a great many more individuals who will be stopping "further generation" if income-tax is going to press any harder on the people, and I cannot do better, in conclusion, than to appeal to the Income-tax Department and to the Honourable the Finance Member not only to frame a law which is sympathetic and which takes into account all the inequalities, but also administer it sympathetically

Mr. N V. Gadgil (Bombay Central Division Non-Muhammadan Rural) Sir, after having heard a very brilliant speech from the representative of the Millowners' Association, a dry speech from one who has not much to do either with business or with capitalists will not be very much relished before Lunch

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

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

Mr. N. V. Gadgil: Sir, I am a sworn opponent of the capitalist system I can assure the capitalist Members of this House, whether they are sitting mostly on the other side or a few on this, that there is absolutely no present intention on my part to touch their throats, although the present intention of the Finance Member seems to be to touch their pockets somewhat roughly and in that attempt I think most of us will co-operate This Bill has been brought with a view to perfecting the machinery of collecting the income-tax and from that point of view it has been criticised in the course of the last three or four days, and the tax dodger has been very prominently in the picture.

Sir, if you refer to the report on the administration of income-tax for the year 1936-37 published by the Central Board of Revenue, you will have some idea of the amount which, if the returns made by the persons concerned had been accepted, the Treasury would have lost In the year 1935-36, nearly Rs 8,21,75,012, which works out to a percentage of 27·7, would have been lost if the returns made by the assessees had been accepted as they were. In the year 1936-37, the same figures are 2,85,46,851. That works out to a percentage of 25. That shows to what extent persons return their income less. I am of opinion that those who

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have taxable income must pay, whether that income is earned in India or outside They must pay, because it is an obligation of citizenship that they must pay the taxes With respect to this tax dodging, a provision has been made in the Bill so as to make the returns compulsory That provision is one to which I have some objection on different grounds Some objections were urged by Sir Homy Mody this morning I first want to know whether those persons who are liable to pay taxes have really escaped from the all pervading activities of the income-tax department during the course of the last so many years. If you turn to the figures given in this report for the year 1936-37, you will find that 4,20,866 notices were issued and the persons who paid income-tax on account of their salaries were nearly 1,32,315 and when we take these facts and compare with the total number of assessees at the end of the year which is 4,97,221, I fail to see how there has been a tremendous demand for bringing in those who are not paying taxes. On the other hand if we look to the activities of the department, you will find that, in the report to which I made reference, namely, 1936-37, the new discoveries for the year amounted to 68,780, although the struck off number is 34,491 and it is remarkable from the figures that the Madras Presidency leads with 20,753. The point that I wanted to make was this, that the department is already working in such a manner as to leave little chance for anybody who has really any taxable income What really happens is this, that those who make the returns make the returns for less income That is really the trouble, and I think even in that respect department is doing some vigorous work. Therefore, I am opposed to this provision of making compulsory return, although it may be a good provision for a country like England, where people are literate, are more educated and more tax minded than in a country like India where the literacy is hardly more than 8 per cent If there has been a good deal of tax dodging, there has been over-jealousness on the part of the department also If we look to the number of appeals filed in the year 1936-37 you will find that in this year 29,025 appeals were filed and out of these 15,080 appeals were completely or partially successful That works out to a percentage of 52 of successful appeals There were 6,490 reviews by Commissioners and there too the successful number of reviews comes to 2,980 References to the High Court were 77, out of which 32 were successful. So, from these figures it is apparent that more than 50 per cent of references or reviews or appeals have been successful and it is not a very good tribute to the efficiency and impartial working of the department, but the point becomes of greater importance when we find what was the amount as a result of these appeals that was decreased from the total, this amount is Rs. 92,13,139 and compare this amount of 92 lakhs roughly with the net income of the income-tax department and it works out nearly to a percentage of 7 That shows the over-jealousness of the income-tax department In my opinion, this provision for compulsory return ought to go, although the Select Committee has reported that some modifications ought to be made and those whose income would not come to 3,500, if they failed to make a return, should not be penalised That is not enough But the whole provision in connection with compulsory return ought to go *(Babu Baijnath Bajoria* "Hear, hear") I am glad that you agree with me once. I do not agree with my friend, Mr. Bajoria, that there should be no income-tax.

Babu Baijnath Bajoria (Marwari Association: Indian Commerce) I never said that.

Mr. N. V. Gadgil: You may not have said that, but nobody would be more glad if the whole income-tax system is abandoned So, as I have stated, I stand for the principle that whosoever has taxable income, whether earned inside or outside this country, if he resides in this country, he ought to pay, subject to just exceptions and deductions From that point of view, I am in general agreement with the principle of taxing the foreign income of those who are resident in India, whether they are domiciled or whether they are not domiciled

In 1931, we are told that a Bill to tax foreign income was brought and the Bill was rejected by this House Several years have passed. Because it was rejected then, that is no argument why it should be rejected now, unless we are convinced on the merits of the case. The present law is, that they are taxed on the remittance basis and Government are not getting much as would appear from the report to which reference was made by me just now Speaking of the income-tax generally in the Madras Presidency the All-India Income-tax Report says, "there was a decline in the earnings of the S I and M. and S M Railway Companies The income of the Nattukottai Chettis underwent a decline owing to the low rates of interest prevailing in Burma and the Federated Malay States and also to smaller amounts of remittance received from foreign concerns A good part of their capital, being locked up in lands in Burma, is unproductive from the point of view of income-tax" So, if there has been a loss on that account and if there is a possibility of getting more money from that source, subject to just deductions and exceptions as I have stated, I see no reason why we should not tax it, and the reason that least appeals to me is that such a Bill was rejected in the year 1931 The situation is not the same The responsibilities of the new order are there and money must be found Millions of unemployed are there in this country waiting for employment, and the problems of poverty, destitution, insanitation and education cannot be solved unless there is money If I plead for the taxation of foreign income of Indians or residents, I cannot stand the differentiation existing between Indians and non-Indians and the difference that is sought to be made in the proviso Exemption provided for the non-domiciled resident is something which no man with any sense of justice and fair play will stand If we are entitled to review our position with respect to this foreign income, I put it on the same ground that we are entitled to review our position with respect to section 49 of the old Act. If the argument is that the exigencies of the State are of a higher nature and there cannot be any sanctity of contract as against the exigencies of the State, I think that applies with greater force with respect to the relief granted under section 49 of the old Act When I say that I am prepared to tax the foreign income of resident Indians and non-Indians, I cannot at the same time take a different position except that the relief that is being granted under section 49 ought to go We were told by the Finance Member that since 1920 this reciprocity is there and people have acted on certain understandings and expectations If that is a standard for judging all financial matters or all public questions of high politics, I think there would be no progress Where then was the justification for changing the Companies' Act and putting an end to several managing agencies and giving them only a period of twenty years,

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although there were agency contracts lasting till the doom of eternity? The argument then advanced was that there could not be any sanctity of contract against the State, no matter whether the ultimate result would not be beneficial to a few persons here or there? This double income-tax relief started with an agreement in 1920 by way of reciprocity. That agreement was embodied in section 49 of the Act of 1922. Therefore, I am putting it on the ground of agreement? Why was it accepted then? There may be many motives for acceptance, but a reference to the debates that took place while the Income-tax Bill of 1922 was under consideration will show that Sir Malcolm Hailey, the then Finance Member, then stated that there would be no loss to the Indian revenue and the same thing was reiterated by Mr Sim later on after the report of the Joint Committee when he said that there would be no loss to the Indian revenue That was the position in 1922 Today the loss to Indian revenue, accepting the figures which were supplied by the Honourable the Finance Member a few days ago to be correct, which, however, I do not accept, because they are not complete, is considerable The position today, however, is different, and, after all, have the expectations been fulfilled? How many countries have entered into this agreement of reciprocity?

The Honourable Sir James Grigg: Twenty-eight

Mr. N. V. Gadgil: Only Australia from the Empire countries Sir, if the relief which is being given under section 49 and the exemptions given under section 60 alone are taken into consideration, I submit the Indian treasury stands to gain more than three crores How many exemptions are there? Under the Government of India Act the amounts of interest on sterling loans are out of reach, although we pay every year nearly Rs 16·78 crores by way of interest on these sterling loans, and then there are sterling debentures raised by the British companies operating in India There the debentures are worth Rs 232 crores, and taking the rate of interest at three per cent and a half, you will find that nearly eight crores are lost to the Indian revenue So, taking into consideration the interest that is being paid by Indians or from India on the sterling debts raised by the Secretary of State, also the sterling debentures raised by the British companies operating in India, the net loss to the treasury is considerable, and if you add the double income-tax relief, the pensions and the leave allowances and also the pensions and the leave allowances of private employees and local authorities, I think the whole total, making a very modest estimate, cannot be less than three crores The same estimate was made by Sir Rahimtoola Chinoy in his speech presiding over the Federation's annual meeting a few months ago, although the figures were called ridiculous by the Finance Member then Now it is open to my Honourable friend to challenge his figures and to say that it is less than three crores And even if the figure may not be three crores but one crore, why should India lose? It makes no diffierence whether the money goes to the Provinces or is retained at the Centre It is no good telling us that only 60 lakhs are available to the provinces That is one side of the picture We want every farthing to be taxed and that tax to be retained in India for the benefit of the Indian people. May I tell the Finance Member what the great Indian Mahatma Gandhi did when he

left South Africa for the last time? He laid down a great principle of conduct that whatever a man earns in a country which is not his own, he must leave everything there when he leaves the shores of that country, and Mahatma Gandhi left South Africa with enough money for his passage and one pound for himself and his wife. That is an example for some of my European friends who stay here, do business, run industries and then take everything away. I am prepared to consider their case for an additional extra pound but the principle of conduct enunciated by Mahatma Gandhi must be substantially carried. You do not agree with Gandhi's non-violence nor with his weekly silence, but at least agree with him in this one thing and you may go back to your country much happier than you would go loaded with your dividends and interest It is easier for a camel to go through the needle but very difficult for a rich man to go to the Heaven and I am very anxious that the English capitalist and industrialist should go straight to the Heaven and therefore I want to relieve him of this burden of mundane wealth It is much better that he should leave it here on the Indian shores and not take it to the English shores for nobody knows what will happen there I am considering two points, one under section 49 and the other under clause 4 under one and the same principle, namely, that you cannot have leave for taxing foreign income and at the same time say that relief ought to be granted because it has been granted during the course of the last 15 years During the last 15 years 14·78 crores have already been granted How much more do you want? You have taken crores and crores of rupees and it seems that you are not yet satisfied Time has come when, if you are not satisfied, some stronger measures must be taken to inflict satisfaction on you in a non-violent constitutional legislative manner

Then, Sir, speaking about the income earned in foreign countries much was made by Sir Muhammad Yamin Khan Possibly his speech was the better half of the half speech made by the Finance Member.

Sir Cowasji Jehangir (Bombay City Non-Muhammadan Urban) Was that intended to be a compliment to the Finance Member?

Mr. N. V. Gadgil: It all depends upon one's understanding. The point really is that there is discrimination There are other points and difficulties raised towards taxing the foreign income—exchange difficulties and control of exchange and flight of capital or penalising foreign enterprise —they may all be good,—it is also true that this Government did nothing to encourage or help the Indian traders and Indian businessmen outside India They failed to protect their lives and they failed to protect their reputation The policy of this Government with respect to their nationals in the South African Colonies and elsewhere is a policy of which I do not think this Government will ever feel proud All the same, if these people claim to be Indians, and that is the point on which I want to base my arguments, whether they reside for a few days in a year or one year in a period of four years, if they claim to be Indians and claim the rights of citizenship, its attendant dignity, its attendant reputation irrespective of the fact that the present Government situated as it is has made no efforts to protect their lives and property, I think this country is entitled to ask them to pay something by way of tax At the same time, in the case of those who are non-Indians and yet reside here, I cannot tolerate the discrimination made that the income they earn from business, profession and avocation should only be taxed and not income

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from other sources. Why should you have this differentiation? If you want to tax, do not make any difference Have a just, fair and equitable system. It was said that equity and income-tax are strangers. I thought that it was a mere euphemism but when I read this Bill closely I was convinced that there is something more in it than appears on the surface From some of the provisions it is clear that equity and income-tax, at any rate as it is embodied in this Bill, are strangers Then, Sir, there was a point made about the agricultural income and it was suggested that it should be exempt. I fail to see why it should be exempt It is not going to remain exempt in India. Province after province is passing legislation that it ought not to be exempt If there is any exemption, it ought to be on the principle of earned income and unearned income. The great thing that I am missing in this Bill is a distinction which is a fair, just and a socialistic distinction between income earned and income unearned

Prof. N. G. Ranga (Guntur cum Nellore Non-Muhammadan Rural) It is a liberal distinction

Mr. N. V. Gadgil: It is an immediate alternative to socialism. But I fail to see why the landlord should be exempt My esteemed friend, Mr Sri Prakasa, was very anxious to take care of the income of this world, as also of the other world As he comes from Benares, I can very well understand it The people of Benares are always anxious to take care of the belongings of this world of the pilgrims who happen unfortunately to be there, so that they may leave for the other world without a single belonging From that point of view, I say that everybody without any exception, unless the exception is based on earned and unearned increment and with allowance for children, to which I will refer later on because I have good many of them, should be taxed Every man who makes money on the bullion exchange, every man who makes money on the stock exchange and every landlord who sits in his quiet bungalow and makes money whether from his paternal "few acres" or many acres must be taxed and must be taxed at higher rates than those who earn it by intellectual or manual labour That distinction ought to have been made and I regret to say that it has not been made

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadan Rural) Supposing a man gets Rs. 10,000 a month and works only for two hours a day, is it all earned or unearned?

Mr. N. V. Gadgil: There will be an exemption limit to the extent to which his intellectual labour justifies the earning of Rs 10,000 a month I know the gentleman to whom my Honourable friend is particularly referring and I hope that gentleman will be right glad to part with Rs 9 000 if it comes to that You really concede then that there ought to be a distinction drawn between the earned income and the unearned income Anyway, it is a matter on which further examination is possible But in this Bill no distinction has been made On the contrary, the distinction that is sought to be made is a distinction between resident Indians and non-resident Indians That is a most unscientific distinction and cannot be justified except on the ground of selfishness.

Then, Sir, as I said, there must be just deductions and just exceptions Now, take the case of the life insurance premium The provi-
3 P.M. sion in this Bill is one-sixth In this particular matter, it would have been far better if those principles which are to be found in the Income-tax Act of the United Kingdom were to be followed In England from 1854, for good many years, all premiums paid were deducted, exception being made in case of policies taken from non-British companies Such a thing can be done here If you grant exemptions to those policies which are taken from Indian companies and do not grant exemptions to those policies which are taken from foreign companies, then it is something which will satisfy some of the poor policy holders from the lower and upper middle classes At the same time, it will encourage life insurance industry in this country Then, Sir, there is another injustice done in this case While taxing the assurance companies, it is not merely the income that is taxed but even, with the alternative formulas that have been embodied in this Bill, to some extent the capital which comes to the policy holders by way of bonus is taxed It is not just nor scientifically perfect But it is a matter on which there has been an agreement and I do not want to pursue the matter further I agree with my Honourable friend, Sir H P Mody, that the income-tax limit may be still further lowered to Rs 1,000 because in my opinion in India taking into consideration the general economic state of the country, one who earns a thousand rupees a year is a man who ought to pay something by way of income-tax Every cultivator who has got an inch of land has to pay land revenue and a man like me, a man who belongs to the middle class, earning a thousand rupees and more unless his income amounts to Rs. 2,000, has not got to pay a single copper coin to the State although all the services which the State initiates and carries through will be availed of by him as much as anybody else Indirect taxes every citizen has got to pay to the extent to which he buys articles There is no direct tax which a man has got to pay whose income is less than Rs 2,000 My submission is that the limit may be lowered to Rs 1,000, although this is a matter which cannot be discussed now but only in the Finance Bill I put forward this suggestion of lowering of the limit to Rs 1,000 I want at the same time that there must be allowance made for the number of children which a man has That is the provision in the English Act The limit in England is three children, but in India it ought to be six children, otherwise few will get relief Allowance must be made to the extent of six children in India.

An Honourable Member: What about more than one wife?

Mr. N. V. Gadgil: I cannot talk on that subject because I am not concerned with it My Muslim friends who may take up to four wives will look after themselves Coming to the point, I agree with Sir H P Mody that the income-tax limit should be lowered to one thousand rupees on this condition of giving allowances for children Otherwise, the Honourable the Finance Member might accept only the first part of my suggestion and he might not pay any heed to the latter part. There must be exemption for every child. In England even if the proverbial mother-in-law comes to look after the children there is an allowance of £25 I do not say that there should be such allowance in every case. But in relevant cases where they come to look after children or the household, there must be a fair amount allowed. Therefore I submit that the proposal should be taken as a whole Otherwise the Honourable the Finance Member, clever as he is, will only

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quote the first part of my speech in March next That is not allowed With these just and fair exemptions, every person having assessable income must be taxed

I have not much love for the industrialists and capitalists They must be taxed as much as possible subject to the condition that taxation should not affect the sufficiency and efficiency of the present industrial plant nor the possibilities of its expansion in national interest Subject to that everybody must be taxed I support the Bill with the following amendments to be made therein, that is that all foreign income without any distinction of domicile must be subject to tax Relief under clause 49 ought to go. Pensions and other allowances ought to be subject to tax If the Honourable the Finance Member is going to make any recommendation as is stated to be in the report of the Select Committee, why not ask him to make a recommendation even about the interest on sterling debts and debentures Let it be thorough and logical That is the test of his sincerity. If he is out to touch the pockets of the rich we will be with him provided he also touches the pockets of the rich Englishmen If he does not do that, he cannot have any moral right to ask us to touch the pockets of our own countrymen With these words, I support the motion

Babu Baijnath Bajoria: Sir in the words of my Honourable friend, Pandit Krishna Kant Malaviya

"One and one idea alone, from the beginning to the end, persists in the Bill The desire of the Honourable the Finance Member is to collect as much revenue as possible . The Bill, as it is drawn up, takes no account of the needs of the taxpayer or of the question whether any initiative will be left for assessees to show enterprise in business 'Realise income tax', 'realise more income tax', 'realise most' seems to be the motto of the amending Bill "

Sir, I can easily understand the anxiety of the Honourable the Finance Member to secure more revenues for the State I have got no quarrel with him on that score But, Sir, the methods employed by him in this Bill to secure his end is to say the least the most objectionable Sir, he has given little consideration to the capacity to pay of the already overtaxed taxpayer especially the middle class man who has to provide for and maintain a large family The Honourable the Finance Member has little consideration to the innumerable difficulties which we, of the trading classes, have to contend with in the course of our business to make out a living Some of the proposed changes are so revolutionary and drastic that they will kill the goose that lays golden eggs for the Honourable the Finance Member Sir, it is just like milking the small cows of Bengal by the *phooka* process *Phooka* has been made penal by a recent enactment These small cows have already been milked and the Honourable Member now proposes to draw out the last ounce of milk together with drops of blood At the same time the best breed of English cows and the best breed of Sahiwal or Kathiawar cows are left half milked or unmilked at all As we all know this process of *phooka* is resorted to after the usual process of milking is over, in order to extract the extra ounce of milk which the cow is supposed to keep concealed by a natural instinct for the calf I am sure the House understands to what clauses I am referring. Clause 49 exempts the Britishers. Clause 60 exempts the Ruling Princes. There are other exemptions also which, in my opinion, if properly tapped would fill the pot of the Honourable the Finance Member

with milk, whereas such milking of the small cows will give him no milk but will only draw blood from them. Excepting the provisions of clause 4 which have already aroused very great indignation and resentment from all quarters, I have grave doubts whether the other provisions of the Bill will give the Honourable the Finance Member the money which he expects to get. This money, which will be drawn by this process of extortion, will neither do good to the Government nor to the public at large Sir, I agree with my Honourable friend, Mr Sri Prakasa, the Charlie Chaplain of this House, that this Bill is more like an amendment of the Indian Penal Code than of the Income-tax Act

Mr. Abdul Qaiyum (North-West Frontier Province General). Is it Parliamentary for an Honourable Member to call another Charlie Chaplain?

Mr. Deputy President (Mr. Akhil Chandra Datta) It was observed in very good spirit

Babu Baijnath Bajoria: Sir, this Bill presumes that every tax-payer is a tax-dodger and he must be hanged for even the slightest offence against the Income-tax Bill This Bill also presumes at the same time that every officer of the Income-tax Department is an apostle of honesty, integrity, sweet reasonableness, courtesy and all the virtues in a man which even a saint dare not claim and, hence, there is no harm in giving him every imaginable powers under the Act as it is presumed that he could do no injustice and no harassment to any assessee But an officer of the Income-tax Department is also a human being—much the same as an assessee—and if there are shortcomings natural in a human being, in a tax-payer, I submit there are similar shortcomings in the officers of the Income-tax Department also If, due to this human nature, some of the tax-payers try to save a little money and there are some of the officers of the Income-tax Department—I am not making any allegation, I would rather say that the higher officers as a class have improved considerably than before, but there are their subordinates whom also we have to consider They also do not hesitate to exercise their powers fully and by all means to harass the poor assessee and to extract the last ounce of blood from him Indeed, if the defects on both sides are weighed in a scale, I do not know which side will be heavier—whether the poor assessee will be the greater sinner or the Department Therefore, in my opinion, such wide and autocratic powers, as have been provided in the Bill, should not be given to the Department as that would cause untold sufferings to the innumerable assessees and even bring about possibly the ruin of some of them

Sir, a cursory glance through the Bill would convince one that the object of this amending Bill is to nullify the effect of judicial pronouncements of His Majesty's Judicial Committee and also in some cases the judicial findings of High Courts in India in regard to questions of law. In some cases it will be seen that the law of the country, for example, the Contract Act, the Transfer of Property Act, the law relating to endowments and trusts and Hindu and Muhammadan Law, has been seriously interfered with. Wherever in the High Court or in judicial courts decisions have gone against the Government, they have tried to rectify the defects by resort to this amending Bill. In one case, I will say they have gone even further and have forestalled the judgment of a High Court and have made provision in the Select Committee therefor. I am referring to the

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section about the managing agency system I do not mean to say that this is unjust, but I am just referring to it They have forestalled the judgment of the Bombay High Court They have incorporated the clause about the managing agency system The High Court itself has been in favour of the assessee

Another impression which I have got on reading the Report of the Select Committee is that the big guns, I mean the big industrial magnates, both Indians and Britishers, have got the items, which affected them most, corrected to a considerable extent I am referring to the definition of the words "dividend", "depreciation" and "managing agency system" I am not making a complaint of this They have been done in the right way. But what I am making a complaint of is that the points which vitally affected the middle class men like ourselves

An Honourable Member: Oh!

Babu Baijnath Bajoria: We are a middle class in this respect that we are always in the middle I am speaking as a community, Sir My community are always in the middle We market the manufactured goods

An Honourable Member: Say you are a middleman

Babu Baijnath Bajoria: The points which affect this class have not been rectified I am referring to compulsory returns When I said about this, Mr Gadgil was very much afraid It does not touch me. I am getting income-tax returns Then there is the provision of the right of the income-tax officer and the income-tax inspectors to visit the houses of assessees or would-be assessees Then there is the amendment proposed to section 34 I have not got the time at my disposal to discuss all these clauses in details at the present moment, but I will have opportunities to discuss about them later on, when the proper time comes, on amendments I will refer to these later on only in passing

Sir, I would like to draw the attention of the House to one or two points which, as far as I know, have not been sufficiently drawn attention to I am referring, first and foremost, to the question about the Hindu joint family system It is a fact that under the present law the Hindus living as an undivided family are hard hit They have to pay much more than is equitable I would like to read a few lines from the Expert Enquiry Committee's Report on this point They have accepted the hardship which the Hindu joint family suffers in income-tax matters and they also made some suggestions, but the suggestions are half-hearted in view of revenue considerations They say:

"Representations as to the hardships involved in the present system whereby a Hindu undivided family is treated almost as if it were an individual, irrespective of the number of its members, have been insistent and widespread We are bound to admit that hardships exist For example, while a registered partnership of four persons engaged in business and sharing equally a profit of say Rs 7,800 is not liable at all, a Hindu undivided family with say four adult male members similarly engaged in business would pay in respect of a profit of Rs 7,800 tax amounting to Rs. 400 . . . . We are of opinion that there is some case for the recognition of this special position of Hindu undivided families Since, however, the effect on the revenues of any concession will be very considerable, we have had to take into account the practicability of the various suggestions made"

They have made the suggestion that where there are more than one adult married male member, by dividing the family's income by two the income-tax on Hindu joint families should be assessed But they also made the suggestion that the income-tax of husband and wife and minor child should all be aggregated and that will bring the Hindu joint family more into line with other families But as the Select Committee has dropped that suggestion and very rightly too, I think the case for giving relief to the Hindu joint family has been made much stronger. What I feel is that we have been punished for living jointly If we live under one hearth and one home we have to pay more tax If we separate and live in four hearths and four homes, then we have to pay less. The advantages of living in a Hindu joint family are obvious In these days of economic distress the middle class families will have to pay more tax. Merely for the purpose of income-tax, why should we separate? The income-tax law is disrupting and disintegrating our homes. Is it fair, is it proper, is it equitable and is it just? I say no I would enlarge on this subject when the amendment comes, but I think that the Hindu joint family should be assessed more or less on the basis of a registered firm or as an association of individuals living jointly: either the adult male member should be taxed separately for his share of the income or the joint family should be taxed for the aggregate income, but the rate applicable to that assessment should be the rate applicable to the income of each adult male member. Even in this proposition I am leaving out the minors I am ready to sacrifice that portion for the sake of simplicity, so that the matter may not be complicated, but if four brothers work together and serve in different shops or in different professions and if they have a common pool and live under the same hearth and home, why on earth should they be asked to pay four times or three times the tax which is legitimately due from them and which other sections of the community—both Hindu and non-Hindu who work and live separately—are paying to the exchequer.

There is one very important point which I would like to call attention to and to which attention has not been drawn by any other speaker so far, and that is about charitable trusts. It is not a question of Hindu or Muslim It affects all sections and all communities equally Up to the present moment if there were any charitable trusts which were public or private, the benefit of which used to go to the public at large or to a certain section of the community, but not to the settlor or to his descendants, they were given exemption I am referring to clause 4(*b*). A proviso is going to be added that nothing contained in clause (*i*), clause (*ia*) or clause (*ii*) shall operate to exempt from the provisions of this Act any income of a private religious trust where the trust does not enure to the benefit of the public I take strong exception to the words "does not enure to the benefit of the public" My reasons are that in a recent judgment of the Bombay High Court in March last it has been decided that the interpretation of these words is this: that it must benefit all sections and all communities and must not be restricted to a certain section or a certain community I ask whether even a few trusts could be counted which comply with this requirement. The words have been given the interpretation that if a trust is for Muhammadans only they would not get the benefit of it: if it is for the Parsis only they will not get the benefit of the exemption and if it is for the Marwaris only they will not get the benefit. I ask the Finance Member whether I am right. I should like him to make this point clear. My point is, that as long as the benefit of the trust does

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not go to the settlor or to any of his descendants or family members, but it goes to the public, with which he is not concerned, then such a trust should get the benefit If a Muhammadan gentleman creates a trust for the benefit of the Muslim community or a section of the Muslim community, then that trust should get exemption under the Income-tax Act, or if a Hindu or Sikh gentleman creates a similar trust for the benefit of their respective communities, then such a trust must get the benefit of exemption under the Income-tax Act I think I have made the position quite clear.

There are, however, two silver linings in this Bill, and for which I must congratulate the Honourable the Finance Member

The Honourable Sir James Grigg: They won't stay in the Bill without the others

Babu Baijnath Bajoria: That is the provision about bad debts and carrying forward of losses, but there is some defect in this, to which I should like to draw the attention of the House

The Honourable Sir James Grigg: You mean they don't give you enough?

Babu Baijnath Bajoria: If a certain business is closed, then the bad debt incurred on that business will not be allowed, and I contend that this should be allowed For instance, I am trading in jute, tea and cotton; suppose there is a loss in my cotton business and I stop it, then under this provision the losses incurred or bad debts in respect of the cotton business after it is closed will not be allowed This, I submit Sir, is most inequitable Similarly, about carrying forward losses, it is provided that the losses will be set off against the very same business After all it is the man who pays and not the business that pays So in my opinion this loss should be set off against his total income, and if that is not practicable it must be set off against any other business which the assessee may do

Mr. K. Santhanam (Tanjore cum Trichinopoly Non-Muhammadan Rural) But the man makes the profit

Babu Baijnath Bajoria: Yes, the man makes the profit by doing business Business has got neither hands nor feet

Mr. T. S. Avinashilingam Chettiar (Salem and Combatore cum North Arcot Non-Muhammadan Rural): Nor a stomach

The Honourable Sir James Grigg: Only mouth

Babu Baijnath Bajoria: Then, Sir, I should like to draw the attention of the House to section 9, that is, about the proviso which is going to be deleted about the residential house of an assessee. At present the assess-

ment for a residential house is not more than ten per cent. of the total income, but if this proviso is deleted, there will be a considerable hardship, and my Bengali friends will be very hard hit in Calcutta specially. There are cases of others also in Benares and elsewhere, and my friend, Mr. Sri Prakasa, referred to it yesterday in the course of his eloquent speech. For instance, there are numerous cases in which the son of a big man who has got a big ancestral property may be serving as an assistant in a business house on say Rs 50 or Rs 60 per month Now, if this young man has to pay a tax on the big house, then probably all the income which he may be deriving from his service would go to the Finance Member, and he will be starving in the streets

The Honourable Sir James Grigg: Why not sell the house?

Babu Baijnath Bajoria: This is queer logic, Sir After all, he has got at least a house to live in Why do you deprive him of that too and make him a beggar in the street? I think that is the intention behind this amendment of the Honourable the Finance Member

Then another thing which the Honourable the Finance Member has done is this By the notification recently issued, that is, on the 9th October, 1938, he has taken away the exemption which was granted to the small depositors in post office savings banks I should like to read out the notification for the benefit of my friends This is how the notification reads

"*No D 13860-P T /38*—Under the rules for the guidance of depositors in Post Office Savings Banks as published with the late Department of Commerce and Industries Resolution No 1446-1449-29, dated the 8th March, 1914", *—please mark this concession was being enjoyed by the poor people for the last quarter of a century*— "and subsequently amended, interest on income-tax bearing securities issued by the Government of India, which are purchased through the Post Office and left in the custody of the Accountant General, Posts and Telegraphs, is exempt from income tax, this exemption being limited however, in the case of each investor, to securities of the nominal value not exceeding Rs 22,500 The Governor General in Council has had under consideration for some time past the desirability or otherwise of the continuance of this concession and he has now decided that it should be withdrawn in the case of all savings banks accounts with effect from the 1st April, 1939

Amendments to rules for the guidance of depositors in Post Office Savings Banks will be made shortly"

Now, Sir, this will hit the poor investors, because, an investment of Rs 22,500 used to yield at three per cent, Rs. 660 Poor people in villages used to invest Rs 5,000, Rs 8,000 or Rs 10 000

Mr. S. Satyamurti (Madras City Non-Muhammadan Urban): No villagar has got Rs 5,000 or Rs. 10,000

Mr. K. Ahmed: Marwari children have it

Babu Baijnath Bajoria: Sir, I take exception to the words used by my friend over there, because, he said "Marwaris in the name of their children, have it", and I must request the Chair to ask the Honourable Member to withdraw those words. In my opinion, the poorer section of the communities who had the incentive to invest in Government securities will henceforward be hard hit by the withdrawal of this concession.

[Babu Baijnath Bajoria]

Then, there is the penalty clause in section 28. Sir, the penalty for all these offences is really very great. If a return is not filed in proper time or if an assessee fails to submit a return, then he comes under section 28, or if by any chance he does not produce his account books within the time specified, then also he has to pay 200 per cent penalty, or if he conceals or commits any other offence under this Act, then also he has to pay the same penalty. Sir, I cannot understand this sort of penalty, 200 per cent, nothing more nothing less.

Then, there are sections 20A and 38 to which my friend, Sir Homi Mody, referred, and I endorse every word of what he said. It will be most unjust to reduce the sum of one thousand mentioned there to Rs. 200, because, it will entail great hardship, labour and cost to the assessee, at the same time it will not bring in any income to the Government. Whereas, on the other hand, it will only entail greater work on the department. They will have to deal with thousands and thousands of cases and they will in the end find that the income to be derived from this change will be very trivial and would not even pay for the cost of the trouble and harassment to the department, as well as to the assessees.

I do not want to say much about section 4 (*1*) or about 49. The Honourable the Leader of the Opposition has already spoken in a most masterly manner on these points and he has helped us to understand the provisions of this Bill by his masterly exposition of these clauses as well as other clauses and for this we owe a deep debt of gratitude to him. About section 34 of the Act I will speak only one word and that is the differentiation which the Select Committee has made about four years and eight years. In actual practice it will be very difficult, almost impossible, to make this line of demarcation—what is deliberate concealment and what is occasional or accidental mistake. I would request the House that they should not give this power to the department and then the usual law of limitation of this land is three years and everybody knows that after three years books and vouchers will not be required.

The Honourable Sir James Grigg: How can the Honourable Member claim a carry forward if he destroys his books at the end of three years?

Babu Baijnath Bajoria: If I want to claim it, then I will keep it, otherwise I will not keep it. I will deal with this point more fully later on but if it is eight years and if three further years are given to the income-tax officers to call for the books, it will mean 11 years. For eight years you will be able to tax but even at the present moment they can charge for one year and they can call the books for three years previous and during these 11 years many of the assessees may die and the men who keep the accounts may die or may have been dismissed. In my opinion there should be an uniform period of three years limitation according to the law of the land. If there is any escape, the assessee must be punished and brought to book but this method is very arbitrary and will be placing the assessees absolutely in the hands of the income-tax officers. There will be no finality of assessment. Everything will be hanging fire for several years and this is most inequitable. I will now close my remarks and resume my seat.

Mr. H. S. Town (Nominated Non-Official): Sir, the Select Committee in their report inform us that they have agreed with Government the general lines on which the Appellate Tribunals shall be formed, but they appear to have agreed to their introduction being postponed for a period of two years Now, if this Bill is passed into law, Government will be able to put it into operation in two months, and I see no reason why this thing, which is going to be of great assistance to assessees, should necessarily be delayed for a period of two years Government, of course, do not necessarily have to take two years and I trust that they will not take advantage of this wording and see that they do have their two years There is, as far as I can see, very little reason why these Appellate Tribunals should not be set up very quickly and I think they should be working within 12 months Surely in the Income-tax Department there are five men capable of taking over this post and, if asked, we will find five other men to work with them Then further down we read in the Select Committee's Report:

"We think that the selection of members of the panel should be made after consultation with the Public Service Commission, and that members should not, during their tenure of office, have any other connection with the public administration"

I want the House to mark the last few words. They seem to me to give the idea that public servants will be posted to the Appellate Tribunal and be on it for a little while and then perhaps revert to their post either in the Income-tax Department or in some other department of Government Now, Sir, this is not what we want We want in the Appellate Tribunals men who will carry out their work without fear or favour We do not want on the Appellate Tribunal men who are looking forward to preferment in Government Neither do we want on them men, who having done their service with Government are looking out for soft and *khushi* jobs

Again, I find that the Select Committee have used this phrase twice

"We have received an assurance that administrative arrangements can and will be made to obviate any hardship that might be imposed, in consequence of the change," etc

That is very nice and I would be quite happy if I were sure that the administration would be in the hands of the gentlemen who hold it today, because I can trust them but I cannot guarantee who will hold their posts in future. Suppose, I get there myself, I may decide to change the arrangements Sir, these are things which can be put into the Act so let us put them in if we possibly can

Now, Sir, we have heard a great deal in this House about tax-dodging. It all seems to be aimed at the big tax-dodger. I may inform the House that I have no sympathy whatsoever for him but he is very easy fish to catch, because, you see what he is doing You know he is a big man It is quite easy to get at him, but there is a form of tax-dodging which is known to every commercial man in India, which goes on around us every day and is boasted about and that is the bazaar dealer who has an income just above the taxable limit but never puts in his return. The Bill, as introduced, caught that man but the Select Committee have altered it, so that a man has to make a profit of approximately Rs. 800 a month before they can catch him. Sir, I know of dozens and dozens of bazaar dealers whose profits are not Rs. 800 a month but whose profits are above the Rs. 2,000 a year and they pay no income-tax,—and the Select Committee have let them off again I do not understand why we should.

[Mr H S Town]

allow such a thing This is a definite social crime against every man in the country, the avoidance of tax, and, in the total, I make bold to say that the figure is very little less than in the case of the big tax-dodgers I am not a sufficiently hard man to have us go back to the old figure,—I would accept what the Select Committee have done,—but I do hope that this House will make no move whatsoever to change those figures or make the penalty any less.

Then, Sir, on this subject there are, unfortunately, one or two other points and one is this hated clause about the right of entry. Now, nobody likes it I hate to think—that any man can come into my house and have a look at any books that I happen to keep or that he can walk into my office,—but, Sir, it is necessary We know, it is no good being blind to the fact, we know that businesses are carried on in one place and the books are kept in another and we know that an income-tax officer cannot find out the facts A very good guard against unnecessary harassment, a thing which we all fear, has been given, inasmuch as the income-tax officer cannot carry out his work without a certificate from the Commissioner The Commissioner is a senior officer and we must rely on him to use his powers reasonably.

Mr. M. S. Aney: What is his information?

Mr. H. S. Town: He will work on the information which he considers sufficient for him It is for him to decide

An Honourable Member: He will work on inspiration?

Mr. H. S. Town: He might even work on inspiration but if he works on inspiration and he gets something, that is all very well, he has saved somebody from being taxed at a higher rate because of the tax-dodger Next we come to a form of evasion which the Bill aims at stopping, and this is one generally, or more generally, committed by Europeans than others and that is the receipt of salaries as a loan or the failure to draw your salary in order to reduce your rate Such things will now be caught, but, Sir, they have gone so far as to tax salary which is due but not paid Now there is nothing in the Bill at present which will protect the unfortunate man who never draws his salary Such a thing is possible I know of a case, the figures were placed before me in business some time ago, of a European who had Rs 24,000 in salary due to him spread over three years and from the figures I saw there was no hope, whatsoever, of his getting one pie Under this Bill the man would have been taxed There must be something inserted in this Bill to put that right

Now, I wish to deal with the question which my friend, Mr Bajoria has just been speaking about and that is the re-opening of assessments At present a man, as we all know, has to remain clever for only twelve months in the concealment of his income and he is then away with it for good Now, if he can do this two or three times, and then pays the penalty he is still in hand, but with the Government having the right to re-open assessments, the assessees will be more careful as to what they do in the way of attempted concealment and, therefore, the income-tax

officer himself will not have to be so keen on making sure that nothing is missed The two things together, the fear of being found out in the next four years on the assessees part and the Income-tax officers not having to get every pie of income-tax each year should result in very much better and more friendly relations between assessees and the Income-tax Department

Now, we come to another point on which I feel somewhat strongly, having quite recently been interested in a court case which went to the Privy Council, we won the day, but the Bill has put us back where we were, so naturally I do not like it I am talking of the sum paid to retiring employees Now you have your provident fund for your employees, you can only base your provident fund on your average employee. The time comes for your employee to retire If he has been just an average employee, he gets his provident fund and away he goes If he has been a bad employee, he still gets his provident fund, but take the case of the exceptional employee, you want to do something for him You give him the provident fund and you feel you would like to give him something more What are you going to do? You can give him a pension, but that will be taxed You can commute that pension and he can get away with a lump sum, free of tax Now I do not give a pension, I give a lump sum I do not wish to gamble on the life that is left to my retiring employee I do not wish to make a good bargain with him if he dies early and a bad one if he lives longer We shall be moving amendments to put back the position as the Privy Council found Now, Sir, I come back to the question of the amendment to section 23 A and now perhaps I am on a ground where I have to be a little careful The amendment says that when the reserves have arrived at a certain figure one hundred per cent. of the assessable profits must be distributed or deemed to be distributed Now, Sir, I submit that although the company has not necessarily distributed those profits, it will be treated as having done it The company has an assessable profit and pays super-tax thereon That super-tax is not available under any circumstances for distribution to the shareholders The income-tax is, it is part of the dividend, but the super-tax is not, and, therefore, if the company attempted to distribute 100 per cent., it would find itself having to draw on its reserves That figure of one hundred per cent. must be altered to some other figure One other alteration in that clause is the knocking out of the words "or subsidiary company" I very much regret this omission The great financial and industrial structure of Great Britain has been in some measure built up by subsidiary companies and I would like to see India following that example I realise that the thing can be abused, seriously abused, and efforts must be made to stop abuse, but that is no reason why every company should necessarily be damaged, and we shall put in amendments which, we hope, will be accepted by all sections of the House to put the matter right.

4 P. M

Sir I will not keep the House very much longer I would, however, like to refer to the Schedule and read, if I may, the proviso to Rule 8 It runs thus:

"Provided that if upon investigation it appears to the Income-tax Officer that, having due regard to the necessity for making reasonable provision for bonuses to participating policy-holders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policies is materially inconsistent with the valuation as shall increase the surplus for the purposes of these rules to a figure which is fair and just."

[Mr H S Town]

I submit, Sir, that the Income-tax officer is not the man to say whether the provision for bonuses to participating policy holders is reasonable. I doubt if there is a man in this House who can say it It is too highly technical altogether Then it goes on to say 'or other factor employed "and things that are" materially inconsistent' This is giving the Income-tax officer far too wide an authority and I think some amendment will be necessary to ensure that he works under really good technical advice In dealing with the assessment of the companies we find that the Income-tax officer has the right to take one of two methods Naturally, he takes the one which pays him the best I do not myself feel that this is altogether good and, as far as I can see from reading these rules, he has a right to vary the basis of assessment from year to year as suits him I think he should be prepared to fix on one and stick to it I expect that it will be necessary at a later date for us to move certain amendments to bring this clause into line with what we required

There is one other point that I wish to touch before I finish It refers to the British Indian branches of an Insurance Company not resident in British India The profits gained "in the absence of more reliable data" are to be deemed to be this or that I suggest that the returns under the Insurance Act must necessarily be reliable data and I think that they should be accepted.

Now, Sir, I am going to ask for something which we have not asked for yet We, business houses, are very rapidly being turned into governmental clerks for the Income-tax Department We are having to make all manner of returns It is necessary for man after man to be employed to go through the books and give returns of interest paid, salaries paid and all manner of little petty items I suggest that Government should consider giving us payment for the returns we make and for those on which we make collections they should think of giving us a commission

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Sir, we have been discussing this Bill for practically three days Every single Member who addressed this House had some flaws to point out with the Honourable exception of my Honourable friends, Dr Dalal and Sir Muhammad Yamin Khan Even the Members and the Leader of the European Group, my Honourable friend, Mr Aikman, pointed out some defects in this Bill But it was left to Dr. Dalal and Sir Muhammad Yamin Khan, who is not present in the House, to sing the hymns of this amending Bill I propose to refer to the fallacies and special pleadings of these friends later on in my speech, but before I discuss the clauses of this amending Bill, I would like to bring to your notice and the notice of the Honourable friends in this House that one most important aspect of the English income-tax law has been completely, rather deliberately, ignored in this amending Bill In every civilised country the principle underlying the income-tax law is that only the surplus income is taxed, the income which is over and above the needs and the demands of the every day comforts of life Both the framers of the law and the law givers see to it that the assessee has enough left with him to feed, clothe and educate himself, his family and his dependants It is assumed that life would not be worth living without the ordinary comforts of life It is assumed that it is the duty of the State to see that the subjects have enough to live upon and have the ordinary comforts of life.

The principle underlying and the philosophy behind all the laws is that the State is for the people and not the people for the State. It is assumed

that in every democratic country the people and the State are interchangeable terms The happiness, the prosperity and the growth of the one leads to the stability, usefulness and the development of the other But, unfortunately, this wholesome principle has been completely overlooked by the Honourable the Finance Member Instead of the key-note of this Bill being that the people should have enough to maintain themselves, the key note of this Bill is that no tax-dodger should be left in this country The guiding principle is that every man, every woman and every child, who has a taxable income should pay for the maintenance of the State I say that the principle should have been that enough is left with the assessee to maintain himself, his family and dependants But as I said this wholesome principle has been completely or rather deliberately overlooked In England there are provisions for personal allowances In computing the income of the assessee one-fifth of the income is left out Then there is the income-tax free limit of 125£ Over and above these there are allowances such as single man's allowance, married man's allowance, children's allowance and allowances for dependants. I want to know, Sir, if these allowances are considered desirable and necessary in England, where the income per capita, as compared to ours, is huge, why is it that some such provisions have not been provided for in our Bill. Are we richer than the English people? Are we not as good human beings as they are? Is our income more as compared with Englishmen's income? Why is it then that some provision has not been made for such allowances as are provided for in the English law I demand that the first clause of this amending Bill should be that in computing the income of an assessee due allowances should be granted for the maintenance of the wife and children and the dependants Unless some such thing is done, it will be impossible for me to support a Bill like this I am told that a proposal like this is impossible, is unthinkable It is urged that out of a population of 200 millions, only four lakhs or thereabouts pay income-tax and if, out of these four lakhs, 10 per cent or 15 per cent or 20 per cent are allowed to be let off, it will be impossible to run the administration My reply is that the Government is responsible for this state of affairs. Our poverty is due to this Government and this Government is responsible for the pauperisation of our people I also maintain that the administration is for the people It is to administer to our wants and we are not to administer to the wants of that administration and are not for the administration It is urged by some friends that we, as responsible Members of the Legislature, should see to it that we provide money for running this administration. My reply is that so long as we are not responsible for the spending of the money, so long as we have no voice in the expenditure of the money, which we provide for this administration, it is not our duty to provide money I, therefore, suggest that before we assess the income of any assessee, we should make provision for some personal allowances for the maintenance of the family and the dependants

Coming to clauses, Sir, clauses 4, 5, 23, 50, 53 and 71, are the most important I have referred to some of these in my Minute of Dissent I have tabled amendments for others. Amongst the clauses, clauses 4, 5 and 71 are the most important Not only on their merits but also because they provide a touchstone for us to judge the equity or inequity of the Bill. I propose that section 4 should be deleted altogether.

My reasons for this demand are that in every civilised country the basis of income-tax assessment is either the origin basis or the residence basis

[Pandit Krishna Kant Malaviya.]

Both these bases are correct in their own way and every country adopts one of these bases according to its own needs or the circumstances in which it is placed England has its own laws, the laws which find favour in England do not necessarily find favour in South Africa, Canada or Australia England is a manufacturing country Most of its income is derived from foreign countries England does not send out its income to foreign countries In the case of smaller countries like Canada, South Africa or Australia they have very little of foreign trade They have to send out a major portion of their income outside Therefore, Canada, Australia and South Africa prefer the origin basis whereas England prefers the residence basis Our country is a poor country So far as I know our imports outweigh the exports We are the producers of raw materials which we generally export to foreign countries The most equitable policy for our Government should, therefore, have been to base our income-tax law on the origin basis Unfortunately for us we find that the present Income-tax (Amendment) Bill is a strange admixture of both origin and residence basis As pointed out by the Honourable the Leader of the Opposition, ours was a Hobson's choice in the Select Committee Here I am making a fair offer to the Honourable the Finance Member I am prepared to accept the origin basis provided every single man who has income from this country is taxed, no matter where the income is received and by whom If this is not acceptable there is a second offer, I am prepared to accept the residence basis, although it is not fair for this country, provided every man who trades in this country or has an income from this country is taxed no matter where he lives or where he receives his income I want to know whether the Honourable the Finance Member is willing to accept any of these two alternatives This is the test of the equity or the inequity of the Bill Sir, there is no logic, there is no reason behind this clause In previous years our income-tax law was passed on origin basis But this Government by a most unjustifiable interpretation allowed all incomes from sterling securities and debentures of the companies working in India to escape and we thus lost about one crore 60 lakhs All this was done in the interests of the foreigners

Now, in a subtle way, the Honourable the Finance Member wants to have as much money from us and, at the same time, he is willing to let go to the foreigner the money which is due to us rightly and legitimately My Honourable friend, Sir Yamin Khan, is not present now I would like to point out to him his fallacies I want to ask him but he is absent—I want to ask the Honourable the Finance Member if England which derives all its income from foreign countries and foreign trade thinks it proper to levy a tax only on remittance basis, if the business is not controlled from the United Kingdom why is it then that we Indians are asked to tax our traders who are trading in foreign countries? If the principle is right, if it is desirable in the interests of foreign trade that those traders who are trading in foreign countries should be taxed, why is it then that the principle of control has been introduced? We are asked to tax our people who are trading in foreign countries The Government is entitled to a tax—why? —because it maintains peace and order, because it gives you opportunities to grow and develop May I know if this Government has done anything for these traders? Did it ever give them any encouragement? Does it ever protect them? How is it then that this Government is entitled to tax our foreign traders? I wonder how the Honourable the Finance Member could muster courage to seriously propose in this House that we should allow the Rs 60 lakhs—not the 1 crore and 80 lakhs according to us, but the Rs. 60

lakhs according to him—to escape. He suggested that in order to make up that loss, we should tax our foreign traders. I want to know, is it fair, is it honest, is it fair dealing? Is it proper to allow Rs. 60 lakhs of our money, which is due to us legitimately, to escape us, and tax our own people in order to make up the loss and thus cripple our foreign trade? My friend, Sir Yamin Khan, thought trading in foreign countries unpatriotic. But as soon as he began to talk about foreign residents here, and my friend, Mr. Hussenbhai Laljı, asked him whether it was patriotic on the part of Englishmen to trade in other countries, and invest their money there, he at once changed colour, he changed his tone, changed his words and said, Englishmen are businessmen and they trade wherever they can find profit. Our foreign trade consists of two things We export of our raw materials. It is a God-given gift The Government have done practically nothing to help us even in that line

An Honourable Member: Research Institute.

Pandit Krishna Kant Malaviya: The Research Institute is for the purposes of demonstration only The other part of our foreign income consists of the wealth that is created by our nationals in foreign lands They went there in a spirit of adventure They did every thing and faced hardships not because they were rich but because they had the courage, the spirit, to go out of their country and eke out an existence for themselves. But this Government is anxious to cripple them Every Government encourages foreign trades, grants subsidies, stands behind its nationals, and gives them all the facilities whereas our Government seem to be anxious to nip in bud our foreign trades England derives a lot of income from foreign trade We, poor Indians, have just begun to do some little foreign trade Up till now the law in the land was that foreign incomes were taxed only on remittance basis That is the law even now in England if the business is not controlled from the United Kingdom What we demand is that the same facilities should be granted to our Indians also which are granted by the United Kingdom to Englishmen. The Government have no case. The first excuse that they have is that it will restrict the flight of capital. With your permission, Sir, I would like to say that this is sheer nonsense. If there was any sanctity in restricting capital from flying away from a country, England would have been the first country to restrict the flight of capital. But England has done no such thing But if it is seriously urged that it is done only to restrict the flight of capital, I would suggest that in order to restrict the flight of capital, the best thing to do is and this is being done in every country in the world to tax investments, stocks, rents, shares and interest and all those sort of things In every country, business, profession and vocation are taxed only on a remittance basis. Why has this poor country alone then been chosen for this principle which has been devised by the Honourable the Finance Member? The other excuse put forward is that if we do not tax our foreign traders, and if we do not realise the 60 lakhs which will come to us from this source, and if we are compelled to realise the 60 lakhs, which we let go, from foreigners then it would lead to flight of foreign capital I would welcome that day I wish that foreign capital would beat a safe retreat... ..

Mr. Deputy President (Mr Akhil Chandra Datta) Does the Honourable Member want to speak long?

Pandit Krishna Kant Malaviya: Yes, Sir, I do

Mr. Deputy President (Mr. Akhil Chandra Datta) Then he had better resume his speech tomorrow

MARTYRDOM CELEBRATION OF THE NINTH SIKH GURU TEGH BAHADUR.

Sardar Sant Singh (West Punjab: Sikh) Sir, I want to crave the indulgence of the House for a few minutes Monday is a day of martyrdom of the Ninth Guru, Guru Tegh Bahadur. That day is very important for this place of Delhi, because the martyrdom took place in the town of Delhi, and we have two big Gurdwaras here, one at Rakabgunj, quite close to this Council House, the other in the Chandni Chowk—Seesganj Gurdwara I have received intimation from the organisers of the celebrations for that day—and I hope the Assembly Department too has received it—of a resolution of the local Gurdwara Committee requesting you, Sir, and Honourable Members of the House through you, that there should be no sitting of the House for that day, that is, Monday Therefore, I request you and I request the Leaders of Parties to agree to this proposal This is an extra special Session; and the Sikh Guru Purb or celebration day does not generally fall during the days when the Assembly is usually sitting This always falls in November As this is a special Session held in the days when this particular celebration is to be held, I hope there will be no objection from other Members to agree to this request of mine.

The Honourable Sir James Grigg (Finance Member) Sir, I deprecate this continual request for holidays. I think the House will be quite willing to release the Honourable Member from attendance on Monday and any other Members who may wish to attend the celebration, but I really do not see why the rest of us should be deprived of the privilege of going on with our work on this Bill. After all, it is not one of the two great communities, and it is not a question of a holiday which commands the adherence of a large number of Members of this House, but of only two or three.

Sardar Sant Singh: May I submit one point more? It is not only the Members of the House who are concerned, but the staff in the Assembly Department and the members of the watch and ward staff and there are also Sikh police officials whose duty it is to be here. Besides that, apart from the Sikhs, there are so many other Hindu gentlemen who want to participate in the celebrations on this sacred day I do feel with the Honourable the Finance Member that there has been inconvenience here on account of requests coming from various quarters probably the very fact that we are rising half an hour earlier every day is a source of inconvenience to him. But that is no reason why we should be deprived of this right, because there have been inconveniences in the past.

Mr. Deputy President (Mr Akhil Chandra Datta) The practice of this House in a matter of this kind is for the Chair not to depend so much upon its own views or the propriety of the leave asked for, but to be guided by the opinion of the House, and as there is objection to this request, I had better not dispose of the matter finally today The Honourable Member making this request had better make another attempt to obtain the consent of all the groups. So far as the office and the watch and ward staff are concerned, I am told it has been arranged that they would be allowed to go, and given a sectional holiday.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 23rd November, 1938.

LEGISLATIVE ASSEMBLY.

Wednesday, 23rd November, 1938

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr Deputy President (Mr Akhil Chandra Datta) in the Chair

MEMBER SWORN.

Mr James Snelson Hardman, M L A (Government of India Nominated Official)

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS.

RECRUITMENT TO THE INDIAN ARMY FROM THE CENTRAL PROVINCES AND BERAR

1402. *Mr. Govind V. Deshmukh: Will the Defence Secretary please state.

(a) the centres in the Central Provinces and Berar for recruiting men for the Indian Army,

(b) the classes from which such men are recruited,

(c) the proportion of the men from the Central Provinces and Berar in the Army to the total strength of the Army, as well as to the population of these Provinces; and

(d) the present policy of recruitment, and if it is going to be revised, if not, why not?

Mr. C. M. G. Ogilvie: (a) There are no recruiting centres in the Central Provinces or Berar. Men resident in the Central Provinces are in the area of the Recruiting Officer, Delhi, and those of Berar in the area of the Recruiting Officer, Poona

(b) Mahrattas of Berar are recruited as a separate class. Other Hindus and Mussalmans who are recruited from the Central Provinces and Berar are classified as "Hindus" or "Mussalmans", and are not entered under any class denomination

(c) The proportion to the total strength of the army is 08 per cent. and the proportion to the total male population of these provinces is 0004 per cent

(d) There is at present no intention of revising the present policy the reasons for which were stated in my reply to a supplementary question arising out of Mr. Satyamurti's starred question No. 1060 on the 15th September, 1938, and in answer to part (a) of starred question No. 1066 asked by Miam Ghulam Kadir Muhammad Shahban on the same date, and in the reply of His Excellency the Commander-in-Chief to the debates in the Council of State on the Honourable Mr. Sunil Kumar Roy Chaudhury's Resolution regarding military training for Indians on the 21st February, 1938, and on the Honourable Mr. P. N Sapru's Resolution on the recruitment of all classes to the Indian Army in April, 1935.

Mr. Govind V. Deshmukh: May I know the procedure by which men in the Central Provinces are recruited at Delhi and men in Berar are recruited at Poona? How is this procedure carried on?

Mr. C. M. G. Ogilvie: If they are anxious to join the army, they proceed either to Delhi or to Poona

Mr. Govind V. Deshmukh: Are these places advertised and is any propaganda carried on in the Central Provinces and Berar?

Mr. C. M G. Ogilvie: I presume they are perfectly well known, as the arrangements have been in force for a very long time.

Mr. Govind V. Deshmukh: Can the Honourable Member inform me what is the procedure, who carries on the propaganda and how?

Mr. C. M. G. Ogilvie: I am not aware that any propaganda is carried on, but anyone who wanted to join the army could find out from any official where the recruiting office which dealt with that area was

Mr. Govind V. Deshmukh: Is the recruitment annual or is it only resorted to only at the time when the war breaks out?

Mr. C. M. G Ogilvie: No, the recruitment goes on in peace time There are quite a number of these persons in the army at present In fact, their proportion to the total strength of the army is 08 per cent

Mr. Govind V. Deshmukh: Is the percentage a fixed one or does it vary according to the circumstances then prevailing?

Mr. C. M. G. Ogilvie: It might quite conceivably vary considerably it is not fixed

Mr. Brojendra Narayan Chaudhury: Are the expenses of the journey incurred by the candidates paid by Government?

Mr. C. M. G. Ogilvie: They pay them themselves.

Mr. N. M. Joshi: May I ask whether the policy regarding the recruitment will form part of the investigation of the Chatfield Committee?

Mr. C. M. G. Ogilvie: I must refer the Honourable Member to the terms of reference of the Chatfield Committee

Seth Govind Das: Are Government aware that in the Central Provinces the aborigines, the Gonds, are the fittest race for military purposes and is anything being done to recruit the Gonds of the Central Provinces?

Mr. C. M. G. Ogilvie: Gonds are not one of the classes enlisted.

Mr. S. Satyamurti: With reference to answer to clause (a) of the question and the answer to the supplementary question of my Honourable friend, Mr. Joshi, may I know whether, apart from the terms of reference, which we have all read, the Honourable the Defence Secretary is in a position to tell the House whether any evidence is being placed before the

Chatfield Committee, either by the Department or by others, with regard to the question of getting the best value for the money now being spent on Indian defence, and whether in that category the present classes from whom recruitment is made should be extended, or whether that question is being examined by the Chatfield Committee with a view to getting the best value for the money spent?

Mr. C. M. G. Ogilvie: We are getting the best value for the money spent The question of the extension or the alteration of the classes who are now enlisted in the army has nothing to do with the terms of reference of the Chatfield Committee

Mr. S. Satyamurti: May I take it, therefore, that the question of recruiting for the army from all provinces and communities is not a subject of investigation by the Chatfield Committee?

Mr. C. M. G. Ogilvie: The Honourable Member could see it for himself by reference to the published terms of reference

Mr. S. Satyamurti: The published terms of reference include the best value for the money being spent on the Indian defence forces May I know, therefore, whether the question whether the Government of India are getting the best value of the money that they are spending is being investigated by the Chatfield Committee as an expert Committee from their point of view?

Mr. C. M. G. Ogilvie: As far as I know, not I cannot speak for the Chatfield Committee but I should imagine that on a point of that sort they would gladly accept an assurance by those who know

Mr. Govind V. Deshmukh: Will Government increase the number of recruiting centres for the army in the Central Provinces and Berar so that it may facilitate the increase in the army of the men from these Provinces?

Mr. C. M. G. Ogilvie: There is at present no idea of doing so

Prof. N. G. Ranga: Why is it that the Government of India have never thought it fit to make Jubbulpore or any other equally suitable place as one of the recruiting centres for the Central Provinces?

Mr. C. M. G. Ogilvie: The Honourable Member asked for certain information which I gave him The reason, I suppose, why no further recruiting offices in Jubbulpore or elsewhere are opened is largely financial and because the present arrangements are sufficient to cope with the limited number of persons enlisted from those provinces.

Mr. T. S. Avinashilingam Chettiar: May I ask whether the Government have considered the claims put forward by the various provinces that they should be given greater chances of joining the army?

Mr. C. M. G. Ogilvie: I submit that that does not arise from this question.

Mr. T. S. Avinashilingam Chettiar: It does. The purpose of the question is only this that the Central Provinces and Berar do not get the proper chance of supplying recruits to the army.

Mr. C. M. G. Ogilvie: I submit that this question refers only to the Central Provinces and Berar

Prof. N. G. Ranga: Are we to understand that the military authorities who are stationed at Jubbulpore are not competent to examine these would-be recruits and find out whether they will make good recruits or not?

Mr. C. M. G. Ogilvie: No, it is not a legitimate assumption at all. The fact is that there is a recruiting office within measurable distance and that is sufficient for these limited purposes

Mr. S. Satyamurti: When was this policy of recruitment last laid down by the Government of India, and when was it re-examined? May I know the reasons why Government do not propose to re-examine this policy of recruitment, in view of the extraordinary claims made by the Punjab Premier that he has got a dominant voice in the defence policy of the Government of India?

Mr. C. M. G. Ogilvie: I submit that that does not arise At least the latter part of the Honourable Member's question does not arise. As regards the policy of recruitment, I have already given very full answers indeed, and if the Honourable Member will look up the references here, he will see the reasons stated categorically and in detail.

Mr. S. Satyamurti: I submit that the second part of my question does arise The question, you will see, in the original form is

"The present policy of recruitment, and if it is going to be revised, if not, why not?"

My Honourable friend said that it was not going to be revised I am asking him to state the reasons why they do not propose to revise this policy, in view of the extraordinary claim made by Sir Sikandar Hayat Khan, the Punjab Premier, that he has got a dominant voice in the defence and military policy of the Government of India.

Mr. C. M. G. Ogilvie: I am afraid that I read this question of the present policy of recruitment as referring to the Central Provinces and Berar

SECURITY DEMANDED FROM THE KEEPER OF THE PRESS AND THE PUBLISHER OF THE *NAVJYOTI*, AN AJMER HINDI WEEKLY.

1403. *Mr. Abdul Qaiyum: Will the Honourable the Home Member state.

(a) whether the Government of Ajmer-Merwara have demanded any security from the keeper of the Press and the publisher of the *Navjyoti*, an Ajmer Hindi Weekly;

(b) the amount of the security; and

(c) the reasons therefor?

The Honourable Mr. R. M. Maxwell: (a) Yes: *Navjyoti* is presumably a mistake for *Navajoti*

(b) Rs 3,000

(c) For publishing remarks likely to bring into hatred and contempt the Government established by law in British India

Mr. Abdul Qaiyum: With reference to the answer to part (c) of the question, may I know if it is a fact that the security was demanded because there was an article written against the army recruiting Bill which was recently passed?

The Honourable Mr. R. M. Maxwell: No I have not seen the whole article, but that is not my impression

Mr. Abdul Qaiyum: Then what were the reasons for demanding this security—it is a very wide term to say, in the interests . What were the particular charges against this paper?

The Honourable Mr. R. M. Maxwell: The order requiring security specifies the exact nature of the sentences to which objection is taken and it is open to the paper from which security is demanded to approach the High Court and show that the remarks were not of the nature which makes it liable to security.

Mr. Abdul Qaiyum: Does the Honourable Member mean that this demand for security had nothing to do with the army recruiting Bill? That is what I wanted to know

The Honourable Mr. R. M. Maxwell: I have already said that I have not seen the whole article, but that is not my impression

APPOINTMENT OF A PERSON OF THE FINANCE DEPARTMENT TO THE CHATFIELD COMMITTEE

1404. *Mr. Abdul Qaiyum: Will the Defence Secretary please state

(a) whether any one belonging to the Finance Department of the Government of India has been appointed on the Chatfield Committee;

(b) if not, the reasons therefor, and

(c) whether the Government of India were consulted about the composition of the Chatfield Committee; if so, what was their advice, and whether the same was accepted?

Mr. C. M. G. Ogilvie: (a) No

(b) The views of the Finance Department of the Government of India will be placed.

The Honourable Sir James Grigg: . have been placed

Mr. C. M. G. Ogilvie: . have been placed before the Committee, but actual representation has not been considered necessary.

(c) The Government of India were informed of the proposed composition of the Committee and were invited to nominate a representative.

Mr. Abdul Qaiyum: With reference to the answer to part (a) of the question, is it a fact that a Financial Adviser to the War Office in England has been appointed to this Committee as Assistant Secretary?

Mr. C. M. G. Ogilvie: There is an officer appointed as Assistant Secretary, but he has nothing to do with the policy of the Committee

Mr. Abdul Qaiyum: Was he on the staff of the War Office in England?

Mr. C. M. G. Ogilvie: Yes

Mr. Abdul Qaiyum: On the financial side?

Mr. C. M. G. Ogilvie: Yes

Mr. Abdul Qaiyum: Then, what are his functions?

Mr. C. M. G. Ogilvie: As Assistant Secretary

Mr. Abdul Qaiyum: Was it not possible for the Government of India to appoint a similar official from the Finance Department of the Government of India?

Mr. C. M. G. Ogilvie: It was not necessary

Mr. Abdul Qaiyum: May I know if the initiative for the appointment of this Committee was taken by the Government of India or by the Home Government?

Mr. C. M. G. Ogilvie: By the Government of India

Mr. Abdul Qaiyum: Did the Government of India ask for a Committee constituted as it is at present, excluding entirely the Indian element?

Mr. C. M. G. Ogilvie: Not in the least It was not the concern of the Government of India to ask for the Committee to be constituted in any particular manner It asked His Majesty's Government to send a Committee out here to investigate for themselves the problems of Indian defence

Mr. Abdul Qaiyum: May I know the reasons why the Government of India did not press the fact that Indians should be represented on that Committee by Indian nationals?

Mr. C. M G. Ogilvie: I have already answered that question The reason is to be found in the terms of reference

Mr. Abdul Qaiyum: Is it not a fact that the composition of the Committee indicates that this Committee will have a purely imperialistic outlook,—will look at things more from the imperial point of view than from the purely Indian point of view?

Mr. C. M. G. Ogilvie: That, I suggest, is not a question but an insinuation

Mr. Abdul Qaiyum: Is it not a fact that officers who had something to do with Iraq and other parts of the British Empire—people who are dealing with the present rearmament policy in England, namely, the imperial policy, have been appointed to this Committee to the utter exclusion of any Indians?

Mr. C. M. G. Ogilvie: Persons were appointed to this Committee who, in the opinion of His Majesty's Government, were best qualified to advise them: and as regards the technical side of Indian defence, we have our own representative.

Mr. Abdul Qaiyum: Did the Government of India, after the Committee was constituted, protest against the exclusion of Indians from this Committee?

Mr. C. M. G. Ogilvie: No

Mr. Abdul Qaiyum: They simply acquiesced in it?

Mr. C. M. G. Ogilvie: Certainly

Sardar Sant Singh: If the Government of India asked for the appointment of this Committee, may I know what was there to prevent the Government of India from appointing a Committee by themselves without consultation with His Majesty's Government?

Mr. C. M. G. Ogilvie: The Government of India can appoint any Committee they like, even hundreds of them, but in this case they asked His Majesty's Government to appoint a Committee

Sardar Sant Singh: What was the reason for asking His Majesty's Government to appoint a Committee?

Mr. C. M. G. Ogilvie: I think that matter ought to have been fully clear from the speech of the Honourable Member for Finance on September the 18th

Mr. S. Satyamurti: May I ask for some elucidation of the answers with regard to the relationship of the Finance Department of the Government of India to this Committee? I thought that my Honourable friend said, "views", "representations", and so on May I know if this Committee is acting in concert with the Finance Department of the Government of India so far as the financial side of this enquiry is concerned, or does the Finance Department only appear as a supplicant or as a witness?

Mr. C. M. G. Ogilvie: The views of the Finance Department of the Government of India have been placed fully before this Committee More than that, I cannot say

Mr. S. Satyamurti: I want to know whether they were placed merely in the position of witnesses appearing before them, or it was a case of the members of the Committee meeting my Honourable friend, the Finance Member, and his Secretary and discussing with them the whole question and trying to see the point of view of the Finance Department of the Government of India

Mr. C. M. G. Ogilvie: I do not propose to disclose the exact methods by which the Committee works, and I must limit myself to stating—and I hope my Honourable friend will be satisfied with that—that the views of the Finance Department have been fully placed before the Committee

Mr. S. Satyamurti: May I know if the Honourable the Finance Member had any discussion with that Committee or he appeared only as a witness before it?

Mr C. M. G. Ogilvie: The Honourable Member had better address any questions he wishes to ask on that matter to the Honourable the Finance Member.

Mr. S. Satyamurti: I am doing that

The Honourable Sir James Grigg: I am not sure I can distinguish the two functions, but I can repeat the Defence Secretary's assurance that the views of the Finance Department of the Government of India have been placed fully before the Committee

Mr. Manu Subedar: May I know whether these views of the Finance Department of the Government of India which have been placed before the Committee will be made available to the Leaders of Parties in this House?

The Honourable Sir James Grigg: No.

Mr. Manu Subedar: Why not?

The Honourable Sir James Grigg: Because the enquiry is confidential

Mr. Abdul Qaiyum: Is the mere fact that any talk took place between the Finance Member and the Committee also confidential?

The Honourable Sir James Grigg: I cannot hear the Honourable Member and so I cannot answer

Mr. Deputy President (Mr Akhil Chandra Datta) Next question

SAVINGS DUE TO THE TRANSFER OF CERTAIN BRITISH TROOPS OUT OF THE INDIAN ESTABLISHMENT.

1405. *Mr. Abdul Qaiyum: Will the Defence Secretary please state:

(a) the number of British troops in India before the transfer of the four British battalions to the Imperial establishment;

(b) their number after such transfer;

(c) whether this transfer is likely to result in some relief to the Indian budget; and

(d) if so, the amount thereof, both immediate and prospective?

Mr. C. M. G. Ogilvie: (a) 47,699.

(b) 44,799.

(c) Yes.

(d) It will reduce the cost of British troops borne by Indian revenues by 25 lakhs in the current year and by 73 lakhs in subsequent years There will also be an ultimate saving in non-effective charges.

Mr. Abdul Qaiyum: In view of this happy result that there is some reduction, will the Government of India pursue the subject by reducing the British troops still further?

Mr. C. M. G. Ogilvie: I do not see that it arises in any way from this question.

Mr. Abdul Qaiyum: It arises from the last part of this question and also from part (a) It is, after all, economy which is the object (After a pause) I want an answer—"both immediate and prospective"

Mr. C. M. G. Ogilvie: The question, which presumably was framed by the Honourable Member himself, clearly relates to the four British battalions mentioned in part (a).

Mr. Deputy President (Mr. Akhil Chandra Datta) Does the Honourable Member (Mr Abdul Qaiyum) insist upon an answer to his question?

Mr. Abdul Qaiyum: I do, but I am really surprised that there is some sort of co-operation between all the Members sitting on the front Benches opposite, not to give any information

Mr. Deputy President (Mr Akhil Chandra Datta): Then, next question.

POOL OF OFFICERS FOR THE FINANCE DEPARTMENT

1406. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Finance Member state:

(a) whether they have come to a conclusion over the establishment of the pool of officers for the Finance Department;

(b) if so, what are the particulars of that arrangement,

(c) whether persons have been selected for the pool; if so, how many of them belong to the Indian Civil Service, and how many to the Indian Audit Service; and

(d) of the Indian Civil Service men, how many are Indians and how many non-Indians?

The Honourable Sir James Grigg: (a) to (d) The attention of the Honourable Member is invited to the replies given by me to starred questions Nos 112 and 229 respectively asked by Mr. K. Santhanam and Seth Govind Das in the Legislative Assembly on the 10th and 16th August, 1938.

Mr. T. S. Avinashilingam Chettiar: The Honourable Member gave no information on this subject then

The Honourable Sir James Grigg: I think that is a slight exaggeration but if the Honourable Member will look up the reply, he will find that

a comprehensive Resolution will be published on the subject shortly That is the position still only the period has become shorter now

Mr. S. Satyamurti: Does the Honourable Member hope to pass final orders on this scheme, before he takes leave of us?

The Honourable Sir James Grigg: I hope so, Sir

Mr. T. S. Avinashilingam Chettiar: May I know whether the proportion of Indian Audit Service and that of the Indian Civil Service has been fixed?

The Honourable Sir James Grigg: That was dealt with in the answers to which I have referred

SUPPLY OF SERVICE RIFLES TO SCHOOLS IN INDIA.

1407. *Mr. Govind V. Deshmukh: (a) Will the Defence Secretary please state if there are any schools in India, apart from military schools maintained by Government, to which service rifles are supplied by Government, free of cost? What are the names of those schools and where are they situated?

(b) Are those schools exempted from rules requiring licences under the Arms Act? If so, on what grounds?

(c) Do Government propose to grant similar exemptions from obtaining licences under the Arms Act to

(i) Government or Government-aided schools, and

(ii) other schools? If not, why not?

Mr. C. M. G. Ogilvie: (a) and (b) I refer the Honourable Member to the information laid on the table on September 5th, 1938, in answer to question No 106 asked in the Council of State by the Honourable Mr V V Kalikar on the 21st February, 1938

(c) No, as exemption depends on the formation of a cadet company of the Auxiliary Force, India, or Indian Territorial Force

Mr. Govind V. Deshmukh: Are these exemptions confined exclusively to schools for Anglo-Indians and Europeans?

Mr. C. M. G. Ogilvie: I think so, Sir

Mr. T. S. Avinashilingam Chettiar: May I know why these exemptions have been given only to schools for Anglo-Indians or Europeans?

Mr. C. M. G. Ogilvie: It is not because the schools are those to which Anglo-Indians and Europeans only are admitted. It is because those schools happen to be suitable schools for the formation of the cadet corps, as the age of a large proportion of the boys thereat is between 16 and 18 and because they are situated in places where there is a unit of the Auxiliary Force, India

Mr. T. S. Avinashilingam Chettiar: May I know whether these two are the only conditions which have to be fulfilled for any school to get this exemption?

Mr. C. M. G. Ogilvie: There are some more.

Mr. Govind V. Deshmukh: What are they?

Mr. C. M. G. Ogilvie: One is that there should be an armoury properly guarded where the rifles which are supplied by Government can be kept. Another is that there should be members of the staff who are suitable to be granted commissions in the Auxiliary Force, India, or the Indian Territorial Force.

Mr. T. S. Avinashilingam Chettiar: May I know if Government will give these exemptions to Indian schools which satisfy these conditions?

Mr. C. M. G. Ogilvie: So far, to the best of my knowledge, there has been no application from any Indian school for a cadet company but if an application is made and if the conditions are fulfilled I can assure the Honourable Member that it will be considered sympathetically.

Mr. Abdul Qaiyum: May I know whether this grant of exemptions to Anglo-Indian and European schools only is the result of an accident or is it based on some design?

Mr. C. M. G. Ogilvie: I have already fully explained the position.

Mr. Abdul Qaiyum: How does this fit in with the declared policy that the defence of India shall be the increasing concern of the Indian people?

Mr. C. M. G. Ogilvie: I submit that this does not in any way conflict with that declaration.

Mr. P. R. Damzen: May I know what are the names of these schools and where they are situated?

Mr. C. M. G. Ogilvie: There is a long list They are situated in places like Mussoorie, Lucknow, Allahabad, Calcutta and other places.

Mr. P. R. Damzen: Is it not a fact that these schools have been restricted to Lucknow?

Mr. C. M. G. Ogilvie: Not that I know of

Mr. Abdul Qaiyum: Is it not a fact that Indians are not eligible for the Auxiliary Force in India?

Mr. C. M. G. Ogilvie: That is so

Mr. Abdul Qaiyum: Is this not racial discrimination?

Mr. C. M. G. Ogilvie: No. It is for the same reason for which non-Indians are not eligible to the Indian Territorial Force

Mr. Abdul Qaiyum: Why is it called Indian Territorial Force and not an additional army of occupation?

Mr. C. M. G. Ogilvie: I really cannot understand what the Honourable Member is getting at in that question

Mr. Abdul Qaiyum: Sir, I object to that

REPRESENTATIONS RE DESIRABILITY OF REDUCING THE EXCHANGE RATIO.

1406. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Finance Member state

(a) whether he has received representations from any Provincial Government about the desirability of reducing the exchange ratio;

(b) if so, from which Provinces, and

(c) whether the Honourable the Finance Member has considered these representations, and if so, what is the result of the consideration?

The Honourable Sir James Grigg: (a), (b) and (c) I have nothing to add to my previous replies on this subject

Mr. T. S Avinashilingam Chettiar: May I know what is the answer to clause (c)?

The Honourable Sir James Grigg: I have nothing to add to my previous replies

Mr. T. S. Avinashilingam Chettiar: May I know whether the Finance Member has considered the representations made by the provinces?

The Honourable Sir James Grigg: I am very sorry but I cannot add to the extremely comprehensive reply I have given.

Prof. N. G. Ranga: Is it a fact that the Government of India keep this particular question of exchange ratio under their constant consideration in order to see whether there is any need for a change either for the worse or the better or are they still adamant about it and made up their mind just as the Honourable the Finance Member seems to have made up his mind when he was at Cambridge?

The Honourable Sir James Grigg: I certainly have no intention of making any change for the worse

BRITISH CONTRIBUTION TO THE COST OF THE INDIAN MILITARY ESTABLISHMENT.

1409. *Mr. T. S. Avinashilingam Chettiar: Will the Defence Secretary state:

(a) whether the Honourable the Finance Member's statement on the 18th September, 1938, is the final settlement in the negotiations with His Majesty's Government over the matter of the British contribution to the cost of the Indian military establishment;

(b) if not, whether further negotiations are taking place; and

(c) if so, with reference to which matters?

Mr. C. M. G. Ogilvie: (a) No.

(b) Not at present.

(c) Does not arise.

Mr. T. S. Avinashilingam Chettiar: May I know whether the Indian Government have put forward their claims in this matter before the Chatfield Committee?

Mr. C. M. G. Ogilvie: I do not think that arises from this question which deals with the settlement with His Majesty's Government.

Mr. T. S. Avinashilingam Chettiar: It does arise, because the announcement of the Finance Member was coupled with the announcement of the Chatfield Committee and they said that this matter will be gone into?

Mr. C. M. G. Ogilvie: I cannot add to my answer

Mr. S. Satyamurti: With reference to the answer to part (b), may I know whether the suspension or stoppage of these negotiations is due to the fact that the Government of India want to wait and see the results of the investigation by the Chatfield Committee?

Mr. C. M. G. Ogilvie: Certainly The Honourable Member is quite correct

Mr. Manu Subedar: Have Government communicated to the Chatfield Committee the views of the Indian public as conveyed in all parts of this House that the whole cost of British troops in India should be taken over by the English treasury?

Mr. C. M. G. Ogilvie: I have already replied to that question on the 15th I can, however, inform the Honourable Member that the information which he thinks should be given could have been given probably better by other gentlemen here.

APPEALS AGAINST THE ORDERS OF INCOME-TAX OFFICERS

1410. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Finance Member state·

(a) how many appeals were preferred in the last financial year against the orders of Income-tax Officers;

(b) how many of them have been allowed; and

(c) how do they compare with figures for the same matter in Great Britain?

The Honourable Sir James Grigg: (a) and (b)

Number of appeals filed	27,546
Number disposed of including arrears in the preceding year	25,853
Number successful including partially successful	13,872

(c) Government have no information.

Mr. T. S. Avinashilingam Chettiar: In view of the fact that such a large number of appeals have been allowed, is it not true that the income-tax officers are doing their work more rigorously than they ought to do?

The Honourable Sir James Grigg: I think that a large number of these 13,000 odd successful appeals cover only very small amounts and I do not think that we can draw from this any conclusion about the working of the department, because the appellate offices are empowered to deal with questions of fact also and often later information on questions of fact proves favourable to as:

Mr. K. Santhanam: May I know, Sir, the total number of successful appeals by the assessees?

The Honourable Sir James Grigg: I expect the Honourable Member can do arithmetic quite as well as I can

Mr. K. Santhanam: I did not ask for the total number of appeals filed, but, the total number of successful appeals

The Honourable Sir James Grigg: I must have notice of that

Mr. M. Ananthasayanam Ayyangar: How many of these appeals were disposed of during the year?

The Honourable Sir James Grigg: I have given the number 25,858 The number disposed of including arrears in the preceding year was 25,853 I cannot make it any more explicit than that

STATIONING OF ADEQUATE FORCES ON THE EAST COAST OF INDIA.

1411. *Seth Govind Das: Will the Defence Secretary be pleased to state·

(a) whether it is a fact that the entire coast between Calcutta and Madras is at present unguarded by military forces,

(b) whether it is proposed by Government to have a garrison on the east coast of the country for the defence of the country from the Far East;

(c) whether he proposes considering the advisability of stationing adequate forces in some place between Madras and Calcutta on the coast for immediate defence;

(d) whether Government have considered the question of stationing forces on the east coast by shifting some from other parts of the country where they may be less needed, and without incurring a recurring annual expenditure; and

(e) whether he proposes doing so soon; if not, whether he will mention his difficulties to that effect?

Mr. C. M. G. Ogilvie: (a) to (e). The Government of India have the defence of India, including the defence of the East coast, continually in view and will take such steps as may be considered necessary for its defence in accordance with the requirements of the situation and the nature and scale of the possible danger as it may appear to them, from time to time.

Seth Govind Das: Will the Government of India consult the Provincial Governments in this matter?

Mr. C. M. G. Ogilvie: No.

Mr. Abdul Qaiyum: In view of the special position and unguarded nature of the East Coast, may I know if the Government of India will remove all troops from the Frontier Province and dump them on the East Coast?

Mr. C. M. G. Ogilvie: So far no proposal has been received by the Government of India

Prof. N. G. Ranga: Are we to understand that any further strengthening of the East Coast by the shifting of the military forces from other areas to that coast will be carried out without any further expenditure to the Indian exchequer?

Mr. C. M. G. Ogilvie: I cannot add anything more to what I have already said in my answer

Mr. Manu Subedar: The Honourable Member said that Government will take proper and adequate steps in this matter May I inqure whether when such steps are taken, if Government would give the information to the Provincial Governments and also to this House

Mr. C. M. G. Ogilvie: I cannot add to the description of this matter any more than what I have already said in reply to this question

Mr. Manu Subedar: Do Government propose to assuage public opinion?

Mr. C. M. G. Ogilvie: Government are not aware in the least that it is necessary to assuage public opinion. Government are not aware of any necessity for assuagement of public opinion

Mr. K. Santhanam: Have Government taken steps to discourage insurance companies and others from erecting any tall buildings in the coastal towns?

Mr. C. M. G. Ogilvie: I am afraid, in answer to a supplementary question, I am not competent to discuss the height of the buildings in coastal towns

Mr. S. Satyamurti: May I know the reason why the Government of India do not propose to consult the Provincial Governments with respect to these important matters, in which *prima facie* they are also interested?

Mr. C. M. G. Ogilvie: No, Sir; the defence policy is not a matter upon which the Government of India consult the Provincial Governments.

Mr. S. Satyamurti: Do they consult the Punjab Government alone, with regard to the defence policy of the Government of India?

Mr. C. M. G. Ogilvie: I have already informed the Honourable Member that this is a matter upon which the Government of India do not consult Provincial Governments, and there are no exceptions to this rule

Mr. S. Satyamurti: Not even the Punjab Government?

Mr. C. M. G. Ogilvie: There are no exceptions

Mr. S. Satyamurti: Not even Sir Sikander Hayat Khan?

Mr. C. M. G. Ogilvie: There are no exceptions

Prof. N. G. Ranga: Have Government received any representations from the east coast people expressing apprehensions of any attack on their towns and villages because there are no troops there?

Mr. C. M. G. Ogilvie: Government have received no such representation. The people of the east coast are apparently quite happy and contented

Mr. M. Thirumala Rao: Do Government remember the experience of the "Emden" when she visited the East Coast during the Great War.

Mr. C. M. G. Ogilvie: Government is aware that the "Emden" did visit Madras during the Great War

ISSUE OF NEW COINS.

1412. *Seth Govind Das: Will the Honourable the Finance Member be pleased to state.

(a) whether the new coins, under the Indian Coinage Act, 1906, bearing the Crown effigy of His Majesty, King-George VI, and the inscription "George VI King Emperor", have been issued,

(b) when they were issued;

(c) whether it is a fact that all silver coins under the Act shall bear on the reverse the word "India" the year of coinage, and the designation of the coin above in English and below in Persian;

(d) whether it is a fact that all nickel pieces comed under the Act shall bear, or do bear, on the reverse their designations in English, Urdu, Nagri, Bengali and Telegu,

(e) the reason for discriminating between the silver coins of higher value and nickel or bronze coins by not including the designation in other languages; and

(f) the reason for making on silver coins the designation in Persian particularly?

The Honourable Sir James Grigg: (a) and (b) They will be issued as and when required.

(c) and (d). Yes.

(e) and (f) I would refer the Honourable Member to the speech made on behalf of Government in the Council of State on a Resolution regarding inscriptions on coinage on the 26th February, 1936

LOCATION OF THE INDIAN STORES DEPARTMENT.

1413. *Mr. C. N Muthuranga Mudaliar: Will the Honourable the Home Member please state·

(a) whether it is a fact that, in or about April, 1938, it was decided to take up to Simla only a portion of the Indian Stores Department for the summer of 1938,

(b) whether it is a fact that it was also decided then that for the summer of 1939, the entire staff of the Indian Stores Department should be kept down permanently in New Delhi; and

(c) whether it is a fact that the decision referred to in part (b) above has since been countermanded, if so, why?

The Honourable Mr. R. M. Maxwell: (a) Yes

(b) Yes, with the exception of a small camp office

(c) In view of the possibility of the outbreak of war which seemed imminent in September last it was decided that the Indian Stores Department should move to Simla during 1939 to be in close proximity to the Government of India for the efficient discharge of its duties in connection with the supply of materials required for the prosecution of war The Industrial Research Bureau which was not involved is to remain in Delhi as originally decided

Mr. K. Santhanam: May I know if Government have reconsidered their decision as the war danger is now dispelled?

The Honourable Mr. R. M. Maxwell: It is not possible to say in the present European situation how far the war danger has receded, but at any rate arrangements have to be made a long time in advance before the end of the Simla season for the next season's accommodation

Mr. S. Satyamurti: Does the Honourable Member mean that it is too late for them now to change their decision to retain the Indian Stores Department in Delhi throughout the next year, because they have already made arrangements for accommodation in Simla?

The Honourable Mr. R. M. Maxwell: It is too late, I think, to change the decision now.

Mr. C. N. Muthuranga Mudaliar: May I take it that the Government have revised their policy of progressively stopping the exodus to Simla?

The Honourable Mr. R. M. Maxwell: No, Sir, their policy still stands, as far as I know

EFFECT GIVEN TO THE RECOMMENDATIONS OF THE WHEELER AND MAXWELL COMMITTEES

1414. *Mr. C. N. Muthuranga Mudaliar: Will the Honourable the Home Member please state-

(a) which recommendations of the Wheeler and Maxwell Committees have been given effect to so far,

(b) whether it is proposed to abolish the second division in the Government of India Secretariat and attached offices, and if so, in what manner it is proposed to do so, and

(c) whether a number of posts of Under Secretaries or Assistant Secretaries is proposed to be created in the various Secretariats and, if so, whether any have been created or filled in so far?

The Honourable Mr. R. M. Maxwell: (a) The Honourable Member is referred to the reply given to parts (a) and (b) of his starred question No 370 on the 18th February, 1938

(b) Yes, so far as the Secretariat Offices are concerned The manner in which effect is to be given to this decision and the question of extending it to the attached offices are still under consideration

(c) Posts of Under Secretary are being created gradually according to the requirements of Departments

Mr. C. N. Muthuranga Mudaliar: May I know if the posts of Under Secretaries which have been filled up are by Indians or Europeans?

The Honourable Mr. R. M. Maxwell: By either, Sir

Mr. S. Satyamurti: May I know if Government have considered the question of recruiting for their own staff, instead of depending on the Provincial Governments which really means that both Governments get the worst as occasion arises? The Provincial Governments send you the worst and you send your worst men to the Provincial Governments May I know whether the Government of India will consider the question of recruiting their own services directly?

The Honourable Mr. R. M. Maxwell: That question is not under consideration at present so long as the material available in the provinces is sufficient

Mr. S. Satyamurti: Have Government satisfied themselves, apart from the question of quantity or number, with regard to the quality of the men they get, for their higher services, especially the Under Secretaries, and so on?

The Honourable Mr. R. M. Maxwell: Yes, Sir, they are well satisfied with the quality

Mr. S. Satyamurti: We are not

RECONSTITUTION OF DEPARTMENTS OF THE GOVERNMENT OF INDIA

1415. *Mr. C. N. Muthuranga Mudaliar: Will the Honourable the Home Member please state, with reference to the answer to question No. 378 on the 22nd August, 1938, whether the matter of reconstitution of the departments is still under consideration, and, if so, when Government expect to arrive at a decision?

The Honourable Mr. R. M. Maxwell: The matter is still under consideration and I am not in a position at present to say when a final decision will be arrived at

GORDON SINCLAIR, WRITER OF AN ARTICLE REGARDING LOVE PARADES IN THE ANDAMANS

1416. *Mr. C. N. Muthuranga Mudaliar: Will the Honourable the Home Member please state, with reference to question No. 832, answered on the 7th September, 1938, regarding one Gordon Sinclair, writer of an article regarding Love Parades in the Andamans, whether any report has been received from the Chief Commissioner of the Andamans and whether he will place the same on the table of the House together with the Government's opinion thereon?

The Honourable Mr. R. M. Maxwell: A report was received from the Chief Commissioner and information was laid on the table of the House on the 10th November with reference to my reply to Mr Chaudhury's starred question No 484 of the 25th August, 1938

VACANCIES LEFT UNFILLED IN CERTAIN DEPARTMENTS OF THE GOVERNMENT OF INDIA

1417. *Mr. C. N. Muthuranga Mudaliar: Will the Honourable the Finance Member be pleased to state whether any vacancies have arisen and, if so, how many, in the undermentioned departments during the course of the year (from 1st January, 1938), which have been left unfilled so far in the cadres of clerks, Assistants, Superintendents and Assistant Secretaries and also the number of Assistant Secretaries or Under Secretaries who have been appointed to newly created posts from 1st January 1938

(1) Finance Department,
(2) External Affairs Department,
(3) Political Department,
(4) Commerce Department and Industries Department,
(5) Home Department,
(6) Communications Department,
(7) Education, Health and Lands Department,
(8) Defence Department,
(9) Legislative Department?

The Honourable Sir James Grigg: I lay on the table of the House a statement giving the required information.

Statement showing the number of vacancies that have arisen and have been left unfilled since 1st January, 1938, in the cadre of Clerks, Assistants, Superintendents and Assistant Secretaries in certain Departments of the Government of India, and also the number of Assistant Secretaries or Under Secretaries who have been appointed to newly created posts from 1st January, 1938

Department	No of vacancies which have arisen from 1st January, 1938				No. of vacancies left unfilled	No of Assistant Secretaries or Under Secretaries appointed to newly created posts from 1st January, 1938	
	Assistant Secretaries.	Super-intendents	Assistants	Clerks		Assistant Secretary	Under Secretary.
Finance Department	.	5	6	2	1 Superintendent 1 Assistant 1 Clerk	..	
E. A. Department	1	8	3	9		1	
Political Department			6	12	1 Assistant		..
Commerce Department	1		1	12	1 Assistant Secretary 1 Assistant 4 Clerks		1
Labour Department	1	5	3	18	1 Superintendent 1 Assistant 11 Clerks		1 (at present attache).
Home Department			3	2	2 Clerks		2
Communications Department		1	2	6			
E., H. & L. Department		1	3	4	1 Assistant		1
Defence Department		1	3	6	2 Assistants 3 Clerks		1
Legislative Department			1	1	1 Clerk		..

MILITARY FORTIFICATIONS ON TIBETAN FRONTIER.

1418. *Mr. Badri Dutt Pande: (a) With reference to the statement of Reuter dated Tokio, the 8th November, 1938, published in the *Hindustan Times* of the 9th November, 1938, page 1, that the military objectives of Japan are the extension of zone of hostilities up to the Tibetan border, is the Defence Secretary aware of the fact that Kumaon and Assam are the two Provinces that touch the Tibetan border?

(b) Is it a fact that there are no military fortifications or protections on those borders?

(c) Is it the intention of Government to fortify those frontiers?

Mr. C. M. G. Ogilvie: (a) Government have seen the statement Kumaon and Assam are on the Indo-Tibetan border and not on the Chinese-Tibetan border.

(b) Yes

(c) No

Mr. Badri Dutt Pande: In view of the rumours during the wars that Russians would enter Kumaon through Tibet, was a military survey party sent to the Tibetan border to inquire into this matter and was it proposed to put a garrison at the last Indian outpost?

Mr. C. M. G. Ogilvie: In spite of the extraordinary nature of some of the rumours current during the Great War, I should think it extremely unlikely

Mr. Badri Dutt Pande: Had any survey been made recently?

Mr. C. M. G. Ogilvie: That, Sir, I submit, does not arise out of this question

Mr. Badri Dutt Pande: Will the question be discussed by the Chatfield Committee?

Mr. C. M. G. Ogilvie: I am not sure which question the Honourable Member is referring to

Mr. Badri Dutt Pande: The question of guarding the Tibetan frontier?

Mr. C. M. G. Ogilvie: I should say not, Sir, but I cannot tell him

DOUBLE TAXATION RELIEF IN INCOME-TAX

1419. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Finance Member state

(a) the amount of relief received by British persons and firms under the present double taxation relief in income-tax in the last three years;

(b) the amount of relief received by Indian persons and firms in England under the same arrangement for the same period; and

(c) whether this arrangement has resulted in a loss to the Indian Exchequer, if so, to what extent?

The Honourable Sir James Grigg: (a) to (c) I would refer the Honourable Member to my reply to starred question No 1270 on the 15th November, 1938, and to my speech in the Legislative Assembly on the 16th November, 1938.

Mr. K. Santhanam: With reference to his answer to part (a) of the question, may I know the amount of relief received by British residents in India and British non-residents?

The Honourable Sir James Grigg: I think the Honourable Member had better refer to the answer which I gave

Mr. T. S. Avinashilingam Chettiar: With reference to the answer to clause (b) of the question, if I remember aright, they could not give any information because it was not available Is not that so?

The Honourable Sir James Grogg: Yes, that is so

Mr. T. S. Avinashilingam Chettiar: May I know, in view of the serious allegations made in this country that we are not getting the *quid pro quo* in respect of (a), why Government have not made any inquiries in the matter?

The Honourable Sir James Grigg: The Board of Inland Revenue, do not give the information in their annual report

Mr. T. S. Avinashilingam Chettiar: May I know whether in the absence of information in the report, and in view of the serious allegations about the *quid pro quo* that India is not getting, the Government made any attempt to write to His Majesty's Government in the matter?

The Honourable Sir James Grigg: I will deal with the so-called serious allegations when I reply to the present stage of the Income-tax Bill.

Mr. Manu Subedar: May I know if the Honourable the Finance Member has written to His Majesty's Government for this information? The secrecy clause, I understand, refers to each individual account, but may I know whether they have asked for the total and whether the Board of Revenue has definitely refused to give the total amount of relief given to Indian individuals?

The Honourable Sir James Grigg: I believe that on an earlier occasion some information was asked for but was not given, and I do not think it is necessary to ask for it on the present occasion

Mr. T. S. Avinashilingam Chettiar: May I know whether there is not a clause in the Income-tax Act about the information to be given to countries with which we have agreements to the effect that that is not covered by this clause? Is there any similar clause in the British Act?

The Honourable Sir James Grigg: If the Honourable Member wants to ask a specific question, he had better put down a specific question

TENURE OF APPOINTMENT OF A SECRETARY TO THE GOVERNMENT OF INDIA

†1420. ***Mr. H. M. Abdullah:** Will the Honourable the Home Member be pleased to state the period for which a Secretary to the Government of India is appointed?

The Honourable Mr. R. M. Maxwell: I would refer the Honourable Member to the reply given to part (a) of the question No 814 in this House on the 7th September, 1938

CURTAILMENT IN AUDIT SUPERVISION OF PROVINCIAL OFFICES

1421. ***Mr. Brojendra Narayan Chaudhury:** Will the Honourable the Finance Member please state

(a) whether his Department is responsible, directly or indirectly, for the Auditor General's decision to curtail audit of provincial accounts, if so, in what way,

(b) whether the audit of Central Government's accounts will be similarly curtailed,

(c) whether he is aware that in the Provinces, it is only by local inspection that cases of embezzlement, temporary misappropriations of money, accounting for a quantity of work and materials in excess of work done and materials used, etc, are discovered, corrected and punished,

(d) whether economy of central expenditure is the sole object of curtailment of provincial audit, or the principal object,

(e) whether the costs of provincial audit are not charged to Federal Revenues, and are non-votable,

(f) the amount of cost of Auditor General and his staff sanctioned at the beginning of the current year, and the amount for the Provinces, if separable, out of these, how much has been spent up to now,

(g) whether any economies have been suggested and effected in other non-votable items of the central budget, if so, the total savings therefrom, and

(h) the amount of savings expected by curtailment of local inspection?

The Honourable Sir James Grigg: (a) Yes

(b) Yes

(c) Government are fully aware of the value of local inspections, but cannot admit that local inspections are the only means of discovering irregularities or that such inspections should be carried out only by the Indian Audit Department Departmental authorities have a responsibility of their own complementary to that of the Auditor General,

(d) The sole object

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

(e) The cost of audit of the accounts of the Provinces is met from Central revenues and is treated as voted, except the portion declared as 'charged' under the provisions of the Government of India Act, 1935

(f) The sanctioned budget for the offices of the Auditor General and Civil Accountants General for 1938-39 was Rs 1,08,88,000 (including Rs 2,77,000 for Charges in England) It is not possible to separate the amount to be spent on the Audit of Provincial Accounts as practically all the Civil Audit and Accounts Offices deal with both Central and Provincial transactions The amount spent up to 30th September, excluding Charges in England, was Rs 54,49,318,

(g) Yes The savings secured so far amount to about 31 lakhs

(h) I would refer the Honourable Member to the reply which I gave to part (c) of starred question No 1248 asked by Mr Badri Dutt Pande in the House on the 15th November, 1938

Mr. Brojendra Narayan Chaudhury: With reference to the answer to clause (d), do I understand the Honourable Member to say that all local inspection for the Central Government Departments has also been stopped?

The Honourable Sir James Grigg: Curtailed

TAXES COLLECTED FROM PERSONS ENTERING THE EXCLUDED OR PARTIALLY EXCLUDED AREAS IN ASSAM.

1422. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Finance Member please state

(a) whether any taxes collected from persons entering the excluded or partially excluded areas of the Province of Assam, or for permit to carry on trade or to collect any produce in these areas, are credited to Central Revenues, and under what head in the budget,

(b) if so, what are the nature of these taxes, how and at what rates they are levied and what is the total amount credited to Central Revenues in the last financial year,

(c) whether it is a fact that the excluded and partially excluded areas are deficit areas, *i e*, the cost of administration exceeds the income from the areas and that the deficit is borne by the Assam Provincial Exchequer, and

(d) whether Government are prepared to consider the propriety of handing over the proceeds of these taxes to the Provincial Government?

The Honourable Sir James Grigg: (a) and (b) A tax of eight annas per person is levied on persons crossing the inner line of the excluded areas except Government officers and hillmen temporarily residing in the plains and the proceeds are credited to Central Revenues under XLVI—Miscellaneous The amount credited last year was about Rs 1,500

(c) Yes

(d) No The fact that the areas in question are deficit areas was taken into account in the financial settlement for Assam

Mr. Brojendra Narayan Chaudhury: Is it too much for the Central Government to make that over to the Provincial Government?

The Honourable Sir James Grigg: I do not think that Rs 1,500 will go very far towards meeting Assam's needs

Mr. Brojendra Narayan Chaudhury: Cannot the Honourable Member do that as a gesture of good-will?

The Honourable Sir James Grigg: I am rather against impotent gestures

Prof. N. G. Ranga: Is there any specific service that the Central Government is rendering to these people of the excluded areas?

The Honourable Sir James Grigg: The Honourable Member had better address that to somebody else

Prof. N. G. Ranga: With what object do they make this particular collection in these areas?

The Honourable Sir James Grigg: The Honourable Member had better put that down too

Prof. N. G. Ranga: Sir, in reply to part (a) of this question the Honourable Member has admitted that this particular collection is being made, and it is quite relevant to ask him with what object this particular collection is being made?

The Honourable Sir James Grigg: All I say is that I cannot give him an answer without notice

Mr. K. Santhanam: May I know if the charges for collection of this sum exceed the amount of that collection?

The Honourable Sir James Grigg: The Honourable Member had better also put that down

FEELING OF INDIANS IN RESPECT OF THE HAPPENINGS AND EVENTS IN PALESTINE

1423. *Mr. S. Satyamurti: Will the Honourable the Home Member be pleased to state

(a) whether Government have recently communicated to His Majesty's Government the feeling of Indians in respect of the happenings and events in Palestine; if so, on which date they last so communicated and what they communicated; and

(b) whether the Government of India will inform His Majesty's Government of the strong feeling in India that Palestine should not be coerced into accepting any decisions against the will of her people and that Palestine should be made, as early as possible, into a free and independent Arab State?

The Honourable Mr. R. M. Maxwell: (a) There has been no recent formal communication from the Government of India to the Secretary of State on this subject Government are however aware that the Secretary of State, through the appropriate channels, is kept constantly in touch with the state of feeling in India and are satisfied that in fact His Majesty's Government is fully acquainted with Indian opinion on this subject

(b) As the Honourable Member is aware it is the intention of His Majesty's Government shortly to convene a conference in London with a view to bringing about an understanding between Arabs and Jews in Palestine

Mr. S. Satyamurti: With reference to the answer to clause (a) of the question, when was the last occasion on which this Government communicated to His Majesty's Government the feelings of Indians in respect of Palestine?

The Honourable Mr. R. M. Maxwell: The last official communication was in September, 1937, when certain questions asked in this House together with the replies to supplementary questions were forwarded to the India Office

Mr. S. Satyamurti: May I know the reason why since September, 1937, i e more than a year now, in view of the definite worsening of the situation in Palestine, and the strong feeling expressed by the Indian National Congress, the All-India Muslim League and many other public bodies, Government have not taken any steps to keep His Majesty's Government in touch with the feelings of Indians in this country on this question?

The Honourable Mr. R. M. Maxwell: Because Government were satisfied, as I have already stated, that the Secretary of State was being kept fully in touch with all these feelings

Mr. S. Satyamurti: By whom, and in what manner?

The Honourable Mr. R. M. Maxwell: By the appropriate channels

Mr. S. Satyamurti: How exactly?

The Honourable Mr. R. M. Maxwell: I cannot give the detailed information as to the exact manner in which the Secretary of State gets his information, but I have already stated that the Government of India are satisfied and are aware that he is getting this information

Mr. S. Satyamurti: Will Government tell this House and the public of this country through this House, what are these appropriate and official channels through which the Secretary of State gets information—apart from the Government of India?

The Honourable Mr. R. M. Maxwell: The Government of India write formally to the Secretary of State only on matters with which they are officially concerned

Mr. K. Santhanam: Will the Government of India secure representation for Indian Muslims on the Palestine Conference to be convened soon in London?

The Honourable Mr. R. M. Maxwell: That is a matter for His Majesty's Government

Mr. K. Santhanam: May I know if the Government of India are taking any steps in this matter? After all, they are responsible for the Indian Muslims and the state of their feeling

The Honourable Mr. R. M. Maxwell: The Government of India are not responsible for the composition of that conference

Mr. S. Satyamurti: May I know if Government's attention has been drawn to the statement of the Punjab Premier that he had addressed His Majesty's Government on this question of Palestine and as a result of his representations His Majesty's Government have now given up the scheme of partition of Palestine?

The Honourable Mr. R. M. Maxwell: That is not a question that concerns the Government of India

Mr. S. Satyamurti: May I know if Provincial Governments are free to address His Majesty's Government on matters of foreign policy over the heads of the Government of India?

The Honourable Mr. R. M. Maxwell: That again is not a question which concerns me as Home Member

Mr. S. Satyamurti: My Honourable friend said that apart from the Government of India, through the proper channels, His Majesty's Government get information or opinion with regard to Indian opinion on such matters. Recently, the Punjab Premier, Sir Sikandar Hayat Khan, stated to the Indian world and to the world outside that, as a result of his representations to His Majesty's Government, they have given up the scheme of partition of Palestine. I have read the Government of India Act, and I am asking the Honourable Member whether it is open to Provincial Governments to address His Majesty's Government over the head of the Government of India on matters of foreign policy or whether Sir Sikandar Hayat Khan was simply pulling somebody's leg?

The Honourable Mr. R. M. Maxwell: That seems to be a major constitutional question which I do not think whether I am competent to discuss here

Dr. Sir Ziauddin Ahmad: May I know whether any Member of the Assembly or any member of the public in his private capacity can write to the Secretary of State for India?

The Honourable Mr. R. M. Maxwell: Yes

Qazi Muhammad Ahmad Kazmi: What are the appropriate channels other than the Government of India through which the Secretary of State gets information?

Mr. Deputy President (Mr Akhil Chandra Datta) This question was already answered

Mr. Manu Subedar: What steps have Government taken to dispel the misimpression that the troops sent out from India for the suppression of Arabs in Palestine were not sent out with the concurrence of Indian public opinion, but went under the direction of the War Office?

The Honourable Mr. R. M. Maxwell: I submit that question does not arise

LOCATION OF THE GOVERNMENT OF INDIA OFFICES IN NEW DELHI

1424. ***Mr. S. Satyamurti:** Will the Honourable the Home Member be pleased to state:

(a) what the final decision of Government is with regard to the offices and officers and establishment who will stay in New Delhi throughout 1939 and not go to Simla,

(b) whether in respect of the Indian Stores Department there has been any change of decision, and, if so, what and why, and

(c) the total number of Government servants and Departments who will be staying in 1939 as contrasted with the figures of 1937, and the resultant saving to the Indian Exchequer?

The Honourable Mr. R. M. Maxwell: (a) and (c) The question is still under consideration and a decision is expected to be reached shortly

(b) I would refer the Honourable Member to the reply which I have just given to Mr C N Muthuranga Mudaliar's starred question No 1413

Mr. K. Santhanam: May I know if it is not too late to decide for next year

The Honourable Mr R. M. Maxwell: I was replying about the Indian Stores Department Parts (a) and (c) of the present question relate to the general question of the officers and the establishment of the Government of India as a whole

Mr. K. Santhanam: Are there different dates for different Departments?

The Honourable Mr. R. M. Maxwell: Certainly independent arrangements for accommodation are made by the different Departments

Mr. K. Santhanam: What are the Departments which are under consideration for being stopped next year?

The Honourable Mr. R. M. Maxwell: Parts (a) and (c) relate to all the Departments

Mr. K. Santhanam: Are the Government of India considering whether they should stop all the Departments or some of the Departments?

The Honourable Mr. R. M. Maxwell: They are considering the matter in connection with all the Departments

CONSULTATIONS ON MATTERS INVOLVING FINANCIAL ADJUSTMENTS BETWEEN THE GOVERNMENT OF INDIA AND THE INDIAN STATES ON FEDERATION ISSUE.

1425. *Mr. S. Satyamurti: Will the Honourable the Finance Member be pleased to state.

(a) whether he and his Department are being *regularly* consulted on *all* matters involving financial adjustments between the Government of India and the Indian States arising out of the negotiation for Federation,

(b) whether the Finance Member consults the Provincial Governments on these matters, and, if not, why not,

(c) whether final decisions on these questions are taken by the Government of India, as a whole or only by the Viceroy and the Secretary of State, and, if so, why, and

(d) whether this House will be consulted before final decisions are reached on such matters, and if not, why not?

The Honourable Sir James Grigg: I have nothing to add to the statement I made on the 10th March, 1938

Mr. S. Satyamurti: May I know whether the Finance Member and his Department are consulted on matters involving financial adjustment between the Government of India and the Indian States? I want to know whether this is being done over the head of the Finance Department or at least with his knowledge?

The Honourable Sir James Grigg: I will read the relevant part of the answer I gave on 10th March, 1938

"Under the Act the terms of accession depend upon His Majesty and the Ruler of the State concerned, and the preliminaries to the negotiation thereof are, therefore, being conducted under the direct orders of His Excellency the Crown Representative, in close and confidential consultation throughout with the Government of India with a view to safeguarding the interests of British India "

Mr. S. Satyamurti: With reference to part (b) may I know if Provincial Governments are being consulted?

The Honourable Sir James Grigg: I said I have nothing to add to what I said on the 10th March, 1938, so that if it does not appear in this answer, there is no information available

Mr. S. Satyamurti: That is a technical way of getting behind the question May I know whether, in view of the fact that Provincial Governments are vitally interested in the financial adjustments, such as may be made with regard to the Federation, the Provincial Governments are being given an opportunity of expressing their views on these financial questions?

The Honourable Sir James Grigg: I had better read the next sentence

"But, in the interests of these negotiations themselves, their conduct must be confidential and this necessarily precludes any public announcement at this stage regarding the substance of the matters under consideration or under discussion with States or any statement except in the most general terms, of the progress made towards Federation"

Mr. S. Satyamurti: I want in the most general terms whether Provincial Governments are being consulted with regard to the financial adjustments for the coming Federation

The Honourable Sir James Grigg: I say in the most general possible terms that I have nothing to add to what is contained in the statement

Prof. N. G. Ranga: Was this question either formally or informally considered at the last Finance Members' conference?

The Honourable Sir James Grigg: I have nothing to add to what I said already

Mr. Manu Subedar: May I know whether after these confidential consultations are finished and before actually concluding agreements, a tripartite consultation will take place between the representatives of parties in this House and the Government of India and the Princes?

The Honourable Sir James Grigg: That is a much more general question which was addressed to the Honourable the Leader of the House the other day and he gave all the information available

DETERMINATION OF INDIA'S MILITARY POLICY

1426. ***Mr. S. Satyamurti:** Will the Defence Secretary be pleased to state

(a) whether his attention has been drawn to a recent speech of the Punjab Premier in the course of which he *inter alia* said, "who, if not the Punjab, can claim a dominant voice in India's military policy? I claim to represent the Punjab's views",

(b) who determines India's policy,

(c) whether, under the Constitution or in fact, the Provincial Governments have any voice in determining India's military policy and, if so, what that is;

(d) whether the Punjab has a "dominant voice in India's military policy", and, if so, under what law, and how it is exercised,

(e) whether the Government are prepared to issue a categorical contradiction of the statement; and

(f) if not, why not?

Mr. C. M. G. Ogilvie: (a), (e) and (f) No full report of the speech has apparently been published, and Government are not prepared to express any views upon a single sentence divorced from its context

(b) The Governor General in Council

(c) and (d) No

Mr. S. Satyamurti: May I know if the Honourable Member will ask the Premier of the Punjab and get a copy of his speech, or get a copy of his speech from any other quarter?

Mr. C. M. G. Ogilvie: The Government do not attach sufficient importance to the matter to do that

Mr. S. Satyamurti: May I know if the Government of India are indifferent to the pronouncements of the Punjab Premier who said

"Who, if not the Punjab can claim a dominant voice in India's military policy? I claim to represent the Punjab's views?"

Mr. C. M. G. Ogilvie: Government do not regard it as a pronouncement but as a rhetorical question

Mr. S. Satyamurti: What is the rhetorical answer to this rhetorical question? Do the Government think it a matter of no importance whatever when the Premier of a province goes about saying that, because the Punjabis are in large numbers in the Army, he must claim a dominant voice in India's military policy?

Mr. C. M. G. Ogilvie: As I said, the claims he made was merely a rhetorical one

Mr. S. Satyamurti: I ask a specific question in part (d)

"Whether the Punjab has a dominant voice in India's military policy, and, if so, under what law, and how it is exercised"

I want my Honourable friend to take it with clause (a) of the question, —evidently the Honourable the Defence Secretary wants to shield the Premier of the Punjab,—if he is really anxious to know it, he can get a copy of his speech The Premier of the Punjab has been saying this for months that he is as good as the Commander-in-Chief, if not better I want to know whether the Government of India propose to take any notice of it and draw his attention to it and ask him to keep to his proper place

Mr. C. M. G. Ogilvie: The Government of India by no means accept the Honourable Member's interpretation of Sir Sikandar Hayat Khan's speeches

Sardar Sant Singh: May I know if the Government of India have a dominant voice in that policy?

Mr. C. M. G. Ogilvie: As far as the Governor General in Council is concerned, he has

FUNCTIONS ASSIGNED TO MR H GREENFIELD IN THE CENTRAL BOARD OF REVENUE.

1427. *Mr. S. Satyamurti: Will the Honourable the Finance Member be pleased to state

(a) what are the duties or functions assigned to Mr H Greenfield in the Central Board of Revenue,

(b) how long he will work there,

(c) whether his duties will include making necessary recommendations for tightening customs and excise administrations and preventing leakage; and

(d) whether a report on his work will be placed before the House?

The Honourable Sir James Grigg: (a), (b) and (c) Mr Greenfield has been placed on special duty under the Central Board of Revenue for six months in the first instance to investigate the possibility of improving the control and supervision exercised by the Customs administration and for purposes of inspection

(d) No

Mr. S. Satyamurti: May I know the reasons why the report will not be placed on the table of the House?

The Honourable Sir James Grigg: It is a matter of domestic administration

Mr. S Satyamurti: Including this House?

The Honourable Sir James Grigg: It is a matter of departmental machinery

GOLD PURCHASED BY THE RESERVE BANK OF INDIA

1428. *Mr. M. Ananthasayanam Ayyangar: (a) Will the Honourable the Finance Member be pleased to state what quantities of gold have been purchased by the Reserve Bank of India during this month and the last two months, and at what prices and what the export of gold has been during the same months?

(b) What is the object of purchasing large quantities during the recent months? Is it for the purpose of keeping gold in reserve as security against Note issue or for the purpose of shipping to the United Kingdom?

(c) Is the Reserve Bank making the purchases on its own account, or for, or on behalf of, any party in the United Kingdom or any foreign country?

The Honourable Sir James Grigg: (a), (b) and (c) Subject to the restrictions imposed by the Reserve Bank of India Act the purchase of gold is a matter which is entirely within the discretion of the bank As regards exports of gold I would refer the Honourable Member to the statements published in the press from time to time.

Prof. N. G. Ranga: What is the policy of the Government of India in regard to the purchase of gold by the Reserve Bank? Is it for the purpose of export?

The Honourable Sir James Grigg: The policy of the Government of India has nothing to do with this matter It is the concern of the Reserve Bank

Mr. M. Ananthasayanam Ayyangar: May I know whether the purchase of gold by the Reserve Bank is on account of any foreign merchants?

The Honourable Sir James Grigg: That is the question which the Honourable Member asked I can only reply by giving the same answer

Mr. M. Ananthasayanam Ayyangar: What steps have Government taken to ascertain and get this information from the Reserve Bank?

The Honourable Sir James Grigg: None, Sir I can only repeat as was said in one of the opinions on the Income-tax Bill that I am not a "nasty nosey poker"

(*b*) WRITTEN ANSWERS.

INTRODUCTION OF PROHIBITION IN THE CENTRALLY ADMINISTERED AREAS.

1429. *Mr. M. Ananthasayanam Ayyangar: (a) Will the Honourable the Finance Member be pleased to state what was the revenue for intoxicating and spirituous liquors and drugs in the year 1937-38 from the centrally administered areas?

(b) Are Government aware that prohibition was introduced in three districts of the Madras Presidency and the measure has proved a success?

(c) Are Government prepared to introduce prohibition in the centrally administered areas? If so, when, and if not, why not?

The Honourable Sir James Grigg: (a) The figures for 1937-38 are not yet available

(b) Statements to this effect have appeared in the Press

(c) No, Sir; because Government do not consider this to be necessary

CENSORSHIP OF CORRESPONDENCE OF MEMBERS OF THE CENTRAL LEGISLATURE AND PROVINCIAL MINISTERS

1430. *Seth Govind Das: Will the Honourable the Home Member please state:

(a) whether the private correspondence of the members in the Central Legislature is still subject to postal censure;

(b) whether the private correspondence of the Ministers of Provincial Governments is subject to postal censure;

(c) whether it is the policy of Government to keep a watch on the correspondence of the Ministers of Provincial Governments,

(d) the method by which censor of letters to and from Ministers of Provincial Governments are censored, and

(e) whether Government propose amending the postal law governing the censor of letters under which censor of the members of the Central Legislatures and Provincial Ministers is made?

The Honourable Mr. R. M. Maxwell: (a) to (e) It is contrary to the public interest to give any information of the kind asked for

TRANSFER OF THE NAVAL HEADQUARTERS OF INDIA TO DELHI.

1431. *Seth Govind Das: Will the Defence Secretary please state

(a) whether it is a fact that the Naval Headquarters of India is contemplated to be moved to Delhi from Bombay;

(b) when is the move going to be take place,

(c) whether the office will be quartered in Bombay during summer when the Government offices move to Simla;

(d) the reason for keeping the office in Bombay half the year,

(e) the annual recurring expenditure for moving the office from Delhi to Bombay and back;

(f) whether Government propose considering the advisability of keeping the office in one place instead of moving it yearly for some months to Bombay from Delhi and return, and

(g) if not, will Government please state the reasons?

Mr. C. M. G. Ogilvie: (a) Yes, as a temporary measure

(b) It took place on 9th November, 1938

(c) Yes

(d) It is desirable that the Flag Officer Commanding, Royal Indian Navy, should be in direct contact with the Squadron and with the shore establishments at Bombay during part of the year

(e) As this is the first occasion on which the move has been undertaken, accurate figures are not yet available. It is estimated that the total cost will not, under present arrangements, exceed Rs 10,000 per annum

(f) The matter has already been considered and the present arrangement has been introduced as a result thereof

(g) The reason for locating the Royal Indian Navy Headquarters at Delhi is that they may be in closer contact with the Government of India for part of the year especially while the programme for the re-organisation of the Royal Indian Navy is being considered

INDIANS IN THE INDIAN MEDICAL SERVICE.

1432. *Dr. Sir Ziauddin Ahmad: (a) Will the Defence Secretary please state the number of Indians in the permanent grade in the Indian Medical Service, and how many of them are Muslims?

(b) What is the number of Indians in the temporary grade of the Indian Medical Service and how many of them are Muslims?

(c) When do the temporary officers complete their five years service?

(d) Will they be considered for permanent appointment?

Mr. C. M. G. Ogilvie: (a) There are at present 197 Indian officers holding permanent commissions in the Indian Medical Service 27 of them are Muslims

(b) There are no temporary commissioned Indian officers in the Indian Medical Service except for three Burmans serving in Burma 52 Indian officers hold short service commissions Eleven of them are Muslims

(c) The short service officers now in service will complete their engagements during the period 1939-42

(d) Yes

STATEMENTS LAID ON THE TABLE

Information promised in reply to starred questions Nos 797 and 805 asked by Dr P N Banerjea on the 6th September, 1938

COAL SEAMS IN ASSAM

Starred question No. 797—The total number of coal seams prospected and located in Assam by the Geological Survey of India is about 20

EXTRACTION OF COAL FROM MINES IN ASSAM

Starred question No 805—(a) Five.

(b) The information required is not available

Information promised in reply to starred question No 976 asked by Dr P N Banerjea on the 13th September, 1938

RAILWAY COLLIERIES

Name of Colliery	Area of coal property owned and worked by the Railway (a)	Thickness of each seam of coal being worked (b)	Approximate quantity of coal underlying the property (c)	Quality and grade of coal of each of the seams (d)	Inclination or gradient of each of the seams (e)	Depth from surface at which the seams lie (f)	Nature of mines, i.e., ras coal is raised from each seam (g)	System of working for extraction of coal (h)	Where work is carried on under the 'pillar' and 'stall' system how many years the first working or dev.lopment work of each colliery will or is likely to continue before the final operation of extraction of pillars will be undertaken? (i)
Kurhurbaree**	2846·91 acres	8' to 16' including bends	7,500,000	Selected	Variable Average 1 in 6	0' to 800	Incline and Pit	Pillar and Stall	**As both development work and extraction of Pillars may be proceeding simultaneously in different locations in the same colliery it is not possible to give an accurate answer.
Serampore**	1617·63 ,,	15' to 23' including bends	6,300,000	Do	Do	0' to 950'	Pits	Do	
Jt. Bokharo**	3,760 Bighas	90 feet	84,000,000	Second class	1 in 18	0' to 140'	Quarry	Quarrying	
Joint Swang**	3,750 ,,	45' to 50'	67,547,000	Do	Average 1 in 3	Proved from outcrop to 1,300 feet	Quarries and Inclines.	Pillar and Stall.	
Kargali**	3,750 ,,	(a) 12 feet	3,200,000	Do	4 in 7 to 1 in 11	0' to 250'	Quarries	Quarrying	
		(b) 72 feet including bends	50,200,000	Do	1 in 5 to 1 in 1	0' to 500'	Pits and Inclines	Pillar and Stall.	

Bhekrangdih**	6,800 "	(a) 8'-0"	2,700,000	Do	1 in 5 to 1 in 7.	Proved from 0' to 500'	Inclines	Do	
		(b) 8'-8"	3,700,000	Do	Do	0' to 540'		Do	
		(c) 11'-4"	5,200,000	Do	Do	0' to 650'		Do.	
		(d) 18'-0" excluding bends	17,200,000	Do	1 in 3 to 1 in 7	0' to 1,250'		Not worked	
		(e) 25'-6" excluding bends	27,200,000	Do	1 in 2 to 1 in 7.	0' to 1,400'		Do.	
Jarangdih**	4,750 "	(a) 8'	2,500,000	Do	1 in 4 to 1 in 1	0' to 800'	Inclines	Pillar and Stall	
		(b) 8'	23,000,000	Do	Average 1 in 3	0' to 1,600'	Not worked		
		(c) 6'				100' to 1,700'	Do		
		(d) 6'				100' to 1,700'	Do		
		(e) 125 feet	195,000 000	Do	Average 1 in 3	400' to 2,000'	Pits (no t worked now)		
Argada	2,300 "	Horizon 14—Thickness varying from 30 to 60 ft	12,761,827	1st Grade	Varying from 1 in 2 3 to 1 in 20	From 8 ft to 69 ft (Quarry) deep seams 50' to 1,150' and 50' to 1,400'	Quarries at present	Quarries	
Talchir** (M. & S. M.).	1,822 acres	Bottom seam 8' to 18', Top seam 5' to 9'	33,915,000	1st class	Variable average 1 in 40 to 1 in 10	0' to 390' (Bottom seam) 0' to 320' (Top seam)	Pit	Pillar and Stall.	
Bogbasa (Talcher E.N Ry.).	2,922 Bighas	Main seam 12'	8,208,000 tons	1st grade	Varying from 1 in 12 to 1 in 20	From 100 ft to 450 ft	Pits	Do	About 3 to 4 years
Kuffada**	1,000 acres	17' average	24,209,000	1st class	1 in 60	Varies from 117' to 125'.	Coal is mined through adits.	Do	

STATEMENT LAID ON THE TABLE.

Mr. Deputy President (Mr. Akhil Chandra Dutta): The House will now resume consideration of the following motion moved by the Honourable Sir James Grigg:

12 NOON.

"That the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee, be taken into consideration"

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions Non-Muhammadan Rural): Sir, when the House adjourned last evening, I was discussing the plea regarding the flight of British capital from this country. I was saying that for my part I will not be sorry if the British capital leaves the shores of India. I think it is in the interests of this country as well as in the interests of the traders who come here that this British capital should leave these shores. I am supported in this view by what has been said by the one time talented editor of the *Times of India*, Sir Stanley Reid. Discussing India's industrial and financial development since the beginning of the present century, Sir Stanley Reid, in the Lloyd Bank Monthly Review, says

"A generation ago India was starved for capital. Today the supply is in excess of the opportunities for conservative investment".

Referring to Britain's part in future economic activity, Sir Stanley Reid says

"There is no prospect for manufacturing enterprise and finance attracted from abroad, but there is an immense field for the association of British technical skill and experience with Indian capital and direction. It is there that the truest line of advance lies".

It is said that if we tried to realize our legitimate tax from those who invest in this country, it will lead to the flight of British capital. The plea is put forward that, in order to attract foreign capital, we should promise beforehand, or they should come here with the impression that they would be allowed to escape our income-tax. My friend, who unfortunately is absent even today, I mean Sir Muhammad Yamin Khan—I am told he has only left just now—is not even anxious to tax the foreign investments in this country. He wants equality amongst the Indians, but it seems he is not anxious to see that Indians and Europeans are treated equally. He is not anxious to see that England and India are treated equally and governed by the same laws. My plea, Sir, is that those who came to this country came because it paid them to be here, because they found that their investment was safe here, because they found that they enjoyed more privileges here even as against the indigenous people of this country, because they found that the Government of this country were always behind their backs and always prepared to stand by them and support them. They know it better. India is a safe place for investment, and they know now what the fate of their capital and investment has been in Manchukuo, in Mexico and in Abyssinia. They have yet to see what the fate of their investment will be in China. For all the privileges that they enjoy in this country and for all the safety for their investment, I think it is only proper that they should be prepared to pay a higher rate of tax as compared to us, not that they should be allowed to escape our income tax. The equitable principle is—and this was argued at length by Prof. Seligman in a Committee appointed by the Finance Committee of the League of Nations to consider the question of double taxation—

[Pandit Krishna Kant Malaviya.]

that a large part of the tax should go to the place where the property lies or the business is carried on and a smaller share to the domicile of the owner This is also the doctrine of economic allegiance elaborated by the Committee on double taxation But, in this country, Sir, all principles are being thrown to the winds The desire is simply to give a premium to non-Indians deriving income from in this country, and to help the British Treasury at the cost of the Indian I say, Sir, that all this is very unjust and most unfair and is being done simply because the Honourable the Finance Member thinks that he can do whatever he likes and that we are powerless here But before I finish with clause 4, I want to reiterate that I want our foreign income to be taxed on remittance basis only The English law says

"The tax in respect of income arising from possessions out of the United Kingdom, other than stocks, shares, or rents shall be computed on the full amount of actual annually received in the United Kingdom from remittances payable in the United Kingdom or from property imported or from money or value arising from property imported or from money or value so received on credit or on account of or in respect of any such remittances, property, money or value brought or to be brought into the United Kingdom on an average for the three preceding years"

and so on and so forth I wish you, Sir, to mark the words that the income arising from business, etc, on a remittance basis only And defining what 'foreign possessions" mean, Lord Macnaughten says

"The word 'possessions' is to be taken in the widest possible sense as denoting everything that a person has as a source of income"

I, therefore, maintain, Sir, that our foreign income should be taxed only on remittance basis and not on accrual basis, as is proposed to be done according to the proposed Act Concerning our foreign trade I also want to add that the owners may be residents in India, but the substantial part of management and operations is carried on outside British India, and, therefore, even with a liberal interpretation of the central control theory which is prevalent in England, I would ask the Honourable the Finance Member to allow our foreign trade to grow and develop for the time being because

The Honourable Sir James Grigg (Finance Member) What is your specific suggestion? I would like to follow that Exemption of companies controlled or firms controlled abroad?

Pandit Krishna Kant Malaviya: My specific suggestion is that business, profession or vocation should not be taxed

The Honourable Sir James Grigg: At all?

Pandit Krishna Kant Malaviya: At all

The Honourable Sir James Grigg: Then your argument about the company being controlled abroad is irrelevant

Pandit Krishna Kant Malaviya: I think my Honourable friend is not listening to me

The Honourable Sir James Grigg: I am trying to find out what you are advocating.

Pandit Krishna Kant Malaviya: Then, I will read him the English law as it is again

The Honourable Sir James Grigg: I know the English law quite well I have listened to it before

Pandit Krishna Kant Malaviya:

"Tax in respect of income arising from possessions out of the United Kingdom other than stocks, shares, or rents shall be paid on the full amount of the actual sums only received in the United Kingdom"

There is no mention of accrual basis or control in this Act

The Honourable Sir James Grigg: But you are talking about control

Pandit Krishna Kant Malaviya: I am simply putting forward various pleas If you are not amenable to this, then .

Mr. Manu Subedar (Indian Merchants' Chamber and Bureau Indian Commerce) The Finance Member is not entitled to interrupt a speaker like this

The Honourable Sir James Grigg: I am entitled to get the point elucidated

Pandit Krishna Kant Malaviya: He is entitled to do it, and I shall be only too glad to answer his questions if he puts them to me

The Honourable Sir James Grigg: My question is this the Honourable Member was, as I understood it, developing a general argument in favour of complete exemption of foreign business from the scope of clause 4 He then brought in the argument which addressed itself to the fact that a certain number of foreign businesses are virtualy controlled abroad, and I want him to make quite certain that this was only an illustration and not a desire to narrow his main contention

Pandit Krishna Kant Malaviya: I was pleading in the first place that business, vocation or profession should be exempted . .

The Honourable Sir James Grigg: Completely?

Pandit Krishna Kant Malaviya: Completely That was my first argument If that does not appeal to my Honourable friend, I said that in England at present the law introduces the theory of the central control It says that if the business, vocation or profession is controlled centrally from U K, then the business, vocation and profession would be taxed on accrual basis Am I correct?

The Honourable Sir James Grigg: Yes, perfectly.

Pandit Krishna Kant Malaviya: What I plead is this that England and India are not on the same footing . . . .

The Honourable Sir James Grigg: May I just, in order to focus the point which I want to get out of the Honourable Member, ask him this? His speech is devoted to saying that if you cannot get complete exemption of business, profession or vocation, then he would like, as a second string, to advocate exemption of business when the control is abroad That is the point I am wishing to get from the Honourable Member

Pandit Krishna Kant Malaviya: I am not saying that If I were to say that, I would be stating what the Honourable the Finance Member wants I am pleading something else What I am pleading is this that even the precedent of the English law taxing on the remittance basis such business, profession and vocation, as is not controlled from the United Kingdom, does not and cannot apply to India I say further that England and India are not on the same footing. The foreign trade, so far as England is concerned, has been developed to its utmost limit The Indian foreign trade is yet in its infancy, we want to encourage Indian foreign trade. We must provide some incentive to our foreign traders to go and trade in foreign countries and add to our national wealth What I ask the Honourable the Finance Member to do is this to allow our foreign traders to develop their trade Admitting for the time being that they make huge profits there, I want that they should be allowed to invest their profits for the time being in their trade and develop it, because, ultimately, some day, whatever profits may accrue in foreign lands, they are bound to bring back their profits into this country, and then I want that the profits should be taxed on remittance basis Am I clear?

The Honourable Sir James Grigg: Yes

Pandit Krishna Kant Malaviya: Allied to this is the subject of our nationals trading in Burma They went there when Burma formed part of this country They invested their money there and were saddled with vast acres of land when agricultural income was not taxed in this country as it is even now Unfortunately for no fault of theirs, simply because the Britishers wanted to have the sole monopoly of exploiting and developing Burma, our Indian nationals are no more welcome there They are neither wanted by Britishers nor by the Burmans there They themselves are not enamoured of the position that they occupy there They are anxious to leave Burma as soon as they can, but, unfortunately, they have been saddled with vast acres of land and it is not possible for them to bring all those acres of land on their backs to this country What I want the Honourable the Finance Member to do, so far as our nationals in Burma are concerned, is to give them a temporary period to adjust their investments I want that for the time being they should be allowed to enjoy the same privilege which they were enjoying when they invested their money there The period need not be long it may be 10 years or 15 years or 20 years I do not want more I want only that these unfortunate Indian nationals, who have been saddled with vast acres of land, should have an opportunity to adjust their financial commitments according to the then existing provisions of the Income-tax Law and should not be required to pay tax on accrual basis when they have already paid the tax in Burma. That is all I want .

The Honourable Sir James Grigg: If it is agricultural income, they have not paid tax in Burma.

Pandit Krishna Kant Malaviya: I have no authority to speak on their behalf, but I want to make an offer to my Honourable friend, the Finance Member I want to know whether he is prepared to purchase all the land held by our Indian nationals in Burma at 50 per cent of the prices and pay the price to our Indian nationals and realise the money from the Burman Government This shows that it is difficult even to realise 50 per cent of the investment, and, over and above this loss, they are to be taxed in this country after they have paid the tax in Burma.

We then come to clause 5—new sections 4(*a*) and (*b*), and I want to say that it is a dangerous move in the interests of our friends from the west I am not satisfied with the deletion of the word "control" from the definition I would very much prefer to have the definition suggested by the Codification Committee I want that persons or companies having substantial portion of management and operations of their business in this country should not be allowed to escape our tax Companies incorporated outside British India, but having substantial operations here, should be made to pay, and I do not see why we should not adopt the definition of the Codification Committee

Sir, I have already taken much time of the House, and I do not propose to discuss other clauses in detail I have remarked on some of these in my note of dissent, and I have tabled amendments for others But I feel that the speech would not be complete without some reference to clause 53 I hope that good sense will even now prevail and the Honourable the Finance Member will see his way to delete section 49 or clause 53, but the speech of the Honourable the Finance Member does not warrant any such hope Sir James Grigg has taken pains to make out a case, and it comes to this that we do not lose one crore and forty lakhs or one crore and thirty lakhs, but only 60 lakhs He has given us some figures also, and I want to prove that his figures are misleading.

Here is a press communiqué issued by the Federation of Indian Chambers of Commerce and Industry I do not propose to read the whole of it, but I want to read one or two sentences, and I hope the Honourable the Finance Member will consider them and say what reply he has to give against these statements This is what they say.

"It may be pointed out that the Double Income-tax Relief is more or less exclusively the British Empire scheme, and since its inception in 1920, only few countries, India and Australia, have *agreed* to give reciprocal relief to the United Kingdom, while such rich Dominions as Canada and South Africa have declined to sacrifice any of their revenues in the interest of the United Kingdom"

I want my friend, Sir Muhammad Yamin Khan, to bear this in mind that even South Africa and Canada have refused to agree to give any reciprocal relief to the United Kingdom Treasury

Mr. N. M. Joshi: They are disloyal.

Pandit Krishna Kant Malaviya: Then we ought to be more disloyal. To make another quotation from the same communiqué

"Referring to the figures quoted by the Finance Member, the Committee regret to find that the figures are likely to present a misleading picture to the Central Legislatures. The tax which the Finance Member calculates and which an English company has to pay in the absence of section 49 and in the absence of any relief clause in the U K Finance Act, namely 5½ annas in the rupee and 7½ annas in the rupee respectively, is the collective amount of the tax, the British company will have

to pay to both the treasuries, and an English firm operating in India, with the repeal of section 49 of the Act, will not be asked to pay to the Indian treasury a single pie more than what an Indian company operating in India will be paying under the Indian Income-tax Law In fact, both the companies will be treated *exactly in the same manner* under the Indian Law, if section 49 is repealed "

One word about the much admired 'slab' system I would like to say that at best it is a leap in the dark Whether it will prove advantageous or disadvantageous depends upon the rate fixed just as in the case of "step" system I would also like my friends to note that the value of a slice changes from man to man according to his position in life and total income. The same rate of taxation on a poor man's first slice and a rich man's first slice cannot be justifiable The marginal utility of money is greater for the poor than the rich As has been pointed out by Marshall, "the richer a man becomes, the less is the marginal utility of money to him", and, therefore, the imposition of the same "slab" rates for the rich and the poor would not be justifiable If the Honourable the Finance Member is really anxious to help the poor, the rates of the tax may be lowered in the case of the poor and enhanced in the case of the rich

One reference more, and I have done The Honourable the Finance Member as well as my friend, Sir Muhammad Yamin Khan, who often repeats what has been said or uttered by Sir James Grigg, referred to the propaganda of the Central Income-tax Committee and the various telegrams that they received I want to know what was wrong with that propaganda. The amending Bill was published, opinions were asked for and people were asked to consider the Bill Those who were affected by these measures thought it proper to enlighten public opinion about their case. There were others who thought that some of the clauses of the Bill went beyond the justifiable scope and limits, and I am sure that they had every right to organise public opinion, to protest, to send telegrams and do whatever they could in order to organise public opinion against the unwanted sections of the Bill The Honourable the Finance Member may feel hurt, because the bad points of the Bill were exposed and his mistakes were pointed out But I, as a member of the Select Committee, want to say this that the various pamphlets posted to me by various groups and associations on different points helped me a lot in understanding the various implications of the Bill Some experts even published books There was one most valuable book written by Mr Raghupati Ghatak. There was another (1938 edition) of Mr B N Das Gupta's, most illuminating treatise on income-tax law We on this side of the House cannot command a highly paid Secretariat we cannot command the services of experts. We have, therefore, to be thankful and we are thankful to these various Associations and groups of people who did their best to help us in understanding the various implications of the clauses of the Bill. Without their help, we would not have been able to find out where the truth lay and, as such, their attempts and their propaganda have to be commended rather than condemned.

In the end, I would fail in my duty if I did not pay my homage to the part played and the work done by the Honourable the Leader of the Opposition in the Select Committee. He is one of us and any compliment by his friends may not be of such value as the most deserving compliment paid to him by Sir James Grigg sitting on the Opposite Benches. But I would like to say this that not only we, but even the officials at

[Pandit Krishna Kant Malaviya]

places would have been stranded and handicapped but for his presence in the Select Committee I would also like to add that the Honourable the Finance Member, who was once dubbed by the Leader of the Opposition as the bad boy or the spoilt child of the Assembly, was nothing if not a very good boy I wonder why he cannot always be in the Assembly what he was in the Select Committee Except on points on which he was obstinate or obdurate or on which he refused to see reason, he was always anxious and willing to accommodate and arrive at some settlement with us Sir, I have nothing more to add except that I still entertain the hope that the Honourable the Finance Member will see the equity of our demand and agree to delete sections 4 and 49

Dr. G. V. Deshmukh (Bombay City Non-Muhammadan Urban) As the House knows, the objects of this Bill are mainly two The first one is to relieve the poor income-tax payer at the expense of the rich income-tax payer, and the second is that the money raised is for the purpose of provincial contributions It is further assumed that Indians, so far as this relief from taxation is concerned, only want it against their richer brethren and not against the foreigner, the exploiter, the parasite This is assumed in this Bill With regard to provincial contributions, again it is assumed that for this mess of pottage of provincial contributions every Indian would be prepared to sell away his birthright—whatever rights he has as a Member of this House Further, two more assumptions are made, that is, one that every income-tax officer is a meek lamb and not a maharaja sitting in his office, and the other, that every Indian has a right to be harassed, so far as taxation is concerned, for any rupee that he may make, whether in this country or outside the country These seem to me to be the main provisions of this Bill

Let me come to the main argument for the Bill, namely, the relief of the poor income-tax payer as against the rich income-tax payer What is there in this argument? Nothing else than an attempt to divide again one section of Indians against another section of Indians What is the good of all these statistics that 2 lakhs and 40,000 would be relieved as against 10,000 rich payers of income-tax? On this line of reasoning where will you stop? Because, supposing the Finance Member,—not the present one, but his successor whoever he may be,—supposing he does not get any income, or sufficient income, which he thinks to be adequate for his purposes, what is going to be the line of reasoning? The income-tax payer who is going to be relieved today at the expense of the rich income-tax payer will be told—or I suppose the population of India is some 38 millions, out of which four lakhs are supposed to be income-tax payers—if sufficient money is not raised, these income-tax payers on a lower scale will be put to the opprobrium of all the other millions odd people who do not pay any income-tax, and they will be told—"Now relief is going to be given to you at the expense of these income-tax payers who are at the level of Rs 2,000 or more"

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Why not tax the rich still further?

Mr. Bhulabhai J. Desai (Bombay Northern Division Non-Muhammadan Rural) Until the rich have become as poor as the poor

Dr. G. V. Deshmukh: What is the main drain from India and what is this relief? If there was a case of a person suffering from plague and the doctor said, "I want to treat the feet of the patient at the expense of the head, but not the parasite or the plague that is affecting the patient", what would you think of that doctor—if not a rogue, an imbecile? This is practically the positon The country is being exploited by means of securities, income-tax free securities, sterling securities and debentures, pensions, double income-tax relief, and as if that was not enough, the Finance Member had added the provisions of domicile and non-domicile in this country, and in the case of companies, whether the control will be Central, whether it will be partially controlled or wholly controlled These are all provisions which are being put in in this Bill to support his countrymen to exploit this country. The argument is brought forward with regard to double income-tax relief, or the provisions under which income-tax is allowed to go away from the Indian treasury—the argument is brought forward that promises were given—promises were given in 1920 or some time or other, and, therefore, they must be kept This may be a rate honour, it may be even gangster honour, it may be a particular brand of honour, but this is not the kind of principle which should be brought in when legislation has to be prepared and adopted for country as a whole What is the amount of income-tax that is allowed to be exempted from this taxation? On sterling securities and debentures alone not less than 21 crores are exempted from the provisions of the income-tax so far as the Indian treasury is concerned Leave aside the double income-tax relief, over which it seems to me that all kinds of figures were quoted and some justification was sought to be made Let me take the instance of income-tax free securities and debentures Say, for instance, that some non-domiciled resident, about whom a good deal of care is being taken at the present time,—supposing he makes Rs 10,000 in this country —perhaps an illustration will explain better what I mean to put before the House Suppose that Rs 10,000 is sent over to England by a person. I suppose he pays income-tax in this country, and after he has sent it to England, he will get double income-tax relief from this country under the provisions of double income-tax relief He invests these in sterling securities and debentures tax-free, and that money again is invested in this country He gets his income on that tax-free A gentleman can come over here and he can enjoy that income without giving anything to the country where all this income arose What I want to know is this Is this fair, is this right? After all, the income accrued or arose in this country It is to be paid at the expense of the Indian treasury, and yet, in spite of all that this so-called non-domiciled gentleman can invest his moneys made in this country tax-free in perpetuity If this is not tax-dodging, what is it? It is worse than that, it is tax-gobbling: practically, it is swallowing up the whole tax This is the kind of position that we arrive at so far as this is concerned What is the idea in this domicile and non-domicile? I can understand the position taken up that whatever income is made in this country, whether it is domicile or not domicile, let it be taxed on accrual basis I can understand that. By the way, this is one of the things we have in India which does not exist anywhere else, certainly not in the civilised United Kingdom I do not think that there

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is any difference of domicile and non-domicile for purposes of taxation in the United Kingdom.

Mr. S P. Chambers (Government of India Nominated Official) There are differences

Mr. Bhulabhai J. Desai: Over a very small matter

Dr. G. V. Deshmukh: But not of domicile and non-domicile

Mr. S. P. Chambers: Yes domicile and non-domicile If the Honourable Member wants full particulars, I can give them to him

Dr. G. V. Deshmukh: I will certainly avail myself of the expert who has come to this country and by whose services we have been greatly benefited to the extent to which I will have occasion to mention in my speech.

Well, Sir, this is so far as domicile and non-domicile is concerned This is so far as the individual is concerned I do not understand why the investments of these resident non-domiciled gentlemen should be allowed to go tax-free I really do not see why my friends sitting on my left should go income-tax free by this jugglery of domicile and non-domicile I take it that that income was made in this country If there is such a thing as accrual basis, which is supposed or which is intended to be applied to an Indian, I do not see any reason why these gentlemen here should not pay on an accrual basis To let them go income-tax free does not seem to be fair at all In spite of the verbiage in clause 4, the purport of the whole thing is to exclude the investment income of these gentlemen and I, personally, do not see why that should be excluded I am sufficiently broad-minded and if Indians as well as these British foreigners pay their tax on the accrual basis, then I can reconcile myself to that On the other hand, if their investments outside are to be excluded, I do not see any reason why the investments of my countrymen outside should be taxed at all After all, considerable help was given to the British, to make money by business in this country, by their Government What help have my countrymen, who have gone outside on their business enterprise, got from this Government? Absolutely none On the other hand, every hindrance has been placed in their way. So far as my countrymen are concerned, their world income is going to be taxed on an accrual basis So far as these gentlemen are concerned, their Government give them export credit by the Act of 1920 I want to know whether my Government give any export credit to Indian nationals in any way I say, so far as their income is concerned, let them be taxed, and what is more, it would be dishonest of these people, who have been obliged by their Government, if they do not pay their tax to their own Governments, but what moral justification or liability is on an Indian whom this Government has not helped in any way at all If at all, you have hindered him He makes money by his own enterprise and why should a covetous eye be thrown on the investments of these people outside The argument that this Bill is intended to rope in the tax-dodgers does not appeal to me Taking human nature into consideration, I say that the tax-dodgers are not only in my country I find that tax-dodgers exist all

over. I have here a respectable English newspaper, the *Daily Herald* You cannot deny that it is an English paper You cannot deny that it is written in the English language which will be understood by you gentlemen, and, what is more, it is with regard to finance and industry, and I want the House to particularly note the day—2nd November, that is to say, after the arrangement with Hitler, and when the British nation was really shaking and absolutely frightened about their own safety What do rich tax payers of England do? The heading is "Tax-dodgers outwit the Treasury again" This is on 2nd November You cannot say that England is out of the crisis yet If it is, then, what is the need for all this rearmament?

Sir H. P. Mody (Bombay Millowners' Association Indian Commerce) How did they do it?

Dr. G. V. Deshmukh: My friend, Sir Hormusji Mody, is very anxious to know how they dodged the tax I do not blame him for trying to evade the tax! If I could, I would try to do the same This says that at a time when the social services are threatened, big surtax payers in particular have been shown by their lawyers how to continue to deprive the Treasury of sums estimated at 20 million or 30 million pounds a year This was when the safety of the country was threatened However, I do not want to deviate from the point I was trying to make Human nature is the same I need not moralise and say that your countrymen are the only tax-dodgers My countrymen may be tax-dodgers too, but there is more justification for my countrymen to dodge the tax than you, because you have been made what you are by the support of your Government and by the strength of your Government So far as we are concerned, so far as this House is concerned and the position we occupy is concerned, we owe nothing to the Government We have worked for our own position On the other hand this Government has always harassed us in a political way and also in a regular gangster way, so far as finances and monetary considerations are concerned I will show you presently that this Bill also is not immune from these gangster ways so far as the income-tax payers are concerned, and I say it is permissible in these circumstances to dodge this tax on our part You, gentlemen, have a voice in the spending of every penny of your country, but one-half of our income is spent on military expenditure and defence and in a hundred other ways and on experts, including the income-tax expert, without our consent and against our wish I say that our money is *not* spent with our consent, leave aside military and other expenditure, even on experts including experts for this Income-tax Bill, and not only that but very often it is spent against our wish and, therefore, the point I am making is this, that so far as tax-dodging is concerned, it is a universal human instinct, it is not particularly in India that you find this tax-dodging but you will find that this instinct of possession, being a human instinct, exists in all countries, and no Finance Member need stand here and moralise about that and say that India is a country of tax-dodgers and I want to get hold of them, and that I want to plug up all the loop-holes Whatever you may do, the more the so-called civilization, the better the way of evading the tax and I do not think my poor people are up to the same trickery and cleverness that the Finance Minister will find in his own country. That being so, it seems to me that some of the provisions of this Bill seem to me to be most unjust and repugnant to my

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sense of fairness What are we supposed to pay all this money for? Before I proceed to the other part of the Bill, let me say this, frankly, I am willing to treat you gentlemen as my equals, as the equals of Indians liable to the same taxes and liabilities, no more than I am prepared to pay and am liable to the same taxes and liabilities, but no exemptions therefore, if you are prepared to agree that all the incomes which accrue, whether they are domiciled or non-domiciled, should be put on an accrual basis, I for one am willing, on the other hand, if their investments are allowed to be taxed on a remittance basis, it is only fair that the investments of my countrymen and merchants outside the country should also be on a remittance basis and not on an accrual basis, and if this reform is not brought about in this Bill, well, as the Law Member always asks us to have an astrologer with respect to Federation, I think we will also want an astrologer with regard to this Bill,—as to what is going to happen to it As to whether the slab system or the step system is going to give us more income —I may request the Law Member to transfer the services of the same astrologer to this Income-tax Bill But if that reform is not brought about, then I for one, so far as I am concerned, with the gross injustice and the jugglery in this clause 4, would request the House to drop the clause altogether

Now, Sir, so far as provincial contributions are concerned, I said that what is an Indian supposed to do? In the expectation of these provincial contributions we are supposed to give up every right that we possess as a citizen or as a subject of a civilized State I am supposed to allow the Maharajah of an Income-tax Commissioner to come into my house between morning and sunset at any time Now, I was surprised that an Englishman like Mr Town yesterday said that this was necessary Why is this necessary? This is encroaching on the primary rights of any subject of a civilized State Does an Englishman allow an income-tax officer to go into his house between morning and sunset?

An Honourable Member: Yes

Mr. K. Ahmed (Rajshahi Division Muhammadan Rural) What about the doctor who trespasses into the Zenana?

Dr. G. V. Deshmukh: I must say that till my friend, Mr K Ahmed, started talking in this House, I did not know till that day what a dark background the present Finance Member has. I would advise my friend to whitewash it

Am I supposed to admit anybody into my house between morning and evening and to check my accounts? I would even object to his going into any business premises, because what business has he to go into business premises? After all, this Maharajah of an income-tax officer is supplied with the names of all the employees of the firm or company, as Mr Town pointed out yesterday Not only that, when salaries are paid, he is supposed to take the income-tax out of it, in the case of a company he is supposed to deduct the income-tax and the sur-tax What I want to know is—what is this gentleman paid for? His life is so comfortable—to use the word of an Honourable Member who spoke yesterday, so "*khoosi*", that he has nothing to do Sir, we have only heard of Hitler and Mussolini I think this gentleman is a Maharaja and a Hitler and Mussolini all rolled into one.

The names are to be supplied to him, he is an authority against whom no appeal can be made except by very rich tax-payers whom this law is supposed to put to some kind of trouble, and to whom only relief can be given by this gentleman. The poor tax-payer, for whose benefit this law is going to be enacted, I do not see how he is going to get the benefit of this appellate tribunal and what legal redress he is supposed to be given in this Bill? Even his mathematical powers are not to be taxed because all the income-tax and super-tax is going to be deducted before lists are going to be supplied to him. My friend, Mr. Town, yesterday asked for a discount or brokerage from the Government for the firms which supply these particulars Why should not individuals be paid something for supplying all the information that is proposed to be given in this Bill, otherwise I want to ask the Finance Member—what are we paying nearly a crore of rupees to the Income-tax Department for? If you look at the expenditure upon the Income-tax Department we are spending on this Department a sum between Rs 80 lakhs and nearly a crore of rupees, roughly The interesting part is that while the receipts of the income-tax are dwindling the expenses are going up When the income-tax was 15 crores, the expenses were 70 to 80 lakhs But when the income-tax goes down to 13 crores the expenses go up from 70 to 80 lakhs to 90 lakhs If an individual is supposed to supply everything that is wanted then why should the expenses be incurred? What should be the proportion of the expenses? One crore to 13 or 15 crores That is for every Rs 15 that the income-tax office makes, it is spending about a rupee, on the expenses itself I pay that as a tax-payer In spite of that I am going to be harassed and be asked to fill in all kinds of forms I must make compulsory returns as soon as public notice is given Why can't this gentleman issue special notice as well as public notice After all I am paying all the expenses for my convenience Who issues compulsory notice? Supposing I start business I must write to him where I am going to start business, vocation or profession If I discontinue the business, I will have to write to him If somebody makes Rs 200 interest, he must write to him The gentleman who makes the money has got to write to the income-tax officer so that he may not be troubled in his comforts Even though somebody loses Rs, 200 in interest, even then he must write Are there any such harsh provisions anywhere in the world?

The Honourable Sir James Grigg: Yes, in England. The payer of interest has to deduct the tax and account for it to the Inland Revenue Would the Honourable Member like that system to be introduced in India?

1 P M

Dr. G. V. Deshmukh: If the Honourable Member would introduce the entire system regarding income-tax that is prevailing in England I would support him in everything.

The Honourable Sir James Grigg: We are giving it to you

Dr. G. V. Deshmukh: You are giving it to me like an Englishman who comes to India and sheds all his good qualities I do not want to deal with an Englishman like that I should like to have Englishmen with all their English qualities You have taken things from England shorn of all decent qualities and you want to pass them on as an English measure

The Honourable Sir James Grigg: I do not want to go into any individual comparison The Honourable Member asked whether I could tell him any country where there was such a harsh measure. The instance I gave was one much harsher.

Dr. G. V. Deshmukh: You tell me about companies I asked you about individuals

The Honourable Sir James Grigg: Individual payers of interest have themselves to deduct tax on account of the Board of Inland Revenue before they pay to the lender

Dr. G. V. Deshmukh: I accept that I will presently ask you to give all the individual allowances, all the considerations which the English people have

The Honourable Sir James Grigg: That is another story

Dr. G. V. Deshmukh: Whatever exists

The Honourable Sir James Grigg: The Honourable Member cannot get away with it like that He said in one particular, "Can he give me any instance of income-tax in the world where such a harsh provision exists?" I have told him one exists which is much harsher He cannot get away with by drawing red herrings—or if I may mix a metaphor—by using a loud voice

Dr. G. V. Deshmukh: It is very likely that after all I have copied it from the Honourable Member My experience of the Legislature is not much, and, after all, subconsciously I might have taken the Honourable Member as my model It is no good telling me you have some of the provisions of the United Kingdom I say this for this reason Somehow or other my country seems to be most unfortunate in all respects People—so called experts—come out here and go about the world at our expense and study things abroad The income-tax experts cover the whole world at our expense and find out that dividends include bonuses shares somewhere and that distinction they copy from Western Australia and they import this wool into this country from Australia, a thing which was completely rejected in England You have at present depreciation allowances to be put on the writing down value, instead of on the cost basis I know this is also in England but was not a choice given to them whether they will have depreciation value put on the cost or on the writing down value?

The Honourable Sir James Grigg: The Honourable Member is wrong

Dr. G. V. Deshmukh: The right of assessee whether debts are recoverable or irrecoverable Here the Maharaja of an income-tax officer is going to determine which debts are recoverable and which are not What is the provision in England? Is it not that reserve is allowed there? What happens to husband and wife in this country? That is coming to the social side where perhaps I will not be contradicted as often as I was contradicted before, no doubt due to my mistake, I assume What happens in the case of husband and wife in England?

The Honourable Sir James Grigg: I do not know.

Dr. G. V. Deshmukh: Dependants are included in it In England a husband and wife are taxed on the aggregate income. I am perfectly willing to accept it in this country with due allowances. You will have the same law in this country Every kind of allowance is given in England

The Honourable Sir James Grigg: The Honourable Member must know that the husband and wife provision has now disappeared from the Bill before the House

Dr. G. V. Deshmukh: All the same you are going to charge the rate on the aggregate

The Honourable Sir James Grigg: No, Sir Unless you have got one of those beautiful partnerships

Dr. G. V. Deshmukh: It only means that sense has dawned on the authorities who framed the income-tax law I can only hope that a little more sense will dawn on them and that all the objectionable features will be removed Is any allowance going to be given to children in this country? According to the report of the Income-tax enquiry, this is a very much married country Marriages are very common in my country In England allowances are given to children for educational purposes I really do not see why these humane considerations should not have been introduced in this measure As marriage is very essential in this country, every father has to get his daughter married There, in England, you give an allowance of £50 till the age of 16 till the children are educated. Why should the authorities who framed this Bill be blind to that here?

The Honourable Sir James Grigg: I wish I were deaf

Dr. G. V. Deshmukh: I would like you to be dumb What is the average expense of a man who is going to pay income-tax on income up to Rs 8,000? Supposing he has a daughter to get married Does the Honourable Member know anything about it?

The Honourable Sir James Grigg: I can return the challenge Does the Honourable Member know anything about people whose incomes are up to Rs 8,000 a year?

Dr. G. V. Deshmukh: The Honourable Member is very wrong I will tell him that I am a born and bred agriculturist. Before I took to medicine and settled down in Bombay, it will be a matter of some information to my Honourable friend that I passed my life in the village and I was brought up there and so I know more about those people who pay income-tax on income up to Rs. 8,000 than either the Honourable Member or his predecessors or successors will ever know

The Honourable Sir James Grigg: Agricultural people do not pay income-tax

Dr. G. V. Deshmukh: Agriculturist in this country does not pay income-tax, but I want to ask the Honourable Member how he includes the total world income

The Honourable Sir James Grigg: Agriculturist.

Dr. G. V. Deshmukh: Let me now speak from my local experience in Bombay. There are many State subjects in Bombay from Kathiawar and Porbunder

The Honourable Sir James Grigg: Who carry on agriculture in Bombay!

Dr. G. V. Deshmukh: Who have agriculture in States Is it excluded or included?

The Honourable Sir James Grigg: Included

Dr. G. V. Deshmukh: Why? You take his total income and you include in it his agricultural income from the State

Mr. Deputy President (Mr Akhil Chandra Datta) The Honourable Member can resume his speech after Lunch

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

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

Dr. G. V. Deshmukh: I was talking about local conditions in the country and I was submitting that considerations should have been given for social conditions prevalent in this country Just as in England education is concerned a very important matter for children, similarly, in this country, so far at any rate as a daughter's marriage is concerned, it is very important, it is almost a religious duty on the part of the parents I should like to know from the framers of this measure as to why no allowances are allowed in the case of income which is to be spent for expenses of marriage of the daughter I am not speaking merely by way of criticism, but I hope that those who are responsible for the Bill will take hints from it and modify the provisions accordingly Otherwise, the Bill is likely to go to posterity, not only for us, but also for our successors and generations with very bitter state I do not want to criticise unnecessarily I also want to be helpful, as much as I can, and offer constructive suggestions at the same time

Let me now come to the other social side, that is insurance I do not know why a limit of Rs 6,000 is put down I would like to know from the expert whether there is any limit of insurance in the United Kingdom?

Mr. S. P. Chambers: There are such limits in the United Kingdom

Dr. G. V. Deshmukh: They get allowance on the gradual rates so far as insurance premium is concerned I really do not see how there can be very many in this country who would insure for a sum carrying more than Rs 6,000 as insurance premium For a few persons here and there, it does not seem proper that he should make a law limiting insurance

premium to Rs 6,000 You must leave it to common sense and there should not be a regular statutory provision in the Bill I think this limit of Rs. 6,000 may be conveniently dropped.

Then, with regard to private trusts, I am not here to say whether religious faith is good, bad or indifferent Personally I belong to a rationalist school. I have respect for all religions and respect for no religion You have to take into consideration the fact that in this country some are made to pay income-tax for certain religious faiths and there is no reason why a man should be prevented from making a private religious trust if he wants to I do not see why this should be taxed? Why should a man's faith be taxed I can understand a man's income being taxed. But there they have gone further, not only is his home to be invaded—I will not go over the whole thing again I say it is very wrong that a man should be penalised by way of income-tax so far as his religious faith is concerned I find the same thing with relation to settlements and dispositions I personally have no doubt that there are some who misuse this power and that they do make settlements and dispositions for the sake of dodging income-tax, but I refuse to think that everybody does the same I can give you a case in point Some persons, particularly in the Hindu community, may be forced According to Hindu law if a man has no sons, then in a coparcenary property at any rate in the school ruled by *Mitakshara* law, if he has only daughters, then it is likely that nothing of the property will go to his daughters after his death Under the circumstances a man makes a trust under the *Mitakshara* law the wife also has absolutely no claim to the property Supposing a gentleman governed by *Mitakshara* law has his wife and daughters and he makes a settlement in favour of his daughters or his wife Why should it be taken that it is merely for the purpose of evading income-tax law? He does not want to have any bother after his death, he wants to see his wife and daughters properly provided I can understand a provision like the one in the Bill if a settlement or disposition is made which can be proved to have been done for the purpose of tax evasion But I cannot understand a wholesale provision like the one in the Bill, which takes for granted everybody to be fraudulent merely to evade income-tax Therefore, a provision wherever it is made to penalise the settlor or the disposer is entirely wrong, and foreign to the spirit of proper legislation

We were talking about agricultural income I am sorry I disappointed the Honourable the Finance Member I have a great deal to say about it He must have realised by now

The Honourable Sir James Grigg: You tell me so

Dr. G. V. Deshmukh: Whatever I tell you you can believe blindly.

The Honourable Sir James Grigg: Not about income-tax, I assure you

Dr. G. V. Deshmukh: Some people are incorrigible I cannot help it.

As far as agricultural income is concerned, I am for clean legislation I do not like these qualifications. So far as British India is concerned, agricultural income is excluded and it should be. I do not say no to it. I do not approve of the argument advanced that an agriculturist even if he has a yard or a cubit of land has to pay land revenue whereas a businessman is exempted up to a limit of Rs 1,500 or Rs 2,000 If you want to

[Dr G V. Deshmukh]

tax agricultural land as a matter of legislation I can reconcile myself to t I say I agree again It is not as the Honourable the Finance Member knows that this provision is not going to be misused How about the palatial mansions of Bengal landlords in excluding from agricultural income? That has been excluded as has been pointed out in one of the official reports The one position you take I can understand What I cannot understand is this—I must speak in the interest of my constituency—in Bombay there are many State subjects from neighbouring States, Kathiawar, Gujarat Many of them are well to do State subjects having agricultural income from their States If the agricultural incomes are excluded in the case of British subjects, why should these be included in the case of State subjects I do not hold with this that any particular section should get a qualification whether in Burma or anywhere What I say is this if the agricultural income is to be excluded, it is not that Indian State subjects should not get this exemption It is very unfair that you should tax them according to the world income and include his agricultural assets therein Here, again, so far as the total income is concerned, it has been changed into total world income If you want to keep that, I have no objection, but what I cannot understand is, while you will tax his total world income, you will not allow any interest if it is to be sent out of British India I hope to go into the matter in detail when the amendments are moved If you want to tax a man's total world income, then you must certainly allow his world losses as well, whether it is on mortgages or interest You cannot prevent that man from paying interest outside, but you will not give any exemptions or make any allowances on that account, and that, I think, Sir, is very wrong

Again, Sir, I hope the House will excuse me for dilating on the subject of agricultural income, for this reason, because it has been stated that this Bill is intended altogether for the relief of the poor tax-payer against the rich tax-payer I myself honestly think, Sir, that in spite of the cheap gibes of the Finance Member against trade representations and propaganda and telegrams which he quoted, this Bill is going to affect the poor agriculturists very badly for this reason After all, what is the income from business to an average businessman? I do not look at it in an abstract way. A man who is trading outside India can only trade in export or import business So far as Indians are concerned, we are, to begin with, mere producers of raw products, and the cry all through for the last so many years has been that our export trade has been declining and our prices have been falling And what is the meaning of the Ottawa Pact? During the last four years we have been in this House we have been hearing a good deal about the fall in the prices of agricultural produce, that prices of agricultural products should be increased, in fact all kinds of suggestions have been put forward Now, when you are going to tax your merchants for world-incomes, what are you going to tax them for so far as the Indian merchants are concerned? They export your raw produce outside, in other words they are helping you to increase your export trade On the one hand you say, raise tariff walls so that outside products may not come in and the export trade of the country may be stimulated, in order that our agricultural produce may fetch better prices; on the other hand, you are penalising the man who is carrying on the export trade by taxing him on whatever he makes outside Sir, it does seem to me that the House in agreeing to a proposition like this will be

taking up a very inconsistent position. I must say that I do not understand the conflicting arrangements Besides that, what is the condition of your export trade? So far as the agricultural products are concerned, are you in a flourishing condition? No, certainly not Your rice export from Bengal has gone down by about one-fourth, your wheat export has gone down by about one-third, agriculturists in the Punjab are howling that they do not get any price for their produce, and the Berar and Bombay are shouting because the prices of cotton have gone down. Millet, jowar,, maize and other things which we used to export to the tune of about four hundred thousand bags have come down to about 40,000, and then on the top of all this, you talk of taxing the income of the agriculturists on a world income or accrual basis!

Sir, I think the whole scheme has been conceived from a wrong standpoint; it is conceived only from one point of view, and that is, with the whole idea of getting money, more money and more money, no matter by what means it is got It can be collected, no doubt, for a purpose, and that is for provincial contributions, but again I shall repeat here, we are not going to sell our birthright for a mess of pottage for the sake of provincial contributions Do you mean that for the sake of these provincial contributions we should yield to anything and everything that you propose? Are we to submit to some of the powers which you propose to give to the Income-tax officers, like the power to enter your house or to re-open an assessment account if he wants to do so? The Honourable the Finance Member in answering some Honourable Member said that you cannot claim losses for six years if you cannot render accounts for six years I agree with him entirely I say you cannot claim losses for six years, and it is only fair that you cannot claim accounts for six years. But what I should like to know is this,—how can the assessment question be re opened by an Income-tax officer under this Bill? I suppose in the English law and in the laws of the United Kingdom the words 'if he discovers' must be there

Mr. S. P. Chambers: Yes, if he discovers

Dr. G. V. Deshmukh: Well, if you use the same words here, I have no objection

The Honourable Sir James Grigg: I am afraid the Honourable Member has not read the Bill The word 'discovers' is in the Bill

Dr. G. V. Deshmukh: The Bill has been changed so many times that I can only go upon what has been supplied to me

The Honourable Sir James Grigg: The Honourable Member had better mistrust what is supplied to him next time,

Dr. G. V. Deshmukh: Unfortunately, I am not in the habit of conferring privately with any Government Members on the opposite side, and, therefore, I can only go by the printed matter which has been supplied to me. The Honourable Member will perhaps excuse me if I don't have any private conferences

The Honourable Sir James Grigg: I can excuse him, but I do not think he ought to be excused for not reading the Bill and making observations on it before he reads the Bill

Dr. G. V. Deshmukh: If you have already made changes in the Bill by taking some of the suggestions thrown out from this side of the House, I am really very glad, and I do hope that better sense will dawn on the framers of the Bill to incorporate and embody almost all the suggestions that may be made from this side when we come to deal with the amendments

Well, Sir, I do not want to take any more time of this House Under this Bill the powers which you are giving to the income-tax authorities are enormous,—right up from opening accounts on his own whims and caprices down to entering our hearths and homes. This is a thing, Sir, which no self-respecting subject of any State would ever agree to. I have no objection to having a uniform law without having all this show of control, of domicile, non-domicile and so on, to help your friends, or to invent means to help them at the cost of the poor tax-payers of this country It seems to me, Sir, that the Bill, as it is, is saturated with and is full of dishonest methods for extracting money from income-tax payers If you want the people of this country to pay income-tax in a moral way, you cannot introduce immoral provisions in the Bill

Now, Sir, it is a matter of deep regret to me to find that Honourable Members from all sides of the House have been appealing to the Honourable the Finance Member to use this authority very sympathetically and kindly I say it is an attitude which I cannot agree with. All these pathetic appeals to my friend seem to me very disgusting, for this reason that we are here to make legislation It is our responsibility and our decision to give him what power the income-tax authority should have .

The Honourable Sir James Grigg: If that is so, it is the Honourable Member's responsibility to read the legislation he is making

Dr. G. V. Deshmukh: It is quite likely that the Honourable Member opposite is saturated with legislation about income-tax only, and, so far as the general principles of legislation are concerned, he has either paid no attention whatever to them or probably he was unable to understand those principles, because from my medical knowledge I know that when a man is particularly interested in one subject, he becomes blind, deaf and dumb, he becomes incapable of assimilating any general ideas on other subjects, and, therefore, I will excuse the Finance Member for his remarks

The Honourable Sir James Grigg: For your mistakes?

Dr G. V. Deshmukh: I say, Sir, that these appeals, whether they come from the European Group or any other Group, seem to me to be very inappropriate and insulting and not consistent with the self-respect of this House After all we are here as legislators. It is our duty to see what power we will give to the Income-tax Department, particularly a Department to which we pay the enormous sum of nearly one crore of rupees merely for collection of income-tax We, as self-respecting subjects of a State, should not be prepared to subject ourselves to all kinds of individual

ignominies. So far as business is concerned, perhaps I could have gone into the business side a little more but I have no desire to. All I am keen on is that the individual rights of a subject should not be trampled upon, and, particularly, when it comes to the duty of the Legislature itself it is no good taking up a ridiculous position and hand over powers to the executive to tyrannise you and oppress you and then make pathetic appeals asking them to use this power sympathetically and kindly and to remove this evil and that evil If you think that the power is going to be misused, it is your duty as legislators not to hand over that power, and I hope, Sir, that this House will keep this in mind and legislate accordingly and will not give powers to the executive which interfere with individual rights, with industry, with prosperity and with the happiness of this country

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa Muhammadan): Mr. Deputy President, we have all carefully heard the speeches of the Honourable Members of this House and especially of the Honourable the Finance Member and the Leader of the Opposition who have certainly placed the Bill in a more lucid manner than the other Members have done. I must confess that the language of the Bill and of the Act of 1922 as well is vague and ambiguous and it is very difficult for anybody to understand the different implications contained in these measures unless they know the practice. I should think, meaning no disrespect to any of my friends and colleagues, that only a few of them have been able to digest even half the subject, intricate and technical as it is My Honourable friend, Sir Homi Mody, confessed that on the floor of this House yesterday and if a man of his merit and connections in business world has not been able to understand the language as much as he should have been expected to, well we can see how vague and ambiguous the language used in different clauses is to most of us Frankly speaking, for myself I have found enormous difficulty in understanding the clauses and their implications in spite of my knowledge of law and of economics and close association with Commerce and the trading community of India

I understand the chief purpose of the Bill is to minimise the chances of tax-dodging and to catch those who have been avoiding payment of the tax in spite of their capacity. That is what the Honourable the Finance Member has told us in his opening speech this time. On the question of tax-dodging, Sir, the best test is the number of penal cases which have been placed by the Government on the record, since the Act came into existence—I mean the Act of 1922. Those statistics must be available to the Government How many penal cases have been brought and with what results? We do not know. If the statistics had been placed before us we would have been in a better position to judge how far tax-dodging was going on in this country and whether it has reached a stage where legislation of a more rigorous kind is necessary Then again, it has been further alleged and probably correctly, that some of the assessees maintain duplicate sets of books, one for the Income-tax Department and another for their own use, and Sir Homi Mody has suggested on the floor of the House that even duplicate books are maintained, the last for the use of partners and the lowest figures are contained probably in the set which is produced before the Income-tax Department. Now, as regards that also we should have been given some idea as to the authority on which the Government relies that such things

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are going on. Yesterday, Mr Town also stressed the practice of these things by some assessees I do not know his source of information, unless it be an intuition to him as some one says now.

An Honourable Member: No, a Confession

Mr. Muhammad Nauman: Then, I wish we had some more people in the House to confess that they are maintaining duplicate sets of books. Naturally as Mr Town belongs to a commercial community and a confession in his case means the maintaining of duplicate sets of books by his section. He cannot mean anything else However, Sir, on this basis provision is being made to give the Income-tax Officer the right of free entry into premises, and that means not only the business premises but all such premises in which the Income-tax Officer thinks he will be able to catch a tax-dodger or his books which he may be maintaining for tax-dodging My submission on that point is, Sir, that this clause would harass the honest assessee more than help to catch the dishonest one I will not make the assertion that there are not tax-dodgers at all in India There might have been cases of duplicate sets of books being maintained; but in my opinion they are so few that they do not require as yet such a rigorous clause being placed on the Statute-book as to put all the assessees in the category of criminals Now, Sir, as regards this I think the Honourable Member does realize that the powers proposed to be given are more apt to be abused than used rightly We have had sufficient experience in this country of the way in which police officers behave, of the way in which even *chaprasis* have been over-awing gentlemen, and if this power is given to any income-tax officer

An Honourable Member: And how the jamadar collecting your rents behaves.

Mr. Muhammad Nauman: That does not arise If at all amendment was necessary the essential feature of the Bill should have been simplification of the language so that it would have taken out of the present Act the vague and ambiguous parts of it The most essential principle for a taxing legislation is that it should be couched in simple and explicit language, so as to be intelligible to the average tax-payer on whom the burden falls In England there was a Royal Commission appointed in 1920 with definite term of reference that the language of the Act should be simplified, and the Codification Committee was appointed with the sole object of simplifying the language It was appointed somewhere in 1924-25 under Mr Winston Churchill the then Chancellor of the Exchequer The personnel included eminent lawyers and accountants and although that committee made its report, Parliament has not yet given its sanction, they still think that the language there is ambiguous in certain parts. That is the story of a country, Sir, where literacy is practically 100 per cent, and the Honourable Members can realise the position of this country where literacy on the average is hardly ten or even five per cent and where there are a dozen methods or more of accountancy and not one method as in the United Kingdom. It is most surprising that some parts of the United Kingdom Finance Act have been taken but not the whole The Enquiry Committee appointed under our Expert, Mr. Chambers, did not recommend any negotiations even with the United Kingdom

or other countries for reciprocal arrangements. When we were thinking of taxing world income, I think it was only fit that they should have entered into negotiations for reciprocal arrangements, at least with the United Kingdom and the dominions.

Before coming to the clauses, let me point out that the Bill is not based on the fundamental principle of the capacity of the tax-payer to pay. In other countries like the United Kingdom we find that allowances have been given for expenses of a personal nature and for wife and children and house-keeper This was discussed yesterday by Sir Homi Mody and just now by Dr Deshmukh at full length I need not dwell on the necessity for such allowances They should have been taken into consideration when examining the question of the tax-payers' capacity I understand a proposal was placed before the Enquiry Committee but was turned down on the ground that "married condition is the prevalent condition in this country" It is somewhat surprising to me to hear that I do not know of any part of the world where the prevalent condition is an unmarried life As far as my knowledge goes in the United Kingdom and in all the dominions including Australia, Canada, South Africa, etc, these allowances are given when assessment is made on individuals

Mr. K. Ahmed: For four wives and children!

Mr. Muhammad Nauman: No provision has been made here for allowance for even a single wife The prevalent condition is one wife only Legislation could have been passed giving allowance for one wife and treat the others as a luxury But that has not been done too and this is the tragedy of taxing principle

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Another point which was made yesterday by Mr Town was that many people who have the capacity to pay escape paying taxes and by paying capacity he said people getting about or just over Rs 2,000 He does not realise that a man earning that figure has hardly anything left if these allowances are given It is in this country alone where the allowances are not given that Mr Town says people are escaping tax (Interruption.) I am not concerned with what he meant; I am concerned with what he said; and he definitely said on the floor of the House that he knew many petty shopkeepers who were making about Rs 2,000 and who were escaping. But he does not realise the unfortunate lot of those people that they are practically living on nothing and they do not have capacity to pay in the real sense of the word These facts should have been apparent to the expert Mr. Chambers who was brought out here to study those things and advise the Finance Department on the same lines as in his own country

Now, Sir, no guidance has been given to the income-tax officer regarding allowances for expenses Certain lines have been vaguely suggested, but no guidance in clear and explicit terms has been laid down in the Bill, nor was it in the Act which has been in operation so far I personally know of hundreds of businessmen in Calcutta who maintain a kitchen for their clients on the basis of time-honoured custom of the trade and allow board and lodging to their servants as part of the contract of their service—when they pay Rs. 10 or Rs 20 or Rs. 30 to their servants, they also give the benefit of food and lodging . .

The Honourable Sir James Grigg: That is allowed

Mr. Muhammad Nauman: No guidance has been laid down in the Bill, and I know that the hide and skin merchants of Calcutta are not allowed this

The Honourable Sir James Grigg: You bring the cases to my notice

Mr. Muhammad Nauman: Thank you very much The other case is that of a partner or proprietor living on the premises and managing the business as manager and no allowance being given for his expenses I know of many cases in which the premises in which the business is being carried on and are also occupied partly by the proprietor or partner and the rent of that part is disallowed by the income-tax officer in his own discretion. Again, if a partner or proprietor visits his office to examine the accounts once a year and takes a house for two or three months on rent for this purpose, that rent is not allowed it is assumed probably, that he went to Bombay or Calcutta or Madras or wherever his office be situated on a luxury excursion I submit, Sir, that some sort of guidance should have been given in the Bill in unequivocal and clear terms saying that such and such items or natures of expenses would be allowed and others would not be allowed by the taxing authorities as expenses of business Everything has been left to the discretion of the income-tax officer, and, probably, he can make the life of any respectable and honest citizen or assessee as miserable as it may be in his power to do This is something which appears to me to be against all equity In all the other departments of the Government guidance has been given to the officers in clear terms but in the case of the Income-tax Department, I find that in spite of the efforts of my Honourable friend, the Honourable the Finance Member, to overhaul the machinery of the Income-tax administration, about which he is really anxious, no substantial improvements have been proposed in the interests of this country—what I submit is that the Honourable the Finance Member should give such guidance and put in such provisions as would not be ambiguous or vague and would give an honest assessee a chance to make the income-tax officer understand things if he is not able to do so himself

I find instance of ignoring "tax-payers' capacity to pay" by the provision of clause 17 in this Bill We have already in the Statute section 16 (*3*) in which the income of the wife from assets transferred by the husband or the income of the wife in a partnership concern in which the wife becomes a separate and independent partner is amalgamated with the income of the husband There is a similar provision in the Act under which the income of a minor child from assets transferred by the father is included in the total income of the father Sir, under the Muslim law the Muslim ladies have a separate existence and the wording of section 17 is

"Where two persons are husband and wife, the tax payable by either spouse, on his or her total income shall be an amount bearing to the total amount of the tax including super-tax which would have been payable on the sum of the two total incomes had such sum been the total income of one individual the same proportion as the total income of such spouse bears to the sum of the two total incomes"

Mr. S. P. Chambers: May I just remind the Honourable Member that that part of clause 17 has been deleted in the Select Committee?

Mr. Muhammad Nauman: I am sorry then. As my feelings were a little strong on this, because, from the Muslim point of view, Muslim ladies have a separate existence and that position should be recognised, and also the question of Dower debt .

The Honourable Sir James Grigg: We have accepted that argument.

Mr. Muhammad Nauman: On the question of trusts, I want to say this. My Honourable friend, Sir Muhammad Yamin Khan, has fully discussed that question, as to how the Muslims feel on the subject of waqfs and *waqf-alal-Aulad*, but, I want to add just a few words This theory has been accepted in the Bihar Agricultural Income Act, and the waqf has been exempted from any taxation. I do not see why this principle has not been enacted here up till now. I hope when we come to discussion on amendments the Honourable the Finance Member would accept our amendment and see that the feelings of the Muslims are redressed, in so far as the waqf and *waqf-alal-Aulad* is concerned There should be made no distinction on the question of waqf and *waqf-alal-Aulad*, that is, a trust private or public So far as the Muslim law goes, there is no difference between the two, they stand on the same level according to Muslim jurists It is difficult to understand where the private trust ends and public trust begins If one starts a school for the benefit of poor boys of the village, is it a public or a private trust?

Mr. S. P. Chambers: Public trust

Mr. Muhammad Nauman: Even if it is started for a certain community?

Mr. S. P. Chambers: Yes

Mr. Muhammad Nauman: My Honourable friend, Sir H. P Mody, has lucidly dealt with section 25—the power given to the income-tax officer of declaring dividends six months after the last meeting of the shareholders if there has been no such distribution. Dividends are to be declared by the income-tax officer not out of the available profits of the company but such dividends are perhaps to be declared disallowing all preliminary expenses and all such items of expenses which are technically looked upon as legitimate items of expenditure but do not convince the income-tax officer of its relevant necessity as urgency The question is where are the dividends to come from? Again, the next clause makes the position look still more difficult. I am referring to the provision if a company has its reserve fund sufficiently accumulated the income-tax officer has the power of making himself the sole *de facto* director of the board and declaring the dividends in his own discretion. The share register has then to be called for but shareholders as recorded in the company's share register would not normally be the same persons as the actual shareholder at the time of actual declaration of dividend. In busy commercial places as those of Calcutta, Bombay, Karachi, Madras and others, shares mostly change hands by blank transfers and the company itself cannot give the name of the actual shareholder at

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the time of the declaration of dividends Can my Honourable friend, Mr Chambers, enlighten me as to what instructions he proposes to give to the income-tax officers in such circumstances which are expected to arise in more than about 50 per cent of the cases?

Mr. S. P. Chambers: I am sorry I cannot give the Honourable Member any idea of what instructions will be issued because the Bill has not yet been passed into law That is a matter which will be considered at a very much later date But I will bear in mind the point which my Honourable friend has made

Mr. Muhammad Nauman: My submission on that is that some guidance should have been given in the different clauses by such provisions as to show the real intention of the Legislature in enacting this Then, section 42 (3) requires the assessee to furnish statements of the names and addresses of all persons to whom he has paid in any year rent, interest, commission, royalty or brokerage or annuity amounting to Rs 200 This act will only be a source of constant friction between the employer and the employees, the client and the *mahajan*, between a merchant and his broker, between a commission agent and his principal, and when the income-tax officer insists upon a list being furnished of all the payees of the kind mentioned to the extent of Rs 200 or more, I think in some cases it will amount to 50,000 names or thereabouts Take the instance of a sharebrokers' firm or commission agents firm whose clients are innumerable and whose amounts of commission are sometimes small, but the names and addresses are all the same numerous and different Then he has got to maintain the names and addresses of all those persons who get about Rs 17 or 18 a month,—in total amounting to Rs 200 and the assessees run the risk of giving an address on which the man may not be found and be called "Dishonest"

The Honourable Sir James Grigg: On the Honourable Member's assertion, there are 50,000 names of persons paying Rs 200 each, which means payment of a crore at least

Mr. Muhammad Nauman: There are firms which are paying about a crore of rupees I can name some of them, say "Mungh Ram Bangar, Birla Bros , Adamji Haji Dawood, Bird & Co , etc " These are the biggest firms in Calcutta If you take their list, it will come to about that figure

The Honourable Sir James Grigg: You mean payment of interest?

Mr. Muhammad Nauman: Not payments of interest My submission is that 50,000 persons may get it in some shape

The Honourable Sir James Grigg: On your statement, if you take the figure at 50,000 and if you multiply it by Rs 200 paid in interest, it comes to a crore a year

Mr. Muhammad Nauman: It includes brokerage, commission, rents and all other things besides interest.

The Honourable Sir James Grigg: They do not pay brokerage. They get it

Mr. Muhammad Nauman: They pay as well When I say 50,000, it will be a very reasonable figure. It will be at least 8,000 or 4,000 normally in many cases.

As I have said before, no guidance has been given to the income-tax officer for accepting and allowing a deduction of particular expenses. That would lead to harassment I know of individual friends who, for reason of being a Muslim and following the strict tenet of the Qoran, do not borrow on term of interest but borrow money on term of paying a percentage of the profit accrued and this is not allowed for by the income-tax officer as business expense, in spite of evidence produced before him

Now, Sir, if my study of fundamental principles of a taxation statute is correct, then I may say that normally a taxing statute should be based on consolidation and there should not be a sudden or abrupt variation in the principle of taxation I think this principle is rather violated by the attempt to change over from the remittance basis to accrual basis for the purpose of taxing foreign profits and gains of an Indian as proposed in clause 4 (*a*). The League of Nations Finance Committee recommended the principle of levying taxes on the profit and gains accrued at the place of origin The principle of place of origin is to be the place of taxation and this probably is the most equitable and it takes away the entire question of double income-tax relief or reciprocal arrangements In adopting the principle of accrual basis the Government of India will find that they are landing their Indian subjects into such difficulties as would either compel them to change their residence from India to some other place for all times or to find out ways and means of tax-dodging on the basis of 182 days residence or 365 days residence in four years The question of 182 days evidence and 365 days aggregate residence evidence will give enormous trouble to honest assessees and as the onus of proof will lie on the shoulder of the assessee they will find some difficulty to make the income-tax officer believe their statements accompanied with such evidences as will normally not be available in the form of certificate from any Government The history of Indian foreign trade is more a history of personal enterprise and adventures of individuals and in no case I know of any substantial help ever given by the Government of India for building up foreign trade I hope that the Honourable Member will realise the hardship of double income-tax for those Indians who are doing their business in foreign countries and will have to pay income-tax at the place of origin and no relief of any kind will be available from those countries which have no reciprocal arrangements with India Then there are countries which would not allow any part of the profit or capital to be removed for some time and in that case the Indian merchants will be assessed on the foreign income and will have to pay out of their Indian funds either from the capital or by borrowing and this will mean hardship which may end the trade altogether Of course the Government of India has offered to issue executive instructions for cases where removal of profit will not be possible but this will not be sufficient as all the official orders normally are delayed to such an extent that the income-tax officer may realise in the meantime and the machinery of the Central Board of Revenue will be set in motion after the harm has been done Then the difficulty of bringing the books from foreign countries is not only costly but it may ruin business If during the transit the books are lost, with them will be lost those amounts which might be due to the clients abroad. The effect of this Bill may be to tempt other dominions to adopt this very principle of taxation on their

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side and then the effect of double income-tax relief may be nullified. On the one hand, the double income-tax relief will be available for limited parts of the British dominions and will not at all be available in places like the United States of America, Japan, Germany, France, and etc Besides the amount of the double income-tax relief normally will not be available in less than four to five months time and the loss of interest and the difficulty of financing Indian part of the trade may well be imagined I want to give the House a concrete illustration which will bring clearly to the House the difference it will make and I should like Mr Chambers to enlighten me on it Suppose a company B C and Co earns one lakh in Japan, one lakh in the United States and one lakh in British India Taking the rates in Japan and U S A to be the same as in India *minus* surcharge then it pays ten thousand each in Japan and U S A

Mr. S. P. Chambers: I may inform you that the rates in those countries are lower than the aggregate of the rates of income-tax and super-tax for such a company in India

Mr. Muhammad Nauman: In the United Kingdom it is not lower

Mr. S. P. Chambers: I thought you said the United States.

Mr. Muhammad Nauman: I said United States and Japan As I do not know the rates, I have just tried to calculate on the same basis as in this country and what figures I have been able to get are subject to verification by the Honourable Mr Chambers Taking the rates in Japan and U S A to be the same as in India *minus* surcharge, then this firm pays Rs 10,000 each in Japan and U S A and Rs 11,000 in British India including surcharge, making a total tax of Rs 31,000 on an earning of Rs 3 lakhs, but under the Bill the position would be that B C & Co will pay Rs 10,000 each at Japan and U S A and will pay about Rs 85,000 in British India on Rs 3 lakhs net earning, combining the profits earned in three countries, and the total amount of taxation will come to about Rs 1,05,000 on Rs 3 lakhs against which no relief will be available

Mr. S. P. Chambers: I have not followed the Honourable Member's figures in detail nor do I remember the exact rates in the United States and Japan I think perhaps the better plan would be if the Honourable Member would ask me a question outside in the lobby and I will then endeavour to check his figures

Mr. Muhammad Nauman: Taking the same case, supposing the earning to be Rs 1 lakh in Burma and one lakh in Ceylon, the relief would be given to the extent of about half the tax that he paid in the colonies and which means relief of about Rs 10,000 by way of double income-tax relief, and still he will be saddled with a net taxation of about Rs 95,000, as against Rs 31,000, which is the position at the moment under the Act of 1922

Mr. S. P. Chambers: I think both in Ceylon and Burma he would pay no extra tax on the assumptions made, because although British India gives relief of half the tax the other countries also give relief.

Mr. Muhammad Nauman: Now, then, the question of domicile and non-domicile places us in further confusion, because section 49 of the Act

of 1922 and section 53 of the present Bill cannot be deleted without the sanction of the Governor General. Europeans earning profits on their investments cannot give the Indian exchequer that amount as the Indian natives will be compelled to give I have every sympathy for my European friends and I do not want to suggest that they should not get relief for double income-tax but what I want to point out to the House is that this is not relief given to the European business-men but is relief given to the British treasury. The facts are that those European firms do not get the relief but the Indian exchequer makes a contribution to the British treasury in the name of double income-tax relief through these European firms, and it is not to them that the actual benefit goes but to the British treasury, because according to all canons of equity it seems rather too much that they should have been taxed twice and naturally they paid only once But whatever relief is given to them is actually given to the British treasury and that position has to be taken into consideration by the Indian exchequer—how far this is to be justified Now let us take a concrete case Let us suppose that A B & Co Ltd earn Rs 2,50,000 in the United Kingdom and Rs 10 lakhs in British India Under the U K. Finance Act, the United Kingdom taxes them on the total profit of Rs 12,50,000, which at the rate of four shillings per pound works up to be Rs 2½ lakhs, then the United Kingdom super-tax on that amount works up to about Rs 70,000 and hence the total amount of taxation to be paid to U K Government is Rs 3,20,000 There may be a little difference for the reason of the rate of exchange or even the rate of calculation but this will be the figure near about Now, Indian tax on the earning in British India, which amounts to Rs 10 lakhs, will amount to Rs. 1,50,000, and over this will be charged a surchage of Rs 65,000, making a net taxation Rs 2,50,000 tax to be paid to the Indian exchequer Well, under the U K Finance Act, relief has got to be given to the extent of about half Half, India will refund by way of double income-tax relief, half the tax, without the benefit of taxing the British portion of A B. & Co Ltd I am not fully conversant with the rate relating to double income-tax relief, but I understand that the calculation has to be based on the average rate of tax prevailing in British India and United Kingdom To be concrete, I understand half the tax paid in British India has to be refunded whether this has to be divided between British Indian exchequer and the U K exchequer or not or exclusively borne by the Indian exchequer, I am not definite about it, but supposing it has to be divided; the approximate tax in India is 1/6 and the assessee is entitled to relief of 1/12 whether the British exchequer will also give some part of the refund or not is a matter for the Honourable Member to inform the House when he gets up for reply. Moreover, in the case of individuals and other associations of individuals, the matter of computation for the purpose of calculating income-tax is more complicated and as the method of computation in the United Kingdom is very different from the method of computation in India, the former recognises the personal allowance of wife and family which the latter does not Now, Sir, if clause 4A is considered to be necessary for the Indian exchequer and if at all it is to be maintained intact, certainly the distinction between domicile and non-domicile should not be allowed to exist and the basis of liabilities should be only residence, as in the United Kingdom, and the definition of residence should be only residence and nothing else,—a little widened perhaps so as to bring in all the world income of all the people residing in this country in order to give the Indian

[Mr. Muhammad Nauman]

exchequer sufficient funds to undertake bigger projects In the United Kingdom Codification Committee's report no difference of domicile or non-domicile has been made and let us all be brought on to the same line, if it is necessary that every one has to be taxed to give influx of money to the Indian exchequer. I should be glad to hear from Mr Chambers on what lines the definition of domicile and non-domicile exists in the United Kingdom As I said in my speech earlier, we would be quite willing to have the entire U K Finance Act as it is there

The Honourable Sir James Grigg: You are prepared to accept the United Kingdom Act in this matter of foreign income absolutely as it stands? Is that the suggestion?

Mr. Muhammad Nauman: Yes, the whole thing—my submission would be "drink deep or taste not the Pyrene spring"—that we should have the whole thing or nothing of it With all the allowances, the supertax, supercharge rates and everything as we have in the United Kingdom, I think many of my friends here would be prepared to accept We would be prepared to agree even to the imposition of death duties if it came to that even

Now, Sir, I do not wish to take any more time of the House I have tried to point out to the House that it is highly necessary that the Honourable the Finance Member and Mr Chambers should reconsider the whole scheme of taxation in the light of the facts which we have placed before them and see what improvements could be effected in the Bill in the interests of the finances of this country and also of the people of this country After having said this, I must confess to a feeling of appreciation of relief about the improvements that are proposed in the Bill I must thank the Finance Member for having found the necessity of allowing assessees to carry forward their losses to the next year and allowance will be made in the profits for such losses if any That is a much needed improvement which will probably be accepted by every one on all sides of the House Again, Sir, the introduction of the slab system will certainly mean considerable relief to some of the assessees, particularly to all those whose incomes will be below Rs 8,000, and the position of those whose incomes will range between Rs 8,000 and Rs 25,000 will remain *status quo* The majority of the assessees have incomes between Rs 8,000 and Rs 2,000 and, therefore, this improvement will be very much appreciated Then again the slab system is certainly a very great improvement Then the proposal for the establishment of a tribunal of appeal is equally a considerable improvement, but why it should be introduced after two years after this Bill has remained in force I cannot understand. My submission is, as Mr Town suggested yesterday, the appointment of this tribunal should be made forthwith almost simultaneously with the bringing of this Bill into effect

Now, Sir, I trust that the few suggestions I have made will be carefully considered by the Honourable the Finance Member and Mr Chambers and that they will try to accept such amendments as we will give on the different clauses and make the Bill more acceptable to all sides of the House I am particularly keen on some sort of guidance being given to income-tax officers to avoid harassment which honest assessees are normally confronted with even under the present Act With these suggestions, I take my seat

Mr. S. P. Chambers: Sir, I think, it is desirable at this stage that I should give a few explanations on some points of difficulty that have arisen during the discussion. I cannot promise to deal with every difficulty that has arisen, because I am afraid I might occupy too much time of the House, but my object is to deal mainly with those difficulties which are, if I may say so, of a less controversial character, so that, Honourable Members, when they come to the clauses, may have a better idea of the clause upon which they are voting; and I do it at this stage because so many of the clauses are inter-related As I shall explain later on, I think failure to see the relation between one clause and another has led several speakers into difficulties

What I want to avoid, in particular, this afternoon, are clause 4 and 58 that deal with the residence or accrual basis of foreign income, and Double Taxation Relief I do not propose to touch upon these or upon any subject which is related to these matters, except one, and I want to refer to it because some misunderstanding seems to have arisen on the subject of the recommendation of the Codification Committee Report of 1936 That Committee recommended the definition of residence for companies, and that definition was reprinted in a footnote to the Income-tax Inquiry Committee Report of 1936 I fancy that Honourable Members who have suggested the adoption of the United Kingdom or the Codification Committee's definition took that not out of the Codification Committee's Report, but from the footnote of the Indian Income-tax Inquiry Report Why I suggest that, Sir, is because if all the relevant sections of the Codification Committee's Report and of the draft Bill that they have submitted are examined, it will be seen that the amendments tabled on this matter get to a result which is entirely different from the result which the Codification Committee intended On that point I should just like to read what was said in the Inquiry Committee Report It says this

"In view of our suggested basis of assessment for foreign income and of our suggestion that the whole profits of a business carried on by a company should be assessable when the company is controlled in British India, clause 7 of the Codification Committee's Report is too wide"

Now I will explain why it is too wide I must confess the Report was rather cryptic There was no statement as to why it was too wide but it was assumed that if Members would look up the Codification Committee's Report and the draft Bill, they would be able to see it there The Codification Committee set out not to extend in any way the scope of the tax in the United Kingdom nor to alter the incidence more than is necessary in a Codification Bill They made extensive alterations in the classification of incomes They dealt with incomes of business which are entirely controlled in the United Kingdom and conducted therein, and they put those incomes under class D Incomes of companies controlled abroad where the business was partly carried on in the United Kingdom and partly carried on abroad were to be divided into two parts,—that part which was to be carried on in the United Kingdom was to be assessed on the full amount arising in the United Kingdom, and that part which arose abroad was to be assessed only upon the amount which was remitted to the United Kingdom The relevant classes of income are classed D I will just read the particular section:

"Income of class D, is income from any trade",—*I omit the irrelevant words*,—"In the case of a business which is carried on partly in the United Kingdom and partly elsewhere, that part of the business which is carried on in the United Kingdom shall be treated as carried on in the United Kingdom."

[Mr. S. P. Chambers.]

Now, the rest of the income from a trade which is carried on partly in the United Kingdom and partly abroad where a company is not controlled in the United Kingdom is put in class O. Income from class O is to be assessed only upon the amounts brought into the United Kingdom. Well now, it was on that basis that they proposed this definition which, in effect, would regard as resident in the United Kingdom any company which was controlled there, or if it maintained in the United Kingdom an established place of business Well now, if we apply the definition of 'company' without having the same basis of assessment, the position would be that every company with an established place of business in British India would be liable to assessment on the whole of their profits throughout the world whether those profits were brought into British India or not. Now that I submit, Sir, is quite an absurd result

An Honourable Member: Why?

Mr. S. P. Chambers: May I explain Take a large Bank, the National City Bank of New York have probably a few offices in India, in Bombay and Calcutta, and carry on a small part of their total world business here, probably less than one per cent Under the Bill and with this definition that Bank would be asked to pay Indian income-tax on the whole of its profits, including all the profits made in the United States, in Great Britain and elsewhere That, I submit, is an absurd result if they have only one small office in Bombay and are carrying on a small business in British India

An Honourable Member: The words are "substantial part"

Mr. S. P. Chambers: "Substantial part" I take to mean a part which is sufficiently large to attract income-tax Substantial does not mean most of their business, it means something of sufficient substance to take notice of. If, of course, on the interpretation of that section Honourable Members place a somewhat different construction from that which evidently the Codification Committee of 1936 who drafted the clause intended, that is a matter for discussion But I submit that the effect of taking that definition with the Indian income-tax as proposed in the Bill would be quite absurd

Sir Cowasji Jehangir (Bombay City Non-Muhammadan Urban) May I ask what he would suggest—to put in a percentage instead of the word "substantial"? That would remedy the defect he pointed out Putting in 25 or 30 or 40 per cent instead of "substantial" would remedy the defect

Mr. S. P. Chambers: I was giving an explanation on the proposal made It is quite impossible for me to give an explanation on a proposal which has not yet been made I mean all kinds of definitions can be put forward What my submission is that the one in the Bill as amended by the Select Committee is the most suitable and the most satisfactory one That is all I wanted to say about subjects relating to the taxation of foreign income.

I now turn to one or two other smaller matters. One is the definition of 'dividend'. I think the Honourable Mr. Aikman raised some objection to the definition and suggested that perhaps, inadvertently, it caught some

cases of the issue of debentures or bonus preference shares which were not intended to be caught. I think the suggestion is that as worded it would cover cases of bonus preference shares which are redeemable when these shares have been issued for cash. Well, I think on that point there is no difference of opinion on the intention Nobody on this side of the House wants to tax or treat as income shares or debentures issued for cash, and if the definition needs any clarification on that point it can be considered. But I, personally, feel that it is already sufficiently clear That we can discuss when we come to it

Then on the question of salaries, the basis has been changed by the Bill from the amount of salary paid in the previous year to the amount of salary payable in the previous year, and the reason for making that change was that a number of persons were deferring the drawing of salary with the object of avoiding tax Now here, as with some other devices for avoiding tax, this is not an imaginary or hypothetical case This is a device which has been used not by one or two persons but by hundreds of people In one circle alone I came across over 400 cases in which tax had been dodged by failing to draw pay in the year in which it was due. So this is not an academic question; it is a very necessary provision It is suggested, however, that there are cases of hardship, that salaries may be payable and never ultimately paid That is certainly true and in the Select Committee an undertaking was given that executive instructions would be issued to see that in those cases the hardship was avoided, and the method suggested was to hold over the tax until the salary was in fact paid or the company paying the salary was in a position to pay it To go further than that would be to open this door to evasion afresh That is a matter which can be dealt with by executive action, and I might explain that in the United Kingdom the basis is the basis proposed in the Bill and there is no provision in the United Kingdom Act for cases of hardship, for they are all dealt with in this manner

Now, I turn to the subject of depreciation I must say, Sir, I was rather amused at the number of Honourable Members who suggested that the present basis works very well I agree with them that it works very well for the assessee First of all the system has been difficult to work for the Income-tax Officer. His records in only too many cases have become so complicated that in cases which I have myself seen he has given more than 100 per cent of the cost as depreciation, which of course is completely wrong. Obviously, it is not the law, but it is a difficult law to work when the assets are so complex and there are large additions each year. The new basis suggested is the allowance on the basis of the written-down value of the asset after deducting the previous years allowances and is very much simpler to work. I hope Honourable Members will not want me to explain exactly how it is simpler to work, but if any particular Member would like an explanation I would be pleased to give it to him in the lobby. But I would like them to take my assurance that it is definitely very much easier to work and it will also work very much better for the Department because we shall not have these mistakes made and, secondly, the rates at present in force are in some instances too high; they are very much higher than the corresponding rates in the United Kingdom and in some cases almost absurdly high.

[Mr. S P Chambers.]

Then one Honourable Member, I think, it was Mr. Town, asked to have an assurance as to the manner in which the new rates, to be fixed under the new basis, would be computed Well, I can give him this assurance, that the rates will be fixed as I have already explained in consultation with the interested parties, that is the persons who have to pay, and also that the intention is that for each class of asset the rate will be such a rate as will reduce the value of the asset to its scrap value at the end of its life Now by its life I do not mean the life as might be computed from the existing rates I mean its real life

Sir Cowasji Jehangir: Who is to decide that?

Mr. S. P. Chambers: That real life will have to be decided when the rates are being fixed The rates will not be fixed by each individual Income-tax Officer, the rates will be fixed by the Central Board of Revenue under the powers in the Act and will be applied uniformly to all persons with assets of the same class

Mr. K. Santhanam (Tanjore *cum* Trichinopoly Non-Muhammadan Rural): May I know what is the basis of the scrap value? For the writing down you must have some basis

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Mr. S. P. Chambers: By scrap value I mean the value at which the asset can be sold or is expected to be saleable at the end of its life. As to how that should be computed, quite clearly the basis must be somewhat arbitrary, but the sort of thing I have in mind is to reduce the value to a figure which equals the annual rate to be allowed If the Honourable Member will think that out, he will get exactly to the type of rate which it is intended to adopt

Mr. K. Santhanam: Will you give an illustration?

Mr. S. P. Chambers: If the rate is 20 per cent. of the cost of the assets and the asset is worth Rs 10,000 when it is bought, then the rate will be such as to reduce it to Rs 2,000 at the end of its life I should like the Honourable Member just to think that out and ask me for any further explanation later on

I come now to another point which was raised by Mr Town He was objecting to the amount of work involved in getting information In particular he was referring to section 20A which required information about the interest where the amount paid in any one year to any one person exceeded Rs 200 My only comment there is that I think he and his colleagues are really very well off as compared with their colleagues in the United Kingdom, where not only do they have to give information but where tax has to be deducted at source from all sums of annual interest paid, however large or however small, and paid over to the Inland Revenue—there is much more work involved in that than by just giving a list of payments over a certain amount I suggest that the amount of work involved is not very considerable and is not excessive having regard to the importance of the information. If the information can be obtained from the payer as well as from the recipient, quite clearly we are much more likely to get correct assessments and for this the amount of work is not excessive.

I come now to a more important matter—the provision for what has been called compulsory returns, and the corresponding provisions for penalties Perhaps, I had better explain how this will hit the dishonest person but will at the same time make it easier for the honest person. We have heard rather a lot about the manner in which these sections appear to be aimed at the honest and dishonest alike, but in practice these sections would work very much more smoothly with the honest persons than the existing sections If a man is under-assessed at present and has been under-assessed for ten years or fifteen years, which again is not an academic matter—there must be hundreds of persons or perhaps thousands, who are so under-assessed—and then it is discovered by the Income-Tax Officer, then under the law as it stands at present, the Income-Tax Officer can only go back one year and assess the income of the present year and the past year and impose a penalty equal to the aggregate tax he cannot go back and touch all those past years where there has been under-assessment Now he can only impose a penalty equal to the tax which has been lost That means that this dishonest person has gained, he has found his dishonesty pay Under the Bill, as it is now drafted, if a definitely dishonest person is discovered, the income-tax officer can go back eight years and can impose penalties of twice that amount—rather that is the maximum amount of penalty that he can impose Those penalties are such that in future it will not pay a man in general to make false returns In the past, on the average people who have made false returns have saved a lot of taxes over a period of years In future, if this section becomes law, the assessee who has made a false return will be compelled to pay not only the tax for the present year and the immediately preceding year, but for eight years back with a penalty for having made wrong returns What I suggest, then is that if the income-tax officer can in this manner catch the dishonest person and go back, there is a direct incentive not to make false returns, whereas at present there is a direct incentive to make false returns That is not all If the income-tax officer has these powers, he is not likely to harass the honest assessee. If he is feeling in any particular case that there may be under-assessment he may not give the assessee the benefit of the doubt If, on the other hand, he knows that if he under-assesses this year and for three or four years and then ultimately discovers that there has been fraud or that there has been considerable under-assessment and can go back, he can deal more liberally with honest assessees In this way, although it may sound rather paradoxical, I suggest that these heavier penalties and this right of going back several years hits only dishonest persons and is definitely a clause which favours honest assessees

Then I come to clause 42 which deals with the right of entry into a person's premises I am aware that there has been considerable objection to this power, but as amended in Select Committee I would suggest that the clause is now not harsh and is not likely to be worked unfairly The gazetted and non-gazetted officers—the income-tax officers and inspectors—may go only to visit the premises and may not enter unless there is specific power given by the Commissioner in any individual case and the Commissioner cannot, under the clause as re-drafted, give that power to an inspector—a non-gazetted officer—but can only give it to a gazetted officer. Now an income-tax officer is a fairly senior responsible officer: he is a gazetted officer of the Government of India and if he is the only person who is entitled

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to exercise this power and can only exercise it when the Commissioner who is the official in charge of a whole province gives him specific sanction, I suggest that that is not likely to be abused. . . . .

Mr. Lalchand Navalrai (Sind Non-Muhammadan Rural). Will he go himself or give orders to a subordinate?

Mr. S. P. Chambers: The income-tax officer must go himself: he cannot order his subordinate to go That is definitely in the Bill as it has now been amended

I come now to another question, the question of trusts I think that this subject has not been completely appreciated because the relevant sections are of necessity spread over the Act in several places But the law in the past has been that if income is transferred to trustees, (I am not now speaking of the income which is transferred to trustees in a revocable trust—I am talking about the case where the assets are permanently transferred) the trustees were treated as an association of individuals and the tax charged was at the rate applicable to that whole income, which may be fairly high Under the sections as now re-drafted (the section in question is 41—clause 44), the trustees can only be charged at the rate applicable to each beneficiary, so that—if I can give an example—if there is a trust and the income is Rs 10,000 per annum, in the past the rate was the rate applicable to Rs 10,000 If there are six beneficiaries entitled in equal shares to that income, no income-tax would be charged on that whatever because each beneficiary would have an income of less than Rs 2,000—this is, of course, assuming that they had no other income. In that way I think the change does give considerable relief to beneficiaries of trustees Perhaps I ought also to mention the case, which has been mentioned rather frequently during the discussions, of wakfs I understand that under the Islamic law a man may transfer assets irrevocably to trustees and apply that income for the benefit of human beings who may be humanity at large, or any section of humanity, or individual human beings, and that under the same law that purpose will be regarded as a pious or religious purpose Then it is argued, I think, that for that reason we should not attempt to tax the trustees in respect of the wakf property It is suggested that the property vests in God or in trustees for Him, and that it will be an impious act to assess trustees in that manner It is also suggested, I think that part of the income goes to charity, charity even as other people would call it and should be exempt I believe there are one or two other arguments, but I think these are the principal ones, from which it is suggested that wakfs should be exempt. One other that I should mention is that if the income of a wakf deed is not applied in the manner stated in the deed, that is regarded as a sin; and that even the paying of income-tax would be applying the income in a way not specified in the deed and, therefore, it would be sinful On that I would like to refer the Honourable Members who have raised the matter, to clause 44, section 41, under which the trustees are not assessable, as such, in their own names and for any trust as a whole They are assessable only in the sense of an agent for the ultimate beneficiaries and are liable to tax only to the extent that the beneficiaries can be taxed. In effect, we are treating the trustees in the same way as we treat an employer We ask them to pay the tax on behalf of

the beneficiaries If any one of those beneficiaries is exempt either because it is regarded under an earlier section as a charity or because the income is below Rs 2,000, then no tax is chargeable In respect of other persons, I think I am right in saying that there is no suggestion that they should be exempt If an Honourable Member made a wakf deed and the income went to a person with an income of Rs 2 lakhs, there is no suggestion I understand that that should be exempt I suggest that, as we are not taxing the wakf property, as such, but on behalf of beneficiaries, the law as proposed in the amended Bill is not in any way inconsistent with the Islamic law.

Then, I come to a more difficult part of the Bill, clause 48 which deals with transfers to persons abroad, and with certain devices for dodging income-tax and super-tax, which is known in England as bond-washing. I just want to explain briefly that these devices again are not devices that we have imagined and have imported from the United Kingdom and pushed into the Indian law because we think that people might do this kind of thing There are other devices which have not been adopted in India and for which even in this Bill there is no provision These devices have been seen in practice in India and have been worked quite extensively The first one which I will explain very briefly works something like this A man with a large income which is liable to super-tax transfers his income to a private company of which he is substantially the only shareholder and which is registered abroad Having transferred it, this company being registered abroad, cannot be caught on section 23-A which deals with non-distribution of profits The assessee, that is, the transferor himself, does not receive the income or dividends from the company, but he receives loans He is never asked to repay those loans because virtually he is the company So he receives in the form of loans precisely the same money which he would previously have received in the form of income and, therefore, he avoids all super-tax which is payable on that income That is a device that has been adopted in India as well as in the United Kingdom and clause 44-D has been devised to stop it It is of necessity complicated because we do not want to catch companies which are genuinely trading abroad. We only want to catch those companies which have been specifically set up with this intention

Then, we come to bond-washing section 44-E I found difficulty at another stage in trying to explain exactly how income-tax and super-tax was avoided But if you imagine the case of a person with an income from securities—this happens in companies as well as in individuals—income from securities of Rs 20 lakhs per annum, he can arrange with a person who is not liable to income-tax, perhaps a person resident abroad if those securities arose abroad, or with a person not liable to income-tax at all,—to sell those securities to him the day before the interest is due; and the day after the interest is paid he buys the securities back This person or company, instead of receiving the income in the form of interest on securities, receives in place of that, the difference between the market price of the securities the day before the interest date and the day after. That is to say, it is received as a capital profit and not income, and as such, cannot be charged with super-tax. That device is adopted in markets where one company is assessed in respect of profits on selling securities and another company is not. If a company is not assessable in respect of profits on the sale of securities, this capital profit will not be

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chargeable On the other hand, the loss made by the other company, the company that has bought the securities and sold them just after the interest date, will be treated as a loss allowable for income-tax purposes. Having that loss which is allowable for income-tax purposes, it can set it off against interest income, which in law is its own income, and in that way the loss is allowed against the interest and the whole of the income-tax or the major part of it depending upon circumstances, is completely repaid to the assessee. In that way the whole of the income-tax which would otherwise be payable on this interest on securities is refunded The loss in that way is not small, it is very large The loss in that way already amounts in India to several lakhs per annum Apart from that, there is a further device which is simpler, older and cruder, of a person who is liable to individual super-tax selling his securities in the market and buying them back after the interest date In this case there is no prior arrangement with any other person. He just goes to the market, and sells them and re-buys them, and the capital profit is exempt from super-tax 44F is aimed at that second device which affects only supper-tax payers, there is no question of getting any refund of income-tax arising in the second case, but in the first case both income-tax and super-tax are involved

I now come to another matter which is hardly a simpler one, insurance. I hope some Honourable Members have read the schedule at the back of the Income-tax Bill and have understood the implication of all the clauses. Objection has been taken, and again by Mr. Town—I apologise for referring to him so often—to the alternative basis given to the department to assess either on the total interest and other external earnings less expenses of management, or upon the actuarial surplus whichever is the greater Well, on that I would like to make a reference to something which was said by the Honourable the Leader of the Opposition that the present rules are *ultra vires* I think he suggested that the rules were *ultra vires* because surplus was not profits and, therefore, the rules ought never to have been issued and have been, in fact, inoperative in law I would like to make a correction there That is not so Those rules are quite *intra vires* and a surplus as determined by actuarial valuation in the absence of any statutory provision to the contrary is income assessable to income-tax My authority for that is that the United Kingdom law prior to amendment was practically the same as that in India prior to the amendment of these rules and it was held in the House of Lords, as long ago as 1885, that the full surplus without any deduction whatever for bonuses to participating policyholders is income which is assessable in the hands of the company There is no question then of those rules having been *ultra vires* They were perfectly in order and the income assessed was in the past the full actuarial surplus without any deduction for bonuses. In the United Kingdom that was put right by subsequent legislation in section 16 of the Finance Act of 1923, but that is immaterial to our present point

Then, it is suggested that we are changing over from the actuarial surplus to the interest basis. That again is not strictly true We are changing over to an option and it might be argued that the only true income of an insurance company is the full interest which arises from outside sources less expense but that is not so. I am afraid I will have to

give one or two examples. If I take the simplest type of insurance policy, a man may pay Rs. 10 per annum for an insured sum of Rs. 100 on death. That man may pay perhaps Rs 100 in premiums or he may pay only Rs 60 or 10 or 150 Nobody can tell how much an individual person will pay but we have to work in these matters on averages All insurance matters are worked on averages and let us assume for the sake of discussion that Rs 75 may be paid for a Rs 100 dividend and I think actuaries will bear me out when I say that roughly, on most of such policies, the amounts paid are less than sums repaid on death The principal reason why they are less is that those premiums earn interest once they are invested with the company As they earn interest, the capital sums paid on maturity include an element of income, which income we never tax That is an important point to remember They do include an element of income which we have not taxed but in the case of a new company the position is still worse. The interest is relatively small but at the end of the first valuation period it may be found that the surplus which is available for the shareholders, I am talking of the shareholders alone and not the policy holders at the moment, is larger than the interest because the actual mortality experience is less than that provided for in the policy So that there is a definte surplus available for shareholders which is in excess of interest, whether one deducts expenses or not For that reason, it would be impossible to say that the only fair and proper basis for assessment of life insurance companies is interest less expenses We must have some other basis The other basis is clearly the basis of actual valuation and in the past no deduction has been made in India for bonuses to participating policyholders and the official argument in the past has been that as generally speaking the amounts paid to the policyholders exceed the premium paid by the policyholders, then those bonuses have been derived entirely from interest and earnings of the company Well that is so in most cases but there are other cases, and it has been pointed out to me that they are probably more common in India than in the United Kingdom in which premiums are inflated quite artificially so as to provide bonuses; and there may be cases, and I have no doubt there are cases in which the bonus includes some element of refund of the premiums paid in addition to including the interest which has been earned on those premiums For that reason, we have in the schedule as appended to the Bill provided that the alternative basis shall not be the full actuarial surplus nor the actuarial surplus with a deduction of *all* the bonuses We have had to find some point in between that We fixed quite arbitrarily upon half the bonus and I think that is fair even if it seems to suggest that a large proportion of the bonuses comes out of premiums

Then, Mr. Town suggested that the proviso to rule 3(*b*) was objectionable and I think that in order to explain the purpose of that proviso I must go again into some rather difficult matters of computation When an actuary makes a computation of the surplus of a life insurance company he has to consider first, the value of the life insurance companies' assets in its life insurance fund and then has to deduct from that the liability to pay sums by way of bonus on capital sums on death of policyholders Now, in the valuation of the assets he may or he may not, according to his practice, make a deduction for the depreciation of the securities which form part of the fund. That depreciation may be very considerable; in the case of some of the companies in India, it has in fact been very considerable. When he makes the valuation of the liability, first he has to

[Mr. S P Chambers.]

determine what he thinks the life of each policyholder will be and for that he uses certain mortality tables Then he has to determine what proportion of the premiums which he is likely to get will be payable in expenses and how much the expenses will amount to Then he has to take into account the fact that the funds of the company will be earning interest all the time, so that he finally arrives at this liability by taking for each policy the amount he expects to pay away, the amounts of premiums and interest he expects to receive and the amount of expenses he expects to pay Well, now, in determining the rate of interest, he may be optimistic or pessimistic and I think every actuary will agree with me when I say that one actuary may on a set of circumstances determine that there was no surplus but a loss whereas another actuary, more optimistic, may, in fact, determine quite a large surplus Most of that difference depends upon the rate of interest which is adopted in arriving at the liability I am informed that in India the rate of interest adopted is normally calculated in this manner The value of the investments as depreciated is first ascertained Then the actual yield as a ratio of that value is secondly ascertained, and then that rate or an average of that rate, with certain deductions which are dictated by prudence, is adopted for the valuation of the liabilities Now so long as that basis is adopted, there is no harm and this proviso would be quite unnecessary, but it is possible, and in fact in the United Kingdom it has been done and may be done in India for all I know, for the company to write off depreciation heavily but to take a rate of interest which is being calculated by reference to the yield on the undepreciated securities If that is done then the liabilities are over-stated relatively to the assets, and we get either a deficit, when there should be a surplus, or a much smaller surplus than is in fact warranted Now the intention of this proviso is to guard against such cases and all it does is to say that where the income-tax officer finds that the liability has been stated on a basis which is materially inconsistent with the basis on which the securities have been valued, then he would have the power to make such adjustment to the depreciation or appreciation of securities as is fair and just Those words are, I admit, very general, but any attempt to try and make them more exact will, I think, result in tying an actuary too closely to certain principles which he may not for particular reasons connected with his company alone wish to adopt For that reason I think the proviso is as close and as accurate as we can make it

Mr Deputy President (Mr Akhil Chandra Datta) With the consent of the Muslim League Party, it has been arranged that the House will sit up to five today I must express my thanks to the Muslim League Party for this

Mr. S. P. Chambers: There is one other matter which was referred to by Mr. Town which I can explain very briefly. It was suggested that rule 8 was unnecessary owing to the operation of the Insurance Act of 1938 Well, may I explain that in this respect, in the making up of accounts for companies which are controlled abroad, which have their head offices abroad, the Insurance Act does not become immediately operative and this rule 8 is merely copied from the old rule and will become for all practical purposes inoperative when the corresponding provisions of the Insurance Act themselves become operative.

Then, I come to another matter which has been raised by several members and that is the question of allowances for wives and children. On the first point I would like to make it quite clear to the House that in the United Kingdom, where an allowance is given for wives, the wife's income is aggregated with the husband's income in all circumstances. In the Select Committee the clause which so aggregated the income was deleted, and I think it is a quite unreasonable suggestion that we should allow the husband to get a deduction for a wife or children if we allow him to keep out of the computation his wife's income. That is the first point.

An Honourable Member: Why then not for children?

Mr. S. P. Chambers: I will come to that The next point suggested was that even so we might have an allowance for children. Now in India, there are, as far as I am aware, no provisions for the accurate registration of all births and deaths and it would, therefore, be exceptionally difficult to work in India any such provision I do not know how Honourable Members would suggest that the income-tax officer should work it Would they suggest that the income-tax officer should ask the assessees to bring the children? If so, I think that it would be an exceptionally difficult matter (Interruptions) I think really it would be quite unworkable in India, apart from the fact that a man may have more than one wife and may have, as far as I know, any number of children so that it would be a very difficult section to work I think I might say that most people in India are married, most people seem to have children, and if we provided here for deductions for wives and children, that would so decrease the revenue on existing rates that the rates would have to be raised beyond all recognition and the effect of making this very extensive change would be that the husbands and wives and children would still have to pay the same amount of tax but they would pay at a higher rate, with the deduction for the wives and children, so that the net effect would be practically nothing We would have, for that result, a large amount of work to do Then again it is suggested that this would give a very considerable relief to poor people But I do feel that there is, I won't say something dishonest in that argument but, something missing in that argument and that is this I understand that there are something like over twenty crores of people in British India and if you look at the income-tax statistics you will find that of these twenty crores there are only about three lakhs who are assessed to income-tax Now those three lakhs are the wealthier persons in India. A person who has an income of Rs 2,000 a year in India in a village is not a poor man whom we want to assist by charitable means With Rs 2,000 per annum in a village or elsewhere in India one is relatively well off, he must be relatively well off in India if there are only three lakhs of people who are assessed to income-tax

Mr. S. Satyamurti (Madras City Non-Muhammadan Urban) That is a commentary on your rule in this country that men on Rs. 2,000 a year should be considered rich!

Mr. S. P. Chambers: If they were very much richer centuries ago, I think then the comment would have been perfectly justified.

Mr. S. Satyamurti: They were, before you came here!

Mr. S. P. Chambers: I suggest, therefore, that there is very little in that argument; and moreover if you compare the exemption limit in the United Kingdom with the exemption limit in India, then, having regard to the fact that the United Kingdom is a very cold country where people do require a lot of clothes and very heavy food and so on . . .

An Honourable Member: And beer and whisky too

Mr. S. P Chambers: you will agree, taking into account also the relative standards of living and the standard of living is certainly higher there, that the exemption limit in India is high

Mr. Manu Subedar: Sir, my task is rendered relatively easier when the situation with regard to the Bill has been explained lucidly in such great detail by my Leader and the more objectionable portions of the Bill as they still remain have been pointed out by him and by various Members,—particularly those relating to business have been pointed out by the business Members of this House Sir, the more I read this Bill, the more I admire the Honourable the Finance Member I am assuming that the Bill is the outcome of his thoughts and reflects his personality When it suited him, he followed the English law When it did not suit him, he has declined to follow that He quoted to us with respect the Macmillan Committee's report and yet much from the Codification Committee's draft bill which he could have adopted in this Bill has not been adopted by him Then with regard to the Income-tax Committee constituted by him of his own sweet will and not according to the manner in which we wanted it, he has followed such recommendations as he liked and ignored such recommendations as he disliked With regard to the Privy Council and other judicial judgments on income-tax matters, he has accepted what has appealed to him and he has quite arbitrarily failed to pick out the other points—one of which Mr Town pointed out Sir, I admire him for that thoroughness and for his patriotism Above all, I admire him because it discloses a one-way mind, that is, a mind with a single purpose and without meaning the least disrespect to him, I say that he deserves to be placed in the class of statesmen who have now the care of the two Central European States He is a great Hitler of finance

Now, Sir, one of the recommendations of the Income-tax Inquiry Committee was to make some modification of the definition of agricultural income, and one of the points which the Honourable the Finance Member could have brought in here was about usufructory or possessory mortgages in agriculture which are purely money lending transactions wherever there is a covenant for the return of the capital. But, Sir, he has dealt lightly with agricultural interests and has dealt rather heavily with business interests I must, in justice to him, however, point out with regard to agricultural incomes that, hitherto, under section 14 (2) (a), an assessee would not be taxed on a dividend received by him outside British India on the assumption that the company had paid the necessary tax Now, the dividend will be added to the income on which the assessment will be taken, and, under section 18 (5) credit will be given to him But the credit will be given to him only to the extent to which the income in the hands of the company has paid tax Sir, in other words, the position will be this, that if the company had any tax free source of income, such as agricultural incomes tax free securities or accumulated depreciation allowances, then this income which was exempt, which was by law exempt in the hands of the company, will now be taxable in the hands of the individual shareholder. The effect

of this will be that the shareholders of tea companies, unless a specific provision is made for them, and also of zamindari companies and other companies, whose source of income is agricultural, will be liable to pay tax, whereas they were exempt before And yet, the Burma income of the Chettiars, which was agricultural income till yesterday and exempt and which would have continued to be exempt but for the political accident of the separation of Burma, is sought to be taxed in the arrangements which are sought to be provided for in the Bill Sir, the heavy hand is laid, as I shall show presently, on business interests, whereas the agricultural and other interests equally important in the country, but perhaps politically more friendly to the Finance Member and the interest which he represents, have been let off lightly I say that the heavy hand has been laid on the business interests particularly, for this reason that the Provincial Governments will, probably on account of their own needs, soon be compelled to levy what is known as the sale tax, that is to say, a form of tax on business turnover, which will also have to be paid by the business community. Sir, it is necessary that the business community which is going to bear the brunt both of this as well as the other levies which I have mentioned from the Provincial Governments, should have to deal with simple machinery, with simple provisions, and on the whole, they should be free while paying whatever is due from them from harassment as much as possible

Now, Sir, the thanks of the House are also due to the Select Committee for many things, but I would specifically mention the modification of the penalty in section 28 for the non-filing of the return of income I do not agree at all with my friend, Mr Town, that there are people who escape this income-tax and they are doing so deliberately, that is to say people with an income ranging between Rs 2,000 and Rs 3,500 and that the compulsory provision should be introduced May I ask him why Mr Town, who knew all these people, did not do his duty promptly by informing the authorities

Mr. H. S. Town (Nominated Non-Official) Because they were not liable under the Act

Mr. Manu Subedar: Mr Town does not know, as Mr Nauman rightly pointed out, the life of the people who have an income of Rs 2,000 We know it, we have lived that life, and I will say this, that all the people who make Rs 2,000 should not be credited with the capacity, with the literacy or with the conveniences to promptly pay up or to send in the necessary returns or otherwise to declare their incomes Sir, if called upon, even these men, Mr. Town will agree, will declare their incomes readily and without any form of pressure: in fact there are adequate penalties for wrongful declaration Therefore, I welcome the relaxation of the penalty clause, and I also welcome the restoration of section 27 for re-assessment on sufficient cause being shown There are welcome modifications also with regard to dividend and depreciation, but I fear that the obligations which are still left, as for example, the obligation to inform under section 38, the deduction at source under section 18, the collection from non-residents and various other obligations which fall on small and large assessees, will make it compulsory for almost every assessee to employ an adviser, I think the Finance Member's name will go down to posterity by his manner and method of making the income-tax laws more onerous and for establishing the profession of income-tax consultants for ever who were hitherto employed only by the rich, but who will henceforward be employed by practically every assessee, except, of course, Government servants.

[Mr Manu Subedar.]

Sir, no one is disputing the fact that Government are entitled to take such money as they need with some relation to the ability of the population to bear But the procedure for getting the money and the legal obligation on the tax-payer I feel need not go to the extent to which it has gone I dislike phrases like this—"Salary due to him whether paid or not ", "income received or deemed to be received"; "intended to be paid"; "shall be deemed to have been distributed"; "shall be deemed to be an assessee"; "income receivable", "deemed to be an agent"; "deemed to be under the control of" as in 23A I will read for the entertainment of the House a section which has altogether too many "deems" in it.

"When a company is a shareholder deemed under sub-section (*1*) to have received a dividend, the amount of the dividend thus deemed to have been paid to it shall be deemed to be a part of their total income "

Why does not the Finance Member *deem* that he has already received what is due from us and be done with it!

Sir, many clauses of the Bill are proceeding on the assumption that every tax-payer is a dodger and that his honesty is not worth a penny's purchase Apart from the fact that any comparisons between England and India to the disadvantage of this country are entirely misplaced—as those of us who have lived several years of our life in England can readily demonstrate and prove,—apart from that, I say that no allowance has been made by the Finance Member for human feelings at all in framing the Bill No allowance is made for the limited capacity, for the limited literacy and for the peculiar circumstances of most of the assessees in this country, the fact that legitimate social trusts, legitimate occasions for settlement which arise in the life of the citizens of this country, the fact that that is not recognized itself shows the amount of basic distrust on which the Bill is framed

In spite of this, Sir, even if all the provisions here were accepted with such modifications as we propose to urge in due course, I submit that several important items will still remain undecided For one thing the depreciation rates still remain undecided I am not satisfied with what my Honourable friend, Mr Chambers, said, that these rates will be decided in consultation with the trade concerned. Sir, I know some of these consultations We have consultations with Government officials who come to us and tell us what they propose to do They hear what we have to say and they go and do exactly what they intended and liked to do This, Sir, may be all right in getting over a Chamber of Commerce, but this is the Legislature and I warn my friends in the House not to be content merely with this assurance but either to secure an option of the old method or to say that these rules will come through this House for acceptance before they are adopted

Then, I want to know with regard to the slab system the minimum rates which will be exempt. The Honourable the Finance Member in dealing with this point mentioned that it will be *nearly* Rs. 2,000. Now I am not quite clear why he said "nearly Rs. 2,000" instead of mentioning a specific figure My reading of the slab rates and the scale, as drafted in the Income-tax Committee's report, is that only the first Rs 1,500 will be entirely free of all tax If that is so I would like to know why the Minimum limit which is Rs. 2,000 at present should be lowered to bring in

people with a lesser income than those who were already free before. I would like to have that made clear. Then it is quite right that whatever fractional escape there was under the step system should not take place, but, Sir, I do not know why this exemption of the first Rs 1,500 of income should also go on in the case of higher incomes Then with regard to the slab system another criticism of mine is that there was a specific promise at the hands of the Finance Member's predecessor with regard to the surcharges, that those surcharges had to be removed as and when the time arose But, unfortunately, no steps have so far been taken for such removal I find that the slab scale as devised by the Income-Tax Committee takes no notice of these surcharges From Sir Otto Neimeyer's report I am inferring that the officials feel inclined now to ignore the promise which they had made in the matter of these surcharges My English business friends have already mentioned this point and I think it is necessary for us to know before we proceed clause by clause with the Bill in the reply which the Honourable the Finance Member will give as to where we stand in this matter

Then, Sir, there is the uncertainty regarding provisions for the Tribunal.

The Honourable Sir James Grigg: I will certainly put down the amendment on that point as early as possible I hope it is either on the paper or will be very shortly and long before you get to that clause anyhow

Mr. Manu Subedar: Thank you, I am glad the provisions with regard to the Tribunal are now going to be introduced. But I join my friend, Mr Town, in saying that the applicability of these provisions should not be delayed and there is no reasonable ground for interposing a period of two years between the passing of the Act and the working of the Tribunal

Then, Sir, there is the question of corporation tax and surtax. I will read the definition of corporation tax as given in section 311.

"Corporation tax means any tax on so much of the income of the companies as does not represent agricultural income, being a tax to which enactments requiring or authorising companies to make deductions in respect of income-tax from payments of interest or dividends or from other payments representing a division of profits have no application"

Sir, this corporation tax definition was not found satisfactory by many, including Sir Otto Niemeyer, and my fear is that some of the provisions in this Bill when made into law will make this definition still more inappropriate But super-tax, Sir, is put down in section 55 of the Income-tax Act as follows

"In addition to the income-tax charged for any year there shall be charged, levied and paid for that year in respect of the total income of the previous year of any individual, Hindu undivided family, *company*, unregistered firm, etc., an additional duty of income-tax, in this Act referred to as super-tax, at the rate or rates laid down for that year by Act of the Central Legislature"

Now, Sir, the problem of super-tax is a problem which I am sure my friend, the Honourable the Finance Member, could have settled if he had consolidated the super-tax rates with the ordinary income-tax. It would have left us a very much simpler machinery. I want to make it quite clear that I am not pleading for any reduction of burden on the class which has borne this super-tax. All I am saying is that you are having two levies under two different names but which are one in fact and which prevents you . .

Mr. Deputy President (Mr. Akhil Chandra Datta). I think the Honour-
5 P. M. able Member will speak for some time more?

Mr. Manu Subedar: Yes.

Mr. Deputy President (Mr Akhil Chandra Datta). Before we disperse I ought to mention that in view of the fact that there are so many other speakers who are wishing to speak on this Bill, it is the desire of some sections of the House that the question hour may be dispensed with May I take it that that is the general desire?

Honourable Members: Yes

Mr. Bhulabhai J. Desai: Yes, Sir, it is the desire, at all events of all the friends whom I have consulted that the question hour should be dispensed with; but I also wish to say that the sacrifice is made in the interests of closing this debate on Saturday The intention is not that we have got an hour and let us spend it otherwise! It is on that understanding definitely So far as we are concerned, the present speaker will take another ten or fifteen minutes and we are putting up only one speaker from our Party and no more I have equally come to an understanding with Dr Sir Ziauddin Ahmad that his Party will take 45 minutes in all—it may be one or two or three or five speakers, but 45 minutes in all will be their limit, and then there is Mr Aney, Leader of the Nationalist Party, who will participate in the debate and Mr Husenbhai Laljee who has been trying to catch your eye for some time Then Sir James Grigg will come at the end and we expect him to get up at half past four . .

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions Muhammadan Rural) There is no Ramzan on Saturday

Mr. Bhulabhai J. Desai: That is what I am saying Sir James Grigg will rise at half past four and I trust you will sit a little longer than five, if necessary, to enable him to finish, if he has a few more pages of praise for me left

The Honourable Sir James Grigg: Sir, I am extremely grateful for this arrangement because it does ensure that the debate will finish on Saturday Of course, I realise that giving up question hour is no sacrifice to this side of the House and my gratitude is all the more for the sacrifice of the other side

Mr. Deputy President (Mr. Akhil Chandra Datta): So, the question hour will be dispensed with on Saturday and the arrangement that has been proposed by the Leader of the Opposition is, I take it, accepted by the House.

Honourable Members: Yes.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 26th November, 1938.

LEGISLATIVE ASSEMBLY.

Saturday, 26th November, 1938

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr Deputy President (Mr Akhil Chandra Datta) in the Chair.

THE INDIAN INCOME-TAX (AMENDMENT) BILL—*contd.*

Mr. Deputy President (Mr Akhil Chandra Datta) The House will now resume consideration of the following motion moved by the Honourable Sir James Grigg

"That the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee, be taken into consideration."

Mr. Manu Subedar (Indian Merchants' Chamber and Bureau Indian Commerce) Sir, I was dealing with the question of super-tax in its application to joint stock companies As I pointed out, the definition of corporation tax in the Government of India Act and the definition of super-tax in section 55 are contradictory There is no super-tax in the United Kingdom on joint stock companies, and we have the perfectly illogical position in which the super-tax relief is given to companies which pay tax in the United Kingdom under section 49, and yet no relief whatsoever is given to shareholders of an Indian company wherever the company has also paid super-tax Sir, as I mentioned the other day, the Honourable the Finance Member ought to have taken the opportunity of clearing up first the super-tax position by consolidating it with the income-tax as an extra tax on certain incomes, and, also, I desire, Sir, to ask whether the recommendation of the experts committee with regard to the cancellation of exemption limit of Rs 50,000 on joint stock companies for purposes of super-tax is accepted rejected or modified by the Government Sir, this is a recommendation on which, I admit, no action could be taken till the Finance Bill is introduced, but our attitude towards the various clauses of the Bill dealing with companies, particularly with small companies, would be very much modified, if we knew precisely what was the intention of the Honourable the Finance Member.

As I mentioned, there is a tinge of fascism with regard to the powers which have been given to income-tax officers These officers would have to be Daniels of Justice, they would have to be angels of good manners, and Napoleons of law and accounting, apart from being other things, and I do not know whether it is possible to expect all these qualities in any human being and whether it is desirable to invest powers of this kind to certain set of people which will not be abused Take, for example, the power under section 38 (3) of entering a house, whether in the absence of the owner or otherwise. These are powers which I would oppose even if they were going to be given to the police in the provinces, but my opposition would be modified in so far as the police in the provinces are concerned to the extent that the police are at least under a responsible Minister, but these powers

[Mr Manu Subedar.]

are proposed to be given under the Act to income-tax officers working under a department which is completely irresponsible to the people of this country

Mr. K. Ahmed (Rajshahi Division Muhammadan Rural) You will get Federation by that time.

Mr. Manu Subedar: Certainly Sir, my friend, Mr Kabeer-ud-Din Ahmed, is in the habit of making speeches during question time and asking questions during speech time, and he gets mixed up in both

Mr. K. Ahmed: This is the practice in the House of Commons

Mr. Manu Subedar: Now, Sir, I want to touch very briefly on account of lack of time on the more important question of clause 49 and clause 4 I would like to point out to this House that under sections 178 (3), 315 (4) and 272 of the Government of India Act, there are exemptions enjoyed by certain incomes by Statute The income which escapes in this manner is variously calculated at 18 to 20 crores of rupees, and the tax which would be gathered thereon is put down at three crores of rupees. But for those statutory prohibitions, even under the imperfect law provided by section 49, this would get us about half of this tax It is impossible to forget in dealing with clause 49 and clause 4 this co-relation. Then, with regard to clause 49, the Honourable the Finance Member has explained that 85 lakhs of rupees are lost to this country They are lost to this country, but they are given to the British Treasury Sir, I mentioned in the beginning that I admire the thoroughness of the Honourable the Finance Member and also his patriotism, but his thoroughness has been used against the tax-payer and his patriotism has been used entirely in favour of the British Treasury, and not in favour of the Indian tax-payer .

Mr. M. S. Aney (Berar Non-Muhammadan) That is the meaning of patriotism to him

Mr. Manu Subedar: Then with regard to clause 4, as I said, it is impossible for us to agree to clause 4 on several grounds amongst which I would give the very first place to this ground, namely, "Double Taxation" I will not be a party, nor will any Member of this House, to the enactment of a law which seeks to impose an invidious burden, and a discrimination which reduces the burden on the Englishmen and increases it to Indian merchants in a discriminating manner. Then, Sir, even the reduced burden in their case is two-fold in that not only that certain kinds of income would not be liable to tax, but even the rate of income-tax would be lower in their case. This reduction is a discrimination, but apart from that, whereas the Englishman will get relief, if his income is taxed on the other side, the Indian, if his income is taxed in foreign countries, will not get any relief The fundamental principle should be, and I hope the House will not allow the opportunity to escape without enforcing it and seeing it made into law, that every country must give relief to its own nationals Until that is introduced, I am not willing to allow clause 4 to be adopted putting tax on the accrual basis.

Again, Sir, if the Double Tax Relief provisions are properly provided, that is to say, withdrawn from the foreigners so as to help the nationals of this country, then I would like to point out certain small modifications, which would still be necessary in this clause Those modifications are with regard to difficulties felt, not only in the matter of exchange control and fluctuations in foreign currency, but also with regard to books, with regard to the period of account, the manner of submitting returns and various other provisions which are oppressive enough in this country, but which would be absolutely intolerable so far as incomes accruing from abroad are concerned. I say that, if this clause is, therefore, brought into operation, there will have to be a considerable modification, but how that modification is to be secured is a question which will have to be carefully considered With regard to this, it may be noted that when an attempt was made by a previous Finance Member to introduce the same kind of legislation, the attempt was universally opposed I understand that amongst those who opposed it were men like Sir Abdur Rahim and Dr DeSouza including all the Muslim Members in this House, and also the Englishmen It is not surprising that the Englishmen have now changed their angle of vision . .

Mr. K. Ahmed: Why do you take shelter behind Muhammadan Members?

Mr. Manu Subedar Certainly, you also opposed it

Mr. K. Ahmad: No, certainly not

Mr. Manu Subedar: But, Sir, it is not quite intelligible why Indian Members should agree to a legislation which discriminates and which does not provide the same facilities for relief of double taxation for Indians which it provides for foreigners

Sir, the new law is based on the basis that all screens should disappear, that is to say, like X-ray, the Income-tax Department wants to look at everything, notwithstanding the fact that a man may be a member of a partnership firm or a shareholder of a joint-stock company In doing this, extraordinary powers are given to income-tax officers which it is not possible for me to deal with in detail now But I will only say this that the Income-tax officer will have the power, under certain conditions, to cancel the registration of a partnership firm, and under certain other conditions to insist that an unregistered firm shall be dealt with as a registered firm, and in the following year, again reverse his own decision. In other words, partnerships and firms would have to conform themselves to the convenience of the income-tax people and not *vice versa* This is a considerable hardship and such powers should not be given to income-tax officers.

Then, Sir, the provision which seeks not to allow any interest, commission or any other payments received by a partner in the calculation, is, to my mind, extremely harsh, and while I do not object to its going in, I would plead that in practice, wherever hardship on firms is brought out on account of such a provision, it should be mitigated by administrative instructions. The worst provision is with regard to successors. Partnership is the most general form of business in this country. Partnerships change through many reasons. One is the retirement of a partner, or the death of a partner, and the other is that the partnership does want more money and admits somebody else, and there are many other domestic as

[Mr. Manu Subedar]

well as public causes which do bring about a change of partnerships Whenever such a change occurs, it is only fair that the income-tax people should not lose any specific revenue which was leviable on the firm or on any of the partners, but the provisions are unduly harsh. I will read section 26 (1)·

"Provided further that when the tax thus directly assessed cannot be recovered from a partner it shall be recovered from the firm *as constituted at the time of making the assessment*"

The opening up of the assessment is now provided for four years and during these four years, if the previous partners are dead, if the present partners have no assets belonging to the previous partners in their hands, even then they would be liable It is scant consolation which is given to us in section 26 (2)—if the tax is collected from the partnership in this manner, the successors could then have a remedy against the predecessors But if the predecessors are dead, are the successors going to follow them into the other world? In other words, what is provided not only in this but in many other places is that a legitimate bad debt of the income-tax department is sought to be transferred on to the head of the public This, I maintain, is entirely unfair.

Then, with regard to the carrying of losses, the concession is there and we acknowledge it with gratitude But the concession is extremely partial. For one thing, I do not like the stages by which the concession is going to come into operation With regard to the setting off of losses, I maintain that the setting off of losses should be, not as provided from the profits of the same business, but as under section 24 where all losses are set off against all profits.

Then, there is section 28A, which the Bengal Chamber of Commerce calls "most objectionable" and with regard to which I do not wish to say for one moment that that section should come out. But I do wish to say that the section goes far beyond the law in the United Kingdom, and I am not sure with regard to definition of public companies, as to whether this section will not in practice be applied to public companies which are not constituted for the purposes of evasion and which do not, in effect, make any such evasion.

With regard to bad debts, the position is again something, in which we have a little grievance. The Income-tax Committee definitely recommended that the estimate of the assessee should not be challenged except for valid reasons and the power is given in section 10 (2) (xi) to the income-tax officer, who alone will estimate what is supposed to be irrecoverable so far as the firm is concerned What I would like it to be is that the claim of the assessee may be allowed on reasonable evidence which he may adduce. But there is another objectionable feature of this provision with regard to bad debts, and that is that unless the bad debt is definitely written off, it is not to be allowed It happens, in fact, that a debt which I may consider to be very good at the time of making up of the accounts might, between that period and the period of assessment, actually turn bad by death, insolvency, or any other factor, and unless it is written off in the books, it is not to be allowed. This I maintain is somewhat unfair.

We come to the power to call for information, and on this I may say, in spite of my Honourable friend, Mr. Chanabasi' otherwise excellent speech, that he has shown his inexperience of this country and his lack of sympathy

with the assessee as a class, which I dare say all income-tax officials share all over the world. This power to call for information under section 38 (2) —I would say, first of all, that there are no directly corresponding provisions in the United Kingdom law of this kind, and secondly, I will say that it will not only entail a considerable amount of burden but there would be penalties on people who did not take the trouble to give this information without great pains We have to keep not only a list of persons but their addresses which are not often known to us A man comes with certain receipts and payment are made to him We do not ask for his address, and when we ask, we only take down what address he gives us, which is not necessarily guaranteed by us to be correct. All I say is this If this power is retained—I will not go to the extent to which the Bengal Chamber of Commerce representative went and said, that money should be paid to firms and companies which are doing this work for the Income-tax Department It is hard enough to be called upon to be the agents of the Income-tax Department and to squeal on other people, members of the public, but in addition—the Bengal Chamber of Commerce wanted remuneration I do not want remuneration, but I do say that any inadvertent failure, not wilful but otherwise, to give such information, or, if the information is found to be imperfect, it ought not to be visited with any kind of penalties on any members of the public With regard to 38 (3), the power of entry, I have already said that it is not at all in accord either with the social life and conditions in this country, or with the basis of relationship between the members of the public and the official world This tradition is there, whether we like it or not, and that being so, while we are trying to build up democracy, I am afraid the Honourable the Finance Member is trying to build up a kind of Hitler parade in this country, in which any man can enter any place as and when he likes, with a permit in his pocket, which of course, generally the superior always gives on the word of his underling Has my friend thought for one moment about the amount of impersonations that may take place? Suppose we catch a burglar red-handed, he may turn round and say that he was only an income-tax officer searching for duplicate books!

With regard to these duplicate sets of books, may I mention that it is entirely due to a misconception of the superior officers of the Central Board of Revenue? There is in England also a system of keeping the day book, from which fair entries are made in the journal as well as in the ledgers in due course There is in India in our system what is called a *Katchwahi*, that is to say, a rough book from which fair entries are made in due course in fair books If this amounts to maintaining of two sets of books, then I say that it is a most unfair charge On the other hand, I do not say that there may not be some people maintaining duplicate sets, but these people will have the sense in future to keep those books not in their own houses but in somebody else's. I say that this clause will not only be oppressive but it will be ineffective for the purposes for which it is being introduced.

I want to say one word with regard to insurance. I heard most carefully all that fell from my Honourable friend, Mr Chambers, but I am sorry that I differ from him. In the first place, I welcome the curtailment of premium to Rs. 6,000; I know that the indefinite amount was being abused; But with regard to this Rs. 6,000; my submission is that there should be a clause attached to this section, that this exemption of Rs. 6,000 and equally the deduction for premiums paid to fire insurance under section 10, should not be given unless the insurance were effected

[Mr Manu Subedar.]

in a company registered in this country. I know that as the Honourable Sir Nripendra Sircar said under the Government of India Act, "white is brown" Even subject to that restriction, at least let us have this proviso. I do not see any necessity for premium which is being exempted being paid to companies which do not come under the statutory definition of Indian companies

Sir, regarding tax on insurance companies, the position in two words is this. that hitherto the taxation of insurance companies was by rule of thumb, which has been found, on closer examination, to be harsh and excessive This is now being changed in England. It has been changed as the result of five years examination and yet the whole of this change is not being embodied in the provisions made in India because a sudden reduction of what the insurance companies were paying to Government would adversely affect their income This is one of those matters, which my Leader has said has already been settled and I am not pleading that it should be altered but I say this that in spite of what Mr. Chambers has said, there is an admittedly arbitrary limit put down, of deduction from surplus of only 50 per cent of what is paid to policy-holders. I say even now that under the new scheme there will be taxation to some extent of capital rather than of income alone In view of this, I think it would be very necessary and useful if the Finance Member were to give an assurance that when the finances of the Government of India improve—though that is going to take a long time—that the position would be put on a par with the position in the United Kingdom.

Then, Sir, with regard to depreciation, I do not want to take up more time All I wish to say is, that if the balance of advantage is not so serious in favour of the written down value, I still plead that the old method was the best No shoe fits so well as an old shoe and let me make it clear how savage were the original provisions in the Bill They went very much farther than the practice in the United Kingdom and they certainly were intended to have and would have had the effect of taxation of capital Now, though they have been modified to some extent, I still feel that the old system would be a better system, if for nothing else at least for this that the generality of businessmen, who have to deal with this subject are familiar with it and it is convenient to them. They understand it If you want you can slightly tinker with it and correct its faults but there is no need for any radical alteration in a scheme of things, when it is not calculated to yield you any substantial additional revenue. Now, with regard to obsolescence, all I can say is that this shows what my Honourable friend would, in his political opponents, characterise as confusion but I say this that the dividing line between capital and income is not too closely followed and there is an attempt to tax capital receipts in the hands of the s

Then, Sir, with regard to associations, I will say this. I have not much time left to deal with it but I will make this general remark that the provisions are not clear as to the position of associations, clubs and trade unions but I feel that with regard to associations like the stock exchange, the cotton exchange and other exchanges interest on deposits of members should be allowed.

Mr. Deputy President (Mr. Akhil Chandra Datta): The Chair would like to remind the Honourable Member and other Members of the House that the Honourable the Leader of the Opposition made a certain arrangement on the last occasion with the consent of the whole House, and the Chair only hopes that that gentleman's agreement as regards the time schedule would be adhered to

Mr. Manu Subedar: I will conclude, Sir, with one remark in regard to salaries. Mr. Chambers' speech was very much wide of the mark so far as salaries were concerned Such a provision does not exist in the United Kingdom and if a salary is not received by a poor man, it is most extraordinary that there should be a suggestion that his salary should be taxed When we come to the particular clause, I would plead that a provision should be made for refunding the tax during the next two years, if the salary is not in fact received

In conclusion, all I can say is that the conveniences, limitations and difficulties of the assessees have not been studied There are inconsistencies The Honourable the Finance Member has said that he did claim logical perfection for this measure, which he had devised more as an instrument of practical use All I say is that while we may support him in many of the provisions which he has devised, we hope he will agree to accept such small modifications, as may be suggested later on

Mr. Husenbhai Abdullabhai Laljee (Bombay Central Division Muhammadan Rural). Sir, I represent the Central Division of the Bombay Presidency which is mostly agriculturist and labour (Interruption by the Honourable Sir James Grigg) Whatever you may say, I also appear before you as one of those unfortunate individuals who are trading abroad without any help, assistance or protection from this Government or even our people My Honourable friend and this House desire to get some income out of them I ask, what is the amount and for how long do you expect this income? It is a well-known fact that everywhere an attempt is being made, has been continuously made, to send us out from the places where we are trading for centuries, and, added to that, our own Government have been party to it, and now we find an Act which provides for creating more difficulties in our way Every civilised country has been trying its best to introduce its goods into other countries by way of exports In fact, it is no secret that all the great armies and navies that are being built and will be built are with the object of dumping one's goods into another country. My friend, Sir Muhammad Yamin Khan, said the other day—why should we hesitate to pay taxes for trading abroad? I ask in all fairness, what have our Government or our people done to help us? Very recently I have heard the Prime Minister of England saying though I do not object to it, that we must have some sympathy for the Jews in Germany. He has suggested that they should be provided some place in East Africa That is a colony belonging to India. We are being hunted out from there, bag and baggage, while, on the other hand, there is enough room there for the Jews to be accommodated. I ask you in all fairness—are you protecting the interests of Indians? I ask you to look at that question seriously.

My Honourable friend, the Finance Member, asked about the agriculturists. On whom does agriculture depend? I say, if business men and their agents were not helping them in selling their exports abroad, where

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would agriculture be? The only thing that will result is that by this action of ours we will make it impossible for exports to be sent out Our Provincial Governments want revenues for doing a hundred and one things including the uplift of the agriculturist, education, medical relief and so on, but I ask them in all earnestness how are they going to achieve that? What have they done to find markets for the raw produce of the agriculturist? They have done nothing, and are they able to do anything, and, if at all our country men have done something, it is those Indians who, as pure and simple businessmen without any force behind them and with their own endeavours and energies and, many times at great risk to person and property, are trying to introduce their goods there There was a time when India had been exporting its goods to all parts of the world without any help and as pure and simple businessmen, but what do we find now? We find that they are asked to go away and the sooner they go away, it is said, the better I am sure very soon my friends on this side will see that there would not be a single Indian outside India and they will have to depend for selling all their produce on the European firms who will certainly be established more firmly than at present and work more profitably than at present because at present there is the factor of competition against them and that is, the fact that the Indians abroad purchase their ware but once these foreign people are left and are allowed to purchase then they will do so at the price which will suit them, and above all they are foreigners and as the world at large is open to them and they will purchase in any market they like,—what will happen? Will it not be that Indians will have to force themselves on them or that in any and every way the Indians will be obliged to sell to them. If the condition of the agriculturist is going to be so miserable in my country, I ask my friends the members of the Congress Party and the members of the Muslim League,—how are they going to progress? What are they going to do? Is this small sum that you are likely to get for a few years help them any way or any more? Sir, the whole world is out to send away Indians from abroad How long, therefore, will they get this small income? The most that the Honourable the Finance Member put down is that he expects from business only, mind you, of the Indians abroad no more than Rs 15 or 20 lakhs and divide that into twelve Provinces each of them will not get even a couple of lakhs, and with that money my friends believe that they could do a lot of good for the people of this country. They will see, as they have been seeing, that even the raw materials which we have been producing for years together are now being dumped from outside into our India. Take the case of wheat. Take the case of rice, and still will my friends, my countrymen, come forward and will they say that we want money so that we can get along at any cost, if so, I ask at what cost, and what are you doing? I ask one simple question for their serious consideration and reply and that is this. We have many of our foreign friends on our Treasury Benches, and it is said that they have come here as our trustees to look after us, and we know all about it, but, Sir, I fail to see why my Honourable friends, on this side do not realise—I do not see many of our Honourable gentlemen from the Muslim League—are here; as to why there are so many non-official European friends here, and for what interest are they here? I say they are here for the sake of their exports into your country. They are here with a mighty force behind them, and they have, therefore, obtained the right of sitting here to protect the interests of their exports, their voice is heard,—and what have you got for

your exports? You have not got even more than a very few trade commissioners, and the other day when I asked my Honourable friend, Sir Girja Shankar Bajpai, about the condition of Indians abroad, his reply was that so far as the condition of Indians in the colonies and dominions was concerned, they had very little information and so far as Indians in foreign lands were concerned, their condition was not a subject in which it was worth while for the Government of India to collect information about that This is our pitiable condition, and even now that is so, and this is the help and protection that you are giving and this is the encouragement that you have given. Have you got even in this House a representative who would represent the interests of poor unfortunate Indians abroad? No? And you have got more than a dozen of my European friends to represent the interest of foreign exports into your country. (Interruptions.) I congratulate you, but I am sorry and pained to see that my friends have not raised a single voice to protect their countrymen abroad or to see that their agricultural products are sold outside

An Honourable Member: We have moved so many adjournment motions

Mr. Husenbhai Abdullabhai Laljee: But you cannot get anything done

Mr. S. Satyamurti (Madras City Non-Muhammadan Urban) We have done our best, no more can be done by anybody else

Mr. Husenbhai Abdullabhai Laljee: Now, I ask you in all earnestness to consider very seriously the effects of clause 4 on your countrymen abroad, the effect of this clause on the foreigners who are out to drive you out from there The only effect will be that the foreigners would feel justified in saying that India is a rich country, India is exploiting the world over, that Indians have been bringing away so much money that their own countrymen have thought it desirable to tax them Is this a true and a right position? Now is that the fact, is that true in any way, in comparison with what the foreigners are taking away from this country? And, above all, I ask my countrymen once again to consider the pitiable condition of all those unfortunate Indians who are abroad Take only the recent position of Indians in Burma which was your own the other day What is the condition of their property and person,—and to them and others you send now a message by enacting this clause 4 that you consider them to be exploiting those countries, that you are going to tax and are not going to help them Is this fair and honourable? Will it not pain them? You don't care for the pain but I ask by this your action have you decided to say to them indirectly that they should come away If so, please tell us that frankly and openly I am sure they will be only too glad to come back

Babu Baijnath Bajoria (Marwari Association: Indian Commerce): To whom are you referring?

Mr. Husenbhai Abdullabhai Laljee: I am referring to my own countrymen to whom I appeal, and to you also, Mr. Bajoria, my countryman. I ask once again that very question. Is it right? What is the amount, and at what cost are you going to tax the Indian businessman abroad,

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and for how long will you have that tax? If you consider these two points seriously, and if you consider the helpless position not only of Indians abroad but of your own selves, can you not possibly do anything for them? Is it right and fair to say for the sake of saying that you have done something and, therefore, get some little money for provinces and that too for a short time that you should be a party to clause 4? Are you doing what the world at large is doing? I say no, and I do ask my countrymen to desist from an act which will create a wrong impression, an unfair impression, and which will only create an opportunity for the others, who are longing to have that opportunity, to send your countrymen bag and baggage to your country as soon as possible from abroad where they are selling your produce

Sir, a lot has been said about the investments outside our country I do not mind if you tax the pure investments outside our country but do not do it in the manner as is proposed to be done by saying that we have crores and crores outside our country Even if we assume that we have invested something like 25 crores outside our country, you cannot get more than 12 or 13 lakhs of rupees if you calculate the return to be at three per cent I am sure I am not wrong in this figure But you cannot tax any investment without knowing the facts That is my complaint You want it is said something for the provinces at any cost Is that what you want? May I ask again the Finance Member how much does he expect to get from Indian business abroad and for how long and at what cost? I hope he will reply to this question later on I also ask him again how much does he expect from pure investment of the Indians outside and for how long?

The Honourable Sir James Grigg (Finance Member) I have given those figures lots of times

Mr. Husenbhai Abdullabhai Laljee: You might re-consider those figures Many of my people have got grave doubts as to those figures

Sir, it has been often said that we are out to protect the interests of the poor people and we want to get the money from the rich Everybody will agree with that proposition But I ask again, in all fairness, whether you are sure that you will be able to get such large sums from this source from the rich people of this country as will provide for the needs of the large number of poor people? You are going to introduce now what is called the "slab" system and I feel certain that this system, although it is good, will certainly affect 240 lakhs of people, whose interests my Honourable friends, on the Congress Benches, have so much at heart I warn my people against that and ask them to be careful because you are now going to tax your people and being party to it, believing that you are going to get something substantial in order to do substantial good to the provinces Even if you get another 16 crores of rupees in the shape of income-tax, each province will get slightly over one crore. This amount will also not take them much ahead But if you want real prosperity in the country, then you should encourage trade, commerce and industry. If you invest your money on those lines, then you can make your people more prosperous Of course, I am not one of those who say that we must not tax the rich. You must tax the rich but do not be under the impression that you can get all that you want out of the small

number of the rich people that we have got in our country. Throughout this Bill, you will find that attempts have been made to treat the businessman as though he was a great rogue. All sorts of provisions are made with a view to find out how businessmen may not escape income-tax. Unfortunately, this is also the mentality of some of my countrymen. They do not give the businessman that regard and respect to which he is entitled and which is paid to him all over the world being the best friend of the agriculturist, and producers or manufacturers

The Honourable Sir James Grigg: Oh!

Mr. Husenbhai Abdullabhai Laljee: The Honourable the Finance Member is the best friend of the agriculturist It is the businessman of Great Britain who has helped the producers and industrialists to sell their wares It was only the English businessman in South Africa who got Great Britain to fight the South African nation What was the cause of the South African War? Was not Cecil Rhodes a businessman who went to exploit in a foreign country and the whole of the British nation declared war for his protection? Even my countrymen were sent there to fight as soldiers

Mr. K. Ahmed: What about the East India Company which came over to this country? Were they not all merchants?

Mr. Husenbhai Abdullabhai Laljee: Thank you very much You are right at least once I can give many other instance of this nature to my Honourable friend, the Finance Member We know all that but, unfortunately, many a time my own people forget them They want money somehow. Sir, there is a proverb in my part of the country with which I think everybody will agree We have always adopted the principle of

"Uttam kheti, maddham bcopar aur kanesh chakri"

It means that agriculture takes the first place, business the second place and service the last but I will not say the least. It is on the prosperity of the businessmen that most of the professionals and even my worthy lawyers trade and thrive I ask them in all seriousness to consider the businessmen of this country as gentlemen who do support, on the one hand, the agriculturists and, on the other, the professionals

The Honourable Sir James Grigg: How many agriculturists does a businessman support?

Mr. Husenbhai Abdullabhai Laljee: But for these Indian businessmen, the poor agriculturists will very soon be looted and sacrificed by the foreigners, like the Ralli Brothers and Volkarts and hosts of others, who have come into my country, being backed by their banks and Governments by means of export credits, subsidies, bonuses and what not. It is only the businessmen of India who are the friends of their agriculturists, so far as the sale of produces are concerned in this country.

Mr. K. Ahmed: Why not pay them a little higher price?

The Honourable Sir James Grigg: They do not believe much in it.

Mr. Husenbhai Abdullabhai Laljee: That is my misfortune, because I cannot afford to be in the position I am.

A lot has been said on the various clauses of the Bill But one thing, I should like to point out and that is when the slab system is being introduced, there must be some allowance made for the maintenance and education of children. The income that is liable to be taxed is put down at such a small figure that it is practically impossible for anybody to meet the demands for the expenses of his family We ought to insist upon allowances for families and for children Last year a great deal was said about the putting together of the income of husband and wife, and, therefore, my Honourable friend, Dr Deshmukh, was under the impression that this provision still contained, I am glad that the Select Committee have done the right thing. On that score, I should like to ask the Honourable the Finance Member how much money was realised under section 16(3) of the Income-tax (Amendment) Act of 1937, that is the income of husband and wife put together? A great deal was said about this I should like to know how much was actually realised?

The Honourable Sir James Grigg: We have collected about two to three lakhs We left a loophole which has got to be stopped by this Bill The original estimate was 30 lakhs, but, unfortunately, we left a loophole. Any way if we stop that loophole, we expect to get 20 to 30 lakhs

Mr. Husenbhai Abdullabhai Laljee: After all two or three lakhs are very small for an Englishman, but to us poor Indians, the sum is very great In an estimate of 30 lakhs, we have got only two to three lakhs This is for my countrymen to understand how much is being made when a theory is propounded and what are the results? I will stick to the gentleman's agreement not to take more than 30 minutes with the Honourable the Deputy President although I have a lot to say and will conclude I want to make one final appeal to my countrymen Please for goodness sake

The Honourable Sir James Grigg: Pity the poor rich

Mr. Husenbhai Abdullabhai Laljee: Pity the unfortunate man who is doing business of this country at the risk of his property and his person in foreign countries from where he is attempted to be thrown out in the interest of foreigners and treat the foreigners if you like in the same manner.

Mr. Nabi Baksh Ilahi Baksh Bhutto (Sind Muhammadan Rural) Sir, the need for amending the Income-tax Bill has been felt for a very long time, but the present Finance Member was bold enough to take the lead in this matter He first appointed a Committee of enquiry on the report of which the present Bill was drafted. We had serious objections against certain provisions in the original Bill. But some of these objections have been removed by the select committee. There are still some points which require serious consideration, and there are some points which require elucidation At the very outset, I should mention that of all the taxes, direct and indirect, the income-tax is one which falls exclusively on the rich, and the land revenue falls to a large extent on the poor A person whose agricultural income is Rs. 200 a year is required to pay in some places about Rs 120 as land revenue; it is 60 per cent. or about ten annas in the rupee. This tax is greater than the super-tax on the income-tax side.

There are a few other points to which I would like to make specific reference According to the existing law, foreign income is taxed only if it is brought to this country It is now proposed that this income should be taxed on the accruing basis whether it is or it is not brought to this country. There are some features which require serious consideration We should not discourage Indians to carry on business in foreign countries, we should help them in the same manner as we are helping the home industries.

The second point to which I should like to draw the attention of the House is the ignorance of the public about income-tax law The Income-tax Bill is before the House, and I wonder whether the public understand all the implications of all the clauses in the Bill. I wonder whether the public can fill up income-tax returns even in the present form. Instances are not wanting when innocent people were harassed and unnecessarily paralysed on account of their ignorance of the complexities of income-tax law, and I quote one instance here

A gentleman received a demand from the income-tax officer to fill up the form He did not understand what the implications were, being the first time, but, shortly after, he received a notice from the income-tax officer that he should pay an abnormal income-tax on an imaginary bank income. He had to pay the amount under the existing law. He appealed to higher authorities In the appeal the certified proofs of the bank which the assessee produced were not considered by the appellate authority The income-tax officer and the Income-tax Commissioner belong to the same category and they did not admit even the certificates from banks

The point that I would like to emphasise is that the rules intended to catch fraudulent persons who avoid to show their true income should not be used to worry honest people. Facilities in filling up returns should be provided to honest persons Warnings should be given to the assessee before the use of penal clauses In every case, the assessee should be informed that he would be assessed in such a manner if the return was not filled before the prescribed date I do not want to go into details, We will consider this question when clauses are taken up for discussion, but one point I should like to mention is that unsympathetic attitude is often shown by income-tax officers either to win favour of their superior officers and sometimes to revenge imaginary grievances

The next point that I should like to mention is the question of appeal The appeal should be made to an independent authority. Every master can rebuke his servant for bad cooking, but very few husbands will have the courage to rebuke their wives We should, therefore, devise a method by which justice may be done to the assessees.

The next question that I should like to take up is the exclusion of one's own dwelling house from the obligation of paying income-tax. The house is not yielding any income and it should not be taxed.

Further, I want to point out with regard to the appointment of income-tax inspectors that they will simply harass the public more and more. They will not be of any substantial help to the income-tax officers. The income-tax officer goes about on tour which serves the same purpose. The inspector will be merely a great burden on the public in every way

Mr. K. Ahmed: Sir, I thank you very much for allowing me to speak, but, Sir, on account of a very severe headache I ask your special permission to speak from my seat sitting down here if it will not be inconvenient. Sir, some other Members under the circumstances had that permission from the Chair, and I ask you that I may be allowed I have a severe headache, Sir

12 NOON

Mr. Deputy President (Mr. Akhil Chandra Datta): All right, in any case the Honourable Member has to speak from his seat

Mr. K. Ahmed (The Honourable Member spoke sitting): I have heard a great deal from my Honourable friend from Bombay, Mr Husenbhai Laljee—all the points he made and thrust out in his own way—as a businessman, a profiteer, a man dealing with all the materials, products, corn, wheat, barley, rice, etc , one who purchases these from the agriculturist in this country, as well as Aden salt Now, the attitude of these businessmen, commercial magnates and traders in this country has come out. Government have considered it advisable to bring in this Bill It is my duty since I heard my friends in this Assembly from that side, particularly the merchants of Bombay, to congratulate the Honourable the Finance Member who has taken so much interest to make a beautiful speech, a speech which was listened to in this House with great admiration and thankfulness, and which has been heard with rapt attention and which was no doubt made with cordial good-humour Sir, he has congratulated the Select Committee and the members who took great trouble, particularly my Honourable friend, the Leader of the Congress Party, Mr. Bhulabhai Desai.

Mr. Lalchand Navalrai (Sind. Non-Muhammadan Rural) On a point of order, Sir, I would like to know whether the Honourable Member has got real headache or not

Mr. Deputy President (Mr. Akhil Chandra Datta) Order, order

Mr. K. Ahmed: A doctor sitting in front of me has already certified, Sir.

Mr. Deputy President (Mr Akhil Chandra Datta) On the point whether the Honourable Member has really got headache or not,—when a gentleman can speak in such a loud tone,—the Chair thinks, out of respect for the House and to keep the dignity of the House, he ought to speak standing

Mr. K. Ahmed: In obedience to your order, Sir, I stand up, but you will pardon me if, in the midst of my speech, I feel inconvenient, and I trust you will not hesitate, seeing my condition, to resume my seat and make the speech.

My Honourable friend, Mr Husenbhai Laljee, is a profiteer, and all the people including my Honourable friend, the magnate from Bombay, the Baronet of Bombay, who has got piles of money in Germany, and all the commercial people have come here to this House. Only the other day, some people, mostly the Congress members, came here. There are very few Honourable Members present here who were Members in the

year 1927, when I took a leading part in the passing of the ratio Bill for the benefit of the agriculturists, changing the ratio from 1s. 4d. to 1s 6d. and all the people having money made a profit of two annas in the rupee by sending their money to the foreign country.

Sir, you will pardon me, I feel really inconvenient I have obeyed your orders, and I cannot stand any more.

Mr. Deputy President (Mr Akhil Chandra Datta) In view of the request, the Honourable Member may sit, but the Chair does not understand why he should have induced himself to speak at all; it is not obligatory, it is only a general discussion.

Mr. K. Ahmed (The Honourable Member spoke sitting): All of them have come out in their true colours and the whole picture is in front of the House; commercial men, profiteers, all of them are here and their representatives are also here, and they have expressed their view point But I cannot help, as I started by saying, congratulating the Honourable the Finance Member for bringing in this Bill for the amelioration of the condition of the poor people—90 or 98 per cent of the people, and certainly 90 per cent at least. Have these people got the benefits that they want, as their Ministers in the provinces say? Now, there are nine or ten Congress provinces (Is it not correct?) out of the twelve Have they got money enough for sanitation, health, medicine? Money is wanted for nation-building purposes, for education, etc, to ameliorate the condition of the country Does not the Leader of the Congress Party pretend when he says that they represent the country, and, today, for some reason or other, they speak the view point of businessmen because, rightly or wrongly, they are pestered to do so? No, Sir, that is not correct. They ought to look this question from the point of view of these 90 per cent of the population The object of the Bill is to prevent evasions, that is, avoiding the payment of income-tax; a lot of people evade, they would not allow income-tax officers to see their three sets of books I find the Marwari from Ajmer and Rajputana goes with his "ghati" in his hand In the course of a few days, how does he become rich? Mr. Husenbhai Laljee's people went to Aden some years ago. Lot of people from Persia came to Bombay

Now, Sir, about the town of Calcutta of which I have got enough experience and where I have been a practitioner of 29 years' standing, I am supposed to know almost all the assessees, their habits and their benefits. There are lawyers, there are middlemen and the writers of books —as Sir Homi Mody said they write three sets of books, Mr Bajoria also approved of it and said it was a thing which was done

An Honourable Member: No, no

Mr. K. Ahmed: My friend came from Calcutta the other day with lawyers, advisers and book-makers—I am using the word "book-makers" in the sense that they prepare two or three sets of account books, one for the partners, one for selling the goodwill when they die, so that the best price could be got, and the third for submission to the income-tax office. Is there any fault in this Act when it says that there will be a certificate about the conduct of the householder whose house the income-tax officer; a gazetted officer, who draws not less than Rs. 400, 500, or Rs. 900, educated at the University, wants to examine the books of

[Mr. K Ahmed]

account? Some of them are gold medalists and have passed the Provincial Civil Service and no one can doubt either their honesty or their veracity Dr Deshmukh, that veterinary doctor, may be a master in the art of surgery. . . . .

Mr. Manu Subedar: He was a veterinary doctor when he operated on you!

Mr. K. Ahmed: He was describing them in very uncomplimentary terms, and I hope the Honourable the Finance Member turned a deaf ear to what he said The Finance Member has brought forward this Bill in the interests of 90 per cent of India's population. The other ten per cent. the handful of merchants and a few others who are unwilling to pay a little higher than what they are paying now, in spite of the protestations of the Congress Party My Honourable friend, Mr Husenbhai Laljee, pointed to the people on his right and said they would help him, but nobody else in the House. . .

The Honourable Sir Nripendra Sircar (Law Member): Not right hand—left hand

Mr. K. Ahmed: Yes, Sir, left hand The Honourable Member knows there have been floods recently in Bengal, Assam, United Provinces and other places and cattle and all other belongings of people were washed away and the poor people are sorely in need of food and clothing Yet these people who make profit in foreign countries do not wish to pay a little more even to benefit these poor people There are a few generous-minded men like the Readymoney House of Bombay who have been generous from generation to generation, but they are a very few of exceptional cases How many of them came forward to help the country in the matter of education, health, sanitation and other matters such as rural development and nation-building purposes? Of course, they are compelled to pay in the shape of income-tax for the benefit of the country at large But how many of them do pay? Very few On the contrary, I say, it is the duty of every Honourable Member here to come forward and help the Government and keep it in funds, so that the Government may not disappoint all the Congress Ministers when the provinces ask for funds . . . .

Mr. Deputy President (Mr Akhil Chandra Datta) The Chair would point out that the time allotted, fifteen minutes, is over?

Mr. K. Ahmed: I have taken only seven minutes

Mr. Deputy President (Mr Akhil Chandra Datta): As the Chair has said over and over again it has no right in the exercise of its own right, to interfere, but that is the arrangement of the entire House, and the Chair hopes that that arrangement will be respected.

Mr. K. Ahmed: Yes, Sir, As I say, it is the duty of every citizen to keep the Government in funds. In view of the sufferings of the poor, is it not the duty of those who pay income-tax and super-tax, by the side

system or the step system, to help the Government? The middle classes and others do not have much to pay, but the country can at least expect the rich to subscribe ungrudgingly to the needs of the country The Honourable the Finance Member has rightly brought forward this Bill, and I am thankful to him and to my Honourable friend, Mr Bhulabhai Desai, whom I congratulate from the bottom of my heart, for stating the non-official point of view very thoroughly I need not, therefore, go into any details. An enquiry was made and a Report was submitted in 1936 by the members of the committee before the Bill was brought in, and in that enquiry men like Khan Bahadur Vachha and Mr Chambers from England, with all his experiences of the Inland Income-tax Department and parliamentary methods, were associated; and with them help the pros and cons of the subject have been discussed and we are grateful to them The Honourable the Finance Member has already said he requires money for distribution to the provinces If it is the desire of the country and also of the Congress Ministers in the provinces that such help should be given, it is not for a handful of people here in this Assembly to say that they will not agree I myself do not like section 4 or section 49 of the Income-tax Act of 1922 I certainly would like that our merchants here and in foreign countries should get on well These English people may say that they take their International Law with them wherever they go about in the world. If a small steamer is launched in the port of Bombay.

Mr. Deputy President (Mr Akhil Chandra Datta) Is the Chair to take it now that the arrangement already made is no longer binding on any Member of this House?

Mr. K. Ahmed: Sir, I want three minutes more to finish my speech I have got the watch in my hand and have not reached the time limit

Mr. Deputy President (Mr Akhil Chandra Datta) In that case, the whole arrangement is going to be upset, and the arrangement was to conclude the general discussion today

Mr. K. Ahmed: Now, Sir, I shall close my speech, and before I conclude my remarks, I wish to make a few observations, and it will not take me a very long time

Sir, the authenticity and the genuineness of certain telegrams on behalf of the Muslims of South India containing misrepresentations may be properly investigated by the Finance Member, because the contents of the telegrams have come from and over the signature from one Mr. Rao, a Hindu I think it is but right and proper that Muslim Members of the Assembly should make an inquiry and find out who Mr Rao is They can ask for the original telegrams There have been other telegrams also. And here I would warn Honourable Members that they should not be led away by such telegrams and things of that kind Under these circumstances, Sir, I have no other alternative but to congratulate the Honourable the Finance Member

An Honourable Member: How often?

Mr. K. Ahmed: I have no other alternative but to congratulate the Honourable the Finance Member for the measure which he is adopting for conferring peace and contentment on the people of this country.

[Mr K Ahmed]

Now, Sir, with regard to the clauses, as I said before, I am not in favour of clauses 4 and 53 of the Bill which are now before the House. What is the use of this? English people have come over to this country as the successors of the East India Company to make some profit They may have either conquered this country out of sheer love for the country or acquired it in small bits, and now both Hindus and Muslims and other people have come under them Some of the English people are tea planters in my constituency and also in Assam

Mr. Brojendra Narayan Choudhury (Surma Valley *cum* Shillong: Non-Muhammadan) Sir, I rise to a point of order The Honourable Member is not only speaking irrelevantly, but also incoherently, and is roaming over the whole field of finance, commerce and everything else under the sun I am sure, my Honourable friends will agree with me that it is not possible for any one of us to understand what my friend opposite says or to benefit by the discussion Under the rules, the Chair is quite in order in ruling him out of order

Mr. K. Ahmed: You are wasting the time of the House

Mr. Deputy President (Mr Akhil Chandra Datta) What is the specific point of order?

Mr. Brojendra Narayan Choudhury: The specific point of order is that the Honourable Member is not confining himself to the subject matter of the Bill before the House, but is roaming over the entire field

Mr. K. Ahmed: You can speak better than myself and confine yourself instead of roaming over the subject in full

Mr. Deputy President (Mr Akhil Chandra Datta) When he speaks irrelevantly next time, the Chair would be glad to have its attention drawn to it

Mr. K. Ahmed: Now, Sir, the people who live in plantations at Jalpaiguri and other plantations in India may be making a little money .

Mr. Deputy President (Mr Akhil Chandra Datta): The Chair would remind the Honourable Member again that he is breaking the arrangement Honourable Members have come to

Mr. K. Ahmed: Now, these people may be making a few lakhs, no doubt, but they are paying 40 per cent income-tax which nobody else, no other trade or industry pays Only after paying all that tax, they are making a profit .

Mr. Deputy President (Mr Akhil Chandra Datta) Will the Honourable Member tell the Chair what is the point he is making?

Mr. K. Ahmed: Honourable Members should know that Englishmen in this country pay their taxes all right The question is whether an Indian doing business in a foreign country will have to pay tax there as well as here Sir, I shall finish in one minute The Englishman has to pay income-tax

there as well as in England, because the English law does not exempt him from the payment of income-tax in England It is in this way, if an Indian goes to Tanganyika or to any such distant place and makes a profit, there he pays income-tax, if he makes a profit, and similarly if Englishmen make a profit there in the foreign country they will also pay income-tax in England

An Honourable Member: Not here?

Mr. K. Ahmed: Yes, yes, they pay the tax here also at the first instance when they make profit in India I told you that the English people say they have landed in this country with their law, and the International Law is that those who make enough profit in business, whether in Germany or in any country outside India, if they remain in this country they should pay the income-tax in England because they are Englishmen, and the English people do pay the tax here also when they make profit in India Therefore, why should a handful of people who presume to represent the masses come here and make all kinds of allegations against the Honourable the Finance Member? Sir, I thank the Finance Member from the bottom of my heart for bringing forward such a salutary measure as this, because this is a very reasonable measure I don't understand why my friend, Mr Husenbhai Laljee, a man who readily pays income-tax, after making a profit for himself, should shed crocodile tears on behalf of the merchants when the shoe does not pinch them It was said the other day that the Finance Member is wearing the Chinese shoe But you must remember that the Finance Member will not remain in office for very long When the new Act comes into operation, he will have to retire after a few months At that time and shortly after perhaps, the Congress people will come as Finance Members,—I don't mind whether the Congress Finance Member comes from Bombay or Madras,—it is no use for my friend from Bombay to stare at me,—he may come and take up the finance portfolio, and he will get the voted money under his control to utilise them

Sir Cowasji Jehangir (Bombay City Non-Muhammadan Urban) Mr Deputy President, we are really making a farce of this

Mr. K. Ahmed: What is the use of abusing the Finance Member for nothing? With these few words, Sir, I close my observation

Mr. M. S. Aney: Sir, we have had a very lively debate for a number of days over this motion and when a question is debated for so long a time, it is really difficult for anybody to deal with any point that has not been touched before, particularly a Bill like the present one which has been discussed at length does not admit of being viewed from many points of view, as it is only a taxation measure Anyhow, I think I should begin my speech with my tribute of admiration to the Honourable the Leader of the Opposition The marvellous speech which he made on the very first day of the debate indicated to us his close and intimate grasp of principles, mastery of details, and skilful marshalling of arguments as well as his power of lucid exposition, at their best I have heard him speak in this House many times before and outside also, but that day's speech struck me as the most remarkable pronouncement made by him in this House. After such a brilliant exposition of the report of the Select Committee, it is really difficult for anybody to make any useful addition to the debate and make an endeavour to find out some new and undeveloped points. Sir, although it is like that, I think I should make an

[Mr M S Aney]

attempt to present to the House what appear to me to be the salient features of the report of the Select Committee in as short a time as possible I intend not to exceed the time limit that is fixed by arrangement, except by a few minutes if necessary

The Bill is intended evidently by the Government of India to get more money from the people No taxation measure is introduced in this House unless the Government feel the necessity for more money and begin to hit the people in that direction Therefore, I shall consider this Bill under four or five different heads and only try to draw the attention of the House to the various clauses which can be grouped under those heads to see the aggregate effect which those clauses, taken collectively, are likely to produce The first point is the amendments which are intended to widen the scope of the existing taxation Under that category I shall give a number of provisions which are intended to tap new sources and widen the scope of existing taxation or to narrow the scope of existing exemptions These are the various ways in which he has tried to manipulate to get more money from us The second would be, naturally in a Bill of this kind, amendments which are aimed at the evasion of taxes and making it impossible Various devices he has thought of to prevent people evading the tax To that, of course, I shall not have any serious objection I do not want to be a party to those devices by which people who have got the ability to pay and who are under law bound to pay avoid taxes To that portion the objection from me would not be serious; in fact, there would be no objection

If the Government are in need of money, they should also see whether there are, besides the sources which he has tapped in this Bill, any other sources which he would have very easily tapped and in which he could have succeeded in getting more money. What are those sources which he has left untapped—that is another head to which I shall draw the attention of the House in a few remarks In that I will show what he did do, and what he did not do to give proper relief where it was really wanted After these, I shall make a few general observations This is the arrangement in which I want to make my remarks on the subject Before doing that, I want to acknowledge what has been done by the Select Committee in improving the Bill as it was introduced There were three or four points on which improvements made by the Select Committee in the Bill, as it was introduced, deserved to be noted, particularly by the House Those points are, as a matter of fact, one, the improvement that has been made in the definition of dividend Considerable attempt has been made to narrow the scope which the first definition had created Under the new definition, of course, the capitalised profits are not likely to be attached, although there is yet scope for bringing that definition exactly in line with the practice that obtains in England. I believe when we proceed to the clauses, we shall try to plug that loophole which is now left out and try to bring the definition in line with the practice that obtains in England on that point.

Then, the most important improvement which I want to draw the attention of the House to is the arbitrary power that had been given to the Governor General under section 60 The Select Committee put an effective restriction upon that power in the report by laying down that after this law comes into force those powers should not be exercised. It

strikes as a very strange section, a section which gives to the Governor General a power to override and negative the whole of the law of taxation if he likes. That was the language of the power given under section 60. Of course, he did not do that to that extent, because in doing so he would not have recovered anything In connection with that, I want to refer to another point, the abolition of the power which has been given to the Central Government to order the Commissioner of Income-tax to withdraw recognition to a provident fund and so on That was in the Bill as it was introduced, but that has been effectively restricted by the Select Committee Another improvement which has been made is raising the limit of the premium of life insurance in the case of a Hindu undivided family from Rs 6,000 to Rs 12,000.

These are some of the important points in which the Select Committee has decidedly improved the Bill as it was introduced. But leaving aside those things, I come to the first point, namely, the various sources which the Finance Member has found out by a careful study of the Enquiry Committee's Report to tap, and the various methods which he has adopted to make more money in this country Let me just name those points, I believe I need not dilate on them because most of them have been dilated upon by different speakers Even now I should include the definition of dividend under this head I have already dealt with that. Foreign income on accrual basis is brought in, not because it is a more scientific way of getting taxes, but according to my Honourable friend, it is likely to give a larger amount of taxation from people who are trading outside The change from the remittance basis to accrual basis is intended mainly with a view to bring more money During the course of the speech, which the Honourable the Finance Member has made, he was pleased to observe, by way of a compliment to the Leader of the Opposition, that the present Bill contains on it the impress of the skill of the Leader of the Opposition Probably, the language of the Bill may, but when I read this Bill, particularly clause 4 and some of the other objectionable clauses—and they are substantial points—I find the Select Committee did not succeed in altering the fundamental principles on which the Bill is based And considering the number of sections to which reference has been made in the minute of dissent and the importance of those sections from the point of view of taxation, I feel that there is on every page of this Bill the impress of Sir James Grigg. His grim grip over the slender purse of the poor Indian people with a view to bring in more money is to be seen on every page of this Bill. In the language there is probably the impress of the Honourable the Leader of the Opposition, but the principles on which the Bill is based still bear a considerable likeness to the grimness which the Honourable the Finance Member assumes whenever there is an occasion for him to extort more money from the poor people of India.

Another thing that is done is this Enunciating foreign income on an accrual basis as a proper principle for calculation of tax in the case of foreign incomes, naturally the agricultural income of the people of Burma was included for the purpose of taxation Apart from the question whether those people who happen to hold land in Burma today come from the south or the north or from the Punjab or Madras, you have to look at the question from certain points of view of equity. The separation of Burma was not a thing that was decided by the people of India at all and I venture to say that it was decided against the genuine public

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opinion of Burma itself. It has been brought about with some ulterior imperialist purpose in view and the result is that those persons who have been trading in that country and acquiring land under some arrangements, that was certainly thought would abide for a long time, if not to go on indefinitely, have now found themselves in a new position as a result of some unforseen political catastrophe The Government of India when dealing with the question of separation of Burma ought to have contemplated all these things and taken adequate safeguards to prevent any unforeseen troubles overtaking those friends who have been trading there. Today it is declared that the agricultural income of Burma is no longer agricultural income of British India and, therefore, it is beyond the scope of the exemption provided in the Act Whatever the situation may be, it is necessary for us to allow the old order of things to continue for a considerable time and allow for a natural adjustment to take place and for this purpose some period ought to be provided for If we do not do that we shall be failing in our duty to those countrymen who have shown enterprise and grit to go abroad and do some kind of business in a country which was not foreign land at all While on this subject, I also want this House to carefully consider whether there has been proper consideration given by any Member of this House to finding out what is the net agricultural income We have got provisions to find out the profits but all those provisions have been written from the point of view of businessmen and industrialists. Agricultural income was not contemplated to be a source of income at all

The main point which it is necessary for this House to consider is whether this House has really given its best thought in ascertaining what ought to be the net income of an agriculturist There are various things which have to be deducted and for which allowance will have to be made What is the basis for calculating depreciation and wastage of agricultural assets. All these details ought to have been thrashed out. All of a sudden some new principles which were framed for a different purpose will have to be applied to agricultural income in Burma and advantage has been taken of an adventitious situation which has been created, without knowing whether the application of the new principle will work equitably or not. This is an important matter which the House will do well to take into consideration when it comes to consider the question of foreign income based upon an accrual basis and including in it Burman agricultural income

Then, there is another way in which the Honourable the Finance Member hopes to get more money In fact, the changes which have been made in the definition of trust, the difference between private trust and public trust, limitations put upon the use to which the trust property can be applied, all these things are intended to widen the scope of taxation and limit the exemptions to a very narrow sphere I am not against the State making more money out of property that deserves taxation but in the case of charitable trusts, the attitude taken up by the Finance Member is somewhat difficult to understand. The Bill is nothing but a reflection of what the Finance Member thinks and has thought out over the matter. So, it is the Finance Member who is responsible for the Bill and the House is responsible for the report of the Select Committee. I maintain that the distinctions which are made there are likely to widen the scope of taxation but the point I was driving at was that the attitude

which is now reflected in the present Bill and in the Select Committee's report is somewhat different from the attitude which the Government of India is reported to have been taking in regard to this matter when the report of the inquiry committee was being written. The members of the enquiry committee have distinctly stated that the Government of India is not anxious at all to deal with this matter and interfere with the existing state of things in regard to charitable endowment, therefore they do not want any suggestions to be made with regard to the provisions governing charitable trusts and so on They have, however, made certain suggestions and having found those suggestions the Government of India have taken advantage of them and incorporated them in the Bill I do not know why the attitude of the Government of India towards taxation of the charitable endowments and trusts, to which testimony is given by the Central Enquiry Committee Report, has undergone a change and a change for the worse Those who have to deal with the law of trusts know how difficult it is even for the courts of justice to distinguish in certain cases between a private trust and a public trust That is one of the most difficult points of law for a court of justice to decide in certain cases but it shall now be left to an income-tax officer to decide it for himself almost every day and the aggrieved persons may appeal to a so-called appellate assistant income-tax officer which is being created here and later on to get the highest exposition of the law on the point from a tribunal which is still in the womb of the Government of India I think it is better to leave this matter of charitable endowments and trusts in the position in which the old law has it and there is no need to tamper with it simply because we want to make some more revenue Apart from that, there is another trouble A new class of trusts is sought to be created, the so-called revocable trust My point is this If we look at the definition of revocable trust given there, it seems to me that a settlement made by a gentleman in favour of a widow for her life time and which might come to an end at the end of the life time of that widow might be governed by the definition of a revocable trust which is mentioned there Any disposition, any transfer, in fact alienation of any kind may be covered by the word settlement It may voluntarily come to an end or the settler may revoke it after a certain period of time That kind of distinction is not at all borne in mind in my opinion in the definition which is there The clause relating to revocable trusts should be very carefully considered by this House and we should consider whether it is not likely to work more inequitably in the case of a number of trusts under the existing condition of a Hindu family in the case of which managers have to make various kinds of settlement all over the country

The Honourable the Finance Member's object is to widen the scope of the tax from whatever source possible and he thinks he has spotted them and he has sought to incorporate them in this Bill Then, by eliminating part 5 from that clause and bringing in capital sums received in commutation of pensions for the purpose of taxation he has brought in another source of taxation. That was an exemption which is now sought to be eliminated, and the capital value of pensions will now be included for the purpose of taxation There is one curious way in which the clause is sought to be amended in connection with salaries. Now salaries are included for the purpose of taxation when received. Under the amendments that have been made in the report of the Select Committee, it is salary that is due that will be taxed. That point was very well brought out

[Mr. M S Aney]

by my friend, Mr Town, the other day, in his speech Sir, that will be laying down a very dangerous principle and it will work a great hardship in the case of a number of persons whose salary will be due but not received at all On that point I am surprised to find that the Select Committee has given us an assurance and on that assurance it is expected that this House should be satisfied What is the meaning of the assurance? In actual practice, instructions will be given as regards its operation I do not understand the position, when there is a clear provision in the law If that is the object, is it not possible for us to suggest some wording to make our meaning perfectly clear and not leave it to the discretion of somebody else to use or not to use his discretion in that matter? I, therefore, think that this provision with regard to salary is one which requires to be seriously considered. Then, the aggregation of the income of husband and wife is eliminated, and I will not deal with that But a remittance sent by a non-resident to his wife is to be considered as the wife's income in this country for the purpose of income-tax I think that my sister, Mrs Subbarayan, may raise her protest against that iniquitous provision I do not know the party arrangement of course. Now, are you going to tax a gift made by the husband to the wife simply because the husband is in a foreign land? If so, you are taxing an expenditure and not an income, you are taxing a remittance sent by a husband for the sake of his wife's maintenance from month to month, you are taxing an expenditure, which the man has to incur to fulfil his marital obligation, and you are not taxing an income

Then, there is profit or gain from trade or profession or similar avocation, performing specific services for its members for remuneration, etc , etc , all this is also a new item of taxation which is added These are some of the items in the direction of which we find the Finance Member has attempted to widen the scope of income-tax I must admit that there are certain good points in the second category, for instance, the provisions intended for the protection of the assessee from the greed of the Income-tax Department, particularly the provisions constituting an appellate tribunal and so on, and as regards this matter I have to admit that as far as the existing arrangements are concerned, this, no doubt, represents an improvement upon what obtains today Today the appeal lies to the man who is directly connected with the administrative work of the Income-tax Department, and to that extent there is no doubt that there is a distinct improvement by substituting a class of assistant income-tax officers and investing them with the powers of appeal But if anybody wants to claim that the Income-tax Department has hereby introduced the principle of the separation of judicial from executive, he will be making a very poor claim In fact, all these persons are virtually subordinate to the Central Board of Revenue I would wish that the first appellate tribunals should be entirely independent of the control of the Central Board of Revenue The highest appellate tribunal of course should be on the lines suggested in the note in the Report of the Select Committee Those suggestions are not yet put before us We shall, of course, have to discuss later on the details and to see how these fit in with the scheme as it should be The composition of the first appellate tribunals should be such as to make them free from the control of the Central Board of Revenue, because the interest in getting more money for that Department cannot be altogether absent and we shall have to see how they by themselves will be able

to take a perfectly judicial and disinterested view of the questions in issue. On that matter I have my own doubts I am not fully satisfied with the arguments, although I admit that it is an improvement upon the existing order of things

Now, as regards what the Bill did *not* do to get proper revenue from other sources When the Honourable the Finance Member was really anxious to get more revenue he would, of course, not like to ignore all those sources of revenue which he has now tapped in this Bill, but instead of trying to make five distinctions between a resident and non-resident, domicile and non-domicile in order to tax income on an accrual basis in the case of some and exclude the same in the case of others, he might have followed certain broad general principles of universal application He should have seriously considered whether the various handicaps put upon the Income-tax Department by the Government of India Act might not be removed, because then he might have been able to secure much larger amounts than the aggregate amount he hopes to make by the various changes introduced here in the present Bill I should like to bring to notice various sections of the Government of India Act which no doubt my Honourable friends know very well but he might make a fresh study of those sections and see whether he could not throw in his weight to get the necessary sanctions and also plead the case of the impoverished state of the treasury of the Government of India so as to bring in more revenue from sources now untapped and in which matter he will have certainly the bulk of Indian opinion with him,—for instance, sections 178C, 315 (*4*), 272, and 108 (F) and (*g*) of the Government of India Act I am sure he must be thinking over some of these points as my Honourable friend, Dr Banerjea, has given notice of applying for sanction to move certain amendments So, the Government's Law Department as well as the Finance Department ought to have seriously thought over this matter If he is really in need of more finances, then these are the sources from which the necessary money can be had without the least inconvenience to those who will be tapped thereby because they have broad shoulders and they can bear all that expenditure without any difficulty Besides, it will in no way create any dislocation of trade and commerce in the country So, these are the points to which I want to draw your attention categorically for the sake of making up whatever gap there may be in the treasury and if he finds that it is not sufficient for his needs, then we are here ready to be fleeced at any moment We are always here but these are the fat goats which should be sacrificed first

1 P.M.

Then, Sir, I will now point out what he did not do in order to give proper relief to the poor It is a sin of omission to which I must now refer. The first and foremost, in my opinion, was the case of the Hindu undivided family which the Honourable the Finance Member and the Finance Department ought to have considered. The Hindu undivided family is one of the units that is taxed and, because there is the joint family system in this country, a Hindu is singled out for the purpose of taxation at a higher rate and, therefore, he stands at a disadvantage as compared to any other man in this country. The reason is that he wants to follow that old system which has the sanction of a long usage in this country. Why should a man be taxed because, according to a usage, he is observing a particular mode of living? In the eye of the law, criminal as well as the law of taxation, every man should occupy the same position. There

[Mr M S Aney]

should be no distinction between one man and the other on account of the religion or the usage that they may practise All these distinctions should be done away with If a personal law has to be recognised for the purpose of inheritance, marriage and so on, it ought not to be allowed to be extended even for the purpose of taxation for that reason As a matter of fact, let us see what is the position of the manager of a Hindu undivided family, whether he is under the Mitakshara law or the Dayabhaga law? The distinction is only for the purpose of inheritance and succession and not for the purpose of taxation at all Even the interest that a particular man has in the joint Hindu family property can be easily ascertained without any difficulty. What it would be tomorrow, will be a problem in the case of the Mitakshara law, but what it is today is very simple for any man to understand The mere fact that you can easily find out the share of each member separately is sufficient, in my opinion, to treat him as a member of that family separately for the sake of taxation instead of taking the whole thing as one unit for the purpose of taxation Take the case of Dayabhaga As a matter of fact, the law itself recognises that they, the shareholders, hold the estate in severalty and not in jointness What is the difference between the position of these persons and the members of any other partnership or association of individuals? In the principle of the membership of associations it has already been recognised in the Bill and it has also been embodied in the Bill that if there are two partners and so on, then their interests should be taken separately and for the purpose of taxation each should be taxed separately The High Court interpreted this law at one time in a different way In fact, there was a ruling of the High Court on the point to avoid the effect of which the provision has been now incorporated in this Bill and we have now got that provision before us I am glad that my Honourable friend, Sir Muhammad Yamin Khan, has properly stated that that particular ruling worked as a great hardship in the case of certain Muhammadan family members who used to live jointly but, according to the law, their interests are taken separately I want the Honourable Member to consider the position of the Hindu joint family in the same way because it is not at all different On that point we can certainly make a common cause and fight together You have got an advantage which you were entitled to in equity and law Let us now join hands to secure the same for those to whom it is denied I appeal to my Honourable friend from that point of view I am glad that he has got the equitable relief to which he was entitled and I am sure that he will advise his friends sitting behind him and his Leader sitting to his right to take the same dispassionate and equitable view when the necessary amendments will be moved to consider this clause Having said that, there is one thing more which I would like to touch under this heading Of course, several other friends of mine have touched that point already. What prevented the Government to give relief to the children and the wives of the Hindus and Muhammadans of India? Do they consider that the wives of Hindus and Muhammadans in India can have no human requirements at all for which money is to be spent? If some allowances are deemed necessary in England and other civilised countries for wives and children, the same should hold good in India as well But the Honourable the Finance Member wants us to believe that we have got the limit of Rs. 2,000 and that must be taken as covering all kinds of allowances That is not fair.

I am not agreeable to the suggestion made by my friend, Mr Gadgil, that you can reduce the minimum to something below 2,000 But if it comes as a suggestion from the other side, we shall consider how far we will be able to meet it In my opinion, the minimum of Rs 2,000 is not a very unreasonable minimum taking into consideration the conditions in which we have to live at present Even then, some kind of allowance must be allowed for the wives The whole burden of taxation falls on the earning member of the family If you like, you can fix the limit of the number of children for the purpose of income-tax If you are afraid of the extraordinary multiplicity of the children in India, you can put down some limit Unfortunately, none of the salutary provisions which we find in the United Kingdom Act as well as the Bill that has been prepared by the Codification Committee and presented there in 1936 are incorporated in this Bill.

Now, Sir, I do not want to take up much of the time of the House and I wish to finish my speech before Lunch time I have to make an appeal to the Members of this House Clause 4 and some other provisions are not entirely new at all These very provisions were once introduced in the form of a Bill in this House and this House rejected them That was in 1931 My Honourable friend, Mr Gadgil, in his well-informed speech stated that this was the kind of argument which appealed to him least. The fact that a Bill like the one which we are now considering was considered and rejected by this House is the argument that should, I maintain, appeal most to the House The House in such a case must seriously see what the House has done first and what was the reason for arriving at that decision? We ought not to treat the previous decisions of the House in a light-hearted manner at all That is what I want to urge upon the attention of my Honourable friend I do not thereby mean that the House has not got the right to revise that decision if it finds it wrong

Syed Ghulam Bhik Nairang (East Punjab Muhammadan): Legislative *res judicata?*

Mr. M. S. Aney: All I am saying is whether there is a case for us to re-open the matter at all

Mr. N. V. Gadgil (Bombay Central Division Non-Muhammadan Rural): There is no *res judicata* in politics

Mr. M. S Aney: I have never stated that I have been making observations knowing the limits within which that principle could be put into effect There is *res judicata* in regard to certain matters considering the time limit fixed for bringing up these matters again even for the purpose of legislation I am not going to enter into an academic discussion on that. My point is this here we are in this House sitting together as friends and colleagues, myself and my Honourable friend, the Leader of the Opposition. I have given my tribute to what he has stated and the services he has rendered in connection with this Bill If I say something now which he may or may not agree to, I claim at least the right and the indulgence of the House to this extent that I have my own convictions in a matter of this kind and I have the liberty to give them out freely So long as the present Government is there irresponsible and unresponsive, so long as the present Government stands pledged to introduce a system or a certain kind of Government which we have been opposing from beginning

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to the end all along, I feel that it shall not be proper for us to sanction any new taxation in favour of this Government. That is my attitude in regard to this matter This attitude, Sir, was enunciated in this House in 1924 when I had the privilege to come to this House as a Member of the Swaraj party under the leadership of the late Pandit Motilal Nehru This principle was enunciated by Pandit Madan Mohan Malavyaji in 1924 when the Finance Bill was thrown out Our position then was that so long as the Government remained irresponsible and unresponsive, the Members of the Opposition were perfectly right in not voting supplies We demanded that the claim for responsible government should be conceded not merely by holding out promises and assurances but by actually doing something which would be an earnest of their real intentions I believe my Honourable friend, Mr Jinnah, also was a party to throwing out the Finance Bill at that time

Mr. M. A. Jinnah (Bombay City Muhammadan Urban) No

Mr. M. S. Aney: I think the Honourable Member voted with us. I, however, accept my Honourable friend's word Probably if I refer to the debates, he will be found to be correct and my impression may be wrong. I do not want to differ from him on the floor of the House on a question like that His word is sufficient for my purpose to give up that position.

Mr. M. A. Jinnah: If you do not accept my word, you can verify from the official reports I have not voted against the Finance Bill in 1924

Mr. M. S. Aney: I shall not say anything against his word All the same, he has suggested to me that I should verify from the official reports If I find that my impression is wrong, I shall bring it to the notice of my Honourable friend

My point is this That was the position taken up then We have been for some years past bringing forward motions for the rejection of the Finance Bill, sometimes with success and at other times without success Why was the Finance Bill singled out? Because that represented the taxation proposals which the Government of India have in their mind to carry out for the coming year So, we did not concede to the Central Government the right to tax us so long as they did not agree to our demands which were made in the name of the nation for the establishment of responsible government in this country Now, that position was there In 1931, those Members who came to the Assembly were not returned on the Congress ticket The Congress had boycotted the Assembly then Out of regard for the position which the Congressmen took and the fight which they were carrying on in the country for the sake of the freedom of the country, the Members of the Assembly in 1931 took up the same attitude in the House with regard to taxation measures which the Congressmen would have taken up if they had been in the Assembly The Members then rejected the motion with such force of unanimity that even the European Group had to join hands with them and the Bill was thrown out Today, what do we find? My Honourable friends, Mr Satyamurti or Mr Avinashilingam Chettiar or Mr Santhanam put a few questions almost every morning and some shots are fired, call them blank shots if you like They ask such questions as Are the Government going to introduce Federation? How far have they progressed

in regard to the Instrument of Accession? Was there any consultation between the Government of India and the Secretary of State? Was there any consultation between the Government of India and the Premiers of Indian States? To all these questions the Honourable the Law Member gives a stereotyped answer by nodding his head with the lips closed and the tongue tied or sometimes he refers them to the astrologer, and thus leaves the query unreplied If that is the attitude of the Government, we ought not to give up our attitude also so far as new taxation proposals are concerned That is what I feel on the point which I leave for the consideration of the Honourable the Leader of the Opposition I am glad that in the beautiful speech which he made in this House the other day he did not commit himself at all to any position He simply said what we should do with regard to clause 4 and what we should do if sanction was not accorded for amending clause 49 These are matters which I want them to consider carefully My position is this It is all right for my Honourable friend, Sir James Grigg, to say I have a big majority

Mr. Deputy President (Mr Akhil Chandra Datta) If the Honourable Member will take some time to finish his speech, he can continue it after Lunch

Mr. M. S. Aney: I will take about 10 or 15 minutes more

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

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

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Mr. M. S. Aney: Sir, before I proceed, Sir, I wish to state that I referred to the debate and I found that the statement I made that Mr Jinnah voted with us is not correct He did not vote at all He denied that he voted against the Finance Bill He did not vote, he remained neutral He said I was not right To that extent his statement is correct

I was referring to Sir James Grigg before Lunch In connection with that, no doubt Sir James has very skilfully piloted this Bill and the relations between the Opposition and the Official Benches, both in this House and in the Select Committee, we are told, have been very cordial and the proceedings went on harmoniously There was an exchange of compliments also on the floor of this House by both the Parties I am reminded of a story After all, as a gentleman I have great respect for Sir James Grigg, but he represents a system for which he knows there is no love lost between us and that system If I have to say something it is not with reference to Sir James Grigg as a gentleman but to Sir James Grigg as a representative of that system which we do not want to continue in this country any longer I was reminded of a story that I read a few days ago of a circus I thought the Leader of the Opposition was like a ring master who held a whip in his hand, cracking it, and was very much delighted to find that the British lion was dancing to the movements of the whip in his hand I only want him to remember that it is after all a lion which seemed to be dancing to the movements of the whip in his hand, but unless we are sufficiently cautious there is every chance of danger The story was like this There

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was an Italian circus man, a ring master, who used to end his performance by taking the lion out in the circus and one of the performances was that at the end, the ring master not only used to take the lion round the ring and have rounds—he used to ride upon it—but he used sometimes in confidence to put his neck into the jaws of that lion, he did it successfully several times and got the applause of the whole House, but one day it so happened that the lion used his fell teeth a little bit and it pierced him. He felt it and he asked "Is the beast wagging its tail?" but when the reply was given "Yes", he was no more there to hear it. I, therefore, warn my friends It is all right enjoying the play of this lion here, but let us remember that whenever we have to approach him we must always approach him with a loaded pistol in our hand pointed to his head, then probably we are safe, and if we do not do that we shall never know when the beast will begin to wag its tail We must beware of that I, therefore, say that whenever the Government come forward with a proposal of taxation of this nature, it is proper that we should hold the pistol and tell them that unless they are prepared to concede something we shall not agree to this It is consistent with our self-respect and earnestness of the demand which we make We fire our blank shots, as I said this morning, that is only to remind him that our claim is there This is the time to hold a loaded pistol over the head and say either this or nothing It does not mean that I am going to oppose the Bill as a whole I make a discrimination between certain sections—those which are fresh taxation proposals should not be agreed to I think an attitude like that will be perfectly justified and I want all our non-official Members to consider it when we come to the consideration of the different clauses With these few words, I have to thank you for allowing me time somewhat in excess of what you had fixed for all the speakers.

Sir Abdul Halim Ghuznavi (Dacca *cum* Mymensingh: Muhammadan Rural) Mr Deputy President, the Honourable the Leader of the Opposition has dealt with this Bill exhaustively, and I must say at once that I agree with what he has said Most of the previous speakers who have spoken in this House—although I was not present in those days, but I have read the reports in the press—have said what they should have said Sir, as my friend, the Honourable Mr Aney, said he is not opposed to the entire Bill, I am also not opposed to the entire Bill What I am opposed to is clause 4 of the Bill—the principle of taxation on accrual basis What does it provide? Take the case of an Indian having business in other parts, that is, other than India Take a concrete case For instance I have a business in India, I have a business in China and I have a business in Java The existing Act provides that I shall pay income-tax or supertax as the case may be for the income which I derive from business in India Sub-clause 1 (*b*) (*i*) and (*ii*) of clause 4 of the Bill provides that if I have business in three places—in India, in China and in Java—if I make an income of Rs 1 lakh here, Rs 1 lakh in China and Rs 1 lakh in Java

Mr. N. M. Joshi (Nominated Non-Official) You are making too much

Sir Abdul Halim Ghuznavi: Mr Joshi, a labour leader, does not want a capitalist to make too much I will give you an example of too little, if this is too much It comes to the same thing The Bill provides that

in spite of my paying Rs 10,000 as income-tax in Java for the money that I earn there, in spite of my paying Rs 10,000 in China for the income that I derive there from my business, I should have to pay for the whole of the Rs 3 lakhs that I have earned, which means I have to pay double for the Rs 2 lakhs which I have earned outside India

Mr. N. M. Joshi: How much of it will remain with you after that?

Sir Abdul Halim Ghuznavi: Very little What is the principle? When I do business here I get the protection of this Government in doing my business, but what protection do they give us in China or Java or Japan, or rather, what protection can they give us? Why should they be entitled to ask us to pay again to them for giving us no service whatsoever? Sir, the foreign business of Indian merchants is only in its infancy This Bill is intended to crush the Indian merchants altogether That is the long and short of the whole thing Let me give an illustration Look at the amount they want to charge us for rendering no service whatever for the money we earn, outside British India A man makes an income of a lakh of rupees at Kobe, another lakh in Hong Kong and another lakh of rupees in British India or three lakhs in all I have been made to pay Rs 10 000 for the income in Kobe and another 10 000 in Hong Kong I pay in British India Rs 15,000 or in all Rs 35,000 on the three lakhs I have earned The Honourable the Finance Member now wants me to stump one-third of it, if not more he wants to tax me on three lakhs

The Honourable Sir James Grigg: If you had it, I would

Sir Abdul Halim Ghuznavi: If I had it, he would He could not have said that in another place, in the Parliament in England he can say that here—he is not responsible to this House If he had said it there the next moment he would have been out of his seat here of course

The Honourable Sir James Grigg: Is the Honourable Member aware that the highest rate of income-tax and super-tax is 14*s* in the £ or 70 per cent?

Sir Abdul Halim Ghuznavi: I am coming to that India is not England. I have not forgotten the point Under the present Bill instead of paying Rs 35,000 I should have to pay Rs 75,000, that is to say, income-tax and super-tax on Rs 3 lakhs

The Honourable Sir James Grigg: Very moderate

Sir Abdul Halim Ghuznavi: Indeed! He referred to the very high rate of income-tax in Great Britain Sir, in British India the population is 275 millions Out of this, only three hundred thousand, that is, three lakhs of people pay income-tax Look at the poverty of this country—only three lakhs out of 275 millions! And out of these three lakhs only 10,000 get an income of over Rs 24,000 Now compare it with the position in England England's population is 45 millions; and out of this 2¼ millions pay income-tax, and still he says that England is paying higher income-tax. Of course they do; they are the richest nation and they can afford to pay, while we cannot. My objection to this Bill is this: we Indians have just started doing business with other countries

[Sir Abdul Halim Ghuznavi]

of the world England encourages her people, and gives them every facility to do business in other parts of the world, but here this Government, this benign Government, prevents us from doing any business outside British India From this book, Indians Abroad Directory 1934, I have compiled a list of Muslim merchants who do business outside British India Most of them are small businessmen, but this Bill will hit the small and big man equally I shall place it on the table* for all Members to see. I say we will not allow them to cut our throats by acceding to what we are asked to accede in clause 4(1) (a)—(1) (b) (ii)

Let us further examine the position What does the Honourable the Finance Member expect to get from this accruing income principle? I was told that he expects to get about 44 lakhs I should like to know how much of this he expects to get from businessmen and how much from private individuals Of course, I shall not get a reply from him, but I suggest that most of it would be from business and businessmen and very little from private individuals and private investments To the latter I put it down to five lakhs out of these 45 lakhs Are we going to kill these businessmen by accepting this Bill?

Then, again, Sir, my friend, the Honourable the Finance Member, expects 44 lakhs May I remind him that when he made a change in section 16(3) in 1937 he expected by that change about 28 lakhs? But what did he actually get? I think I shall be correct in saying, he said he had got only two lakhs So even here his calculation may fail him absolutely,—from 44 lakhs it may come to four lakhs only

Sir, my Honourable friend has come before this House to amend sub-section (3) of section 16 once again, and this time he wants to hit straight and not from behind as on the last occasion Now, if I transfer, irrevocably transfer property to my wife, I shall still be liable to pay income-tax on the whole of that property as also income-tax on my own property He wants to take my wife's income also into account along with my own income to augment the income so as to be able to charge me super-tax That is what he wants to do The owner is not responsible for the tax, but I am made responsible for this tax, because that suits the Finance Member better to add together the income out of the property of the husband and that of the wife so that he can charge super-tax on it

Mr. M. S. Aney: He is coupling the husband and wife

Sir Abdul Halim Ghuznavi: Of course, for his benefit, and he is not coupling them in the sense you have used

Now, Sir, I may be permitted just to mention a few more points, before I resume my seat, in connection with section 49. As I said before, investments of Indians in foreign countries are very few. The Indian Government cannot give protection to Indians abroad in regard to either business or to investments The proposed taxation will discourage foreign business and foreign investments by Indians The income is always taxed at the place of origin, and taxation thereof again in India will prove a great discouragement Double Income-tax relief is not obtainable in a large number of cases

*Not printed, but the copy has been placed in the library.

Then, Sir, the policy of the League of Nations is that income-tax should be levied at the place of origin of income The proposed Bill goes against this policy. Sir, much will have to be said, so far as this clause is concerned, when it will be debated later on I only make a preface to it today and say that I am opposed to section 4(*1*) (*b*)(ii),—I am opposed only to that portion, and not to the whole of section 4

The Honourable Sir James Grigg: That is practically the whole of it

Sir Abdul Halim Ghuznavi: You can have the rest of it

Now, Sir, here is a Resolution bearing the signatures of several Muslim merchants, which I am handing over for being included in the proceedings This is how it reads

"This meeting of the Board of Management of the Rander Mehfil-e-Islam Kutoob-khana held on the 15th November, 1938, expresses its emphatic protest against the Income-tax Amendment Bill of 1938, now before the Central Legislative Assembly. Clause 4 of the Bill is highly detrimental to the interests of the merchants of Surat and Rander . "

The Honourable Sir James Grigg: What merchants are these?

Sir Abdul Halim Ghuznavi: This is from the Rander Mehfil-e-Islam Kutoob-khana, Rander (Surat District)

" and the whole district who are trading abroad This meeting, therefore, requests the Muslim Members of the Imperial Legislative Assembly and the Council of State and the Leader of the Muslim League, Mr Muhammad Ali Jinnah, to oppose the said clause 4 with the full force at his command "

Sir, I am also opposed to clause 53, and this clause should be deleted altogether I will not go into details now, but when the clause comes to be discussed I shall give my reasons

Then, section 34, which is clause 39, which refers to the re-opening of the accounts,—I am not opposing it,—I am afraid of the Finance Member because he is looking at me,—I am not entirely opposed to it

The Honourable Sir James Grigg: Thanks very much

Sir Abdul Halim Ghuznavi: but I feel that the income-tax officer should specify the grounds in the notice, and he should confine himself to the grounds specified in the notice, and not have a fishy inquiry as is being done now Instances are many in which income-tax officers give notices

The Honourable Sir James Grigg: The very words follow the words of the Leader of the Opposition.

Sir Abdul Halim Ghuznavi: Sir, I was not here. I was in Calcutta when the Leader of the Opposition spoke

The Honourable Sir James Grigg: Two minds with a single thought

Sir Abdul Halim Ghuznavi: I was 900 miles away from Delhi when the Leader of the Opposition spoke here. I have not had time to read even the report of his speech in the *Statesman* . . . .

The Honourable Sir James Grigg: Great men think alike

Sir Cowasji Jehangir: May I point out, Sir, that this is one of the recommendations put up by several bodies who have expressed their opinions to Government So most probably the Honourable Member got it from one of those recommendations word for word

Sir Abdul Halim Ghuznavi: Sir, these are my own words I wrote out the speech myself If my Honourable friend, the Finance Member, will read the speech which I delivered in 1928 on the Finance Bill, he will see the criticism I made then against the income-tax officers and the methods they adopt for securing more money and more money They start giving not only one but three notices The poor income-tax assessees think that probably by mistake all the three notices have been sent to them under section 39 He goes to the income-tax officer and satisfies him After three months he is reminded, "You have not complied with the notice given under section 39 I am now assessing you on this basis" He goes and enquires what it is and he is told, "Second notice" He explains and satisfies the officer a second time Again, after six months he is reminded that he has not complied with the notice that has been given under section 39 This time he takes the help of a lawyer and with his help and after taking a lot of trouble, he explains to the income-tax official and the latter finds that there is nothing wrong with the assessee Sir, I am not opposed to section 39, but he must specify the grounds in the notice and the must stick to those grounds and those only He should not go on with a fishy inquiry, a roving inquiry from day to day and harass the assessees in that manner Sir, I have done.

Mr. N. M. Joshi: Sir, in the last Delhi Session, during the discussion on the motion that the Bill be referred to a Select Committee, I had an opportunity of expressing my views on the general principles underlying this measure I shall, therefore, confine myself on this occasion generally to the changes which have been made by the Select Committee and my views as regards changes which, in my opinion, the Select Committee should have proposed

3 PM

At the outset, let me thank the Honourable the Finance Member for accepting one of my suggestions made during the last discussion I had suggested that, in order that Members might be able to study the Bill better, he should provide them with some help by arranging the material in a proper manner He has been kind enough to do that, and I am very grateful for that help I hope that the other Departments, whenever they have similar measures for discussion before the Legislature, will follow the excellent example of the Honourable the Finance Member May I also say that we have by this time received a large number of amendments to the measure, Consolidated list, Supplementary lists No 1, No. 2, No 3,—I do not know what is the last number

An Honourable Member: No 4 so far

Mr. N. M. Joshi: May I suggest that before Monday we may have a consolidated list so that we may be able to follow the discussion a little better than we generally do when we have several supplementary lists?

The main object of this measure is, first, to tighten up the provisions of the Act so that the so-called legal avoidance of the tax may be prevented The second object is to rope in some of the incomes which have so far escaped

taxation Considering the report of the Select Committee from the point of view of these two objects, I feel that, on the whole, taking into consideration all the suggestions of the Select Committee, the Select Committee has done more in favour of the assessee than in favour of the national revenues I do not forget that the Select Committee has made recommendations by which the Government of India could make more revenue, and it was a matter of surprise to me that the Government of India, instead of accepting the help offered by the Select Committee, has rejected it

Dealing with some of the important changes made by the Select Committee, I would first mention the change which they have made in the definition of the word 'dividend' One of the objects of this Bill is to prevent profits being converted into capital and thus escape taxation The Select Committee has greatly weakened the original proposal of the Government of India I feel that it is undesirable that the industrialists should be permitted to convert what are profits into capital It is a wrong practice, in the first place, because experience has shown that that practice leads to over-capitalisation of an industry And over-capitalisation leads to inefficiency And inefficiency leads to the worsening of labour conditions in the industry I, therefore, feel that it is an unwholesome practice, a wrong practice, that the industrialists should be permitted to convert profits into capital If that practice be allowed, there is also so much less to be spent for what I call the welfare of labour If the industrialist can convert his profits into capital he can always say that there is not enough to be spent for improving the conditions of labour This method of converting profits into capital serves a useful purpose to the industrialist The working classes are not generally very well educated people, and when they find that an industry gives a dividend of say, five or even ten per cent but converts large portions of the profit into capital, they find it difficult to realise that the industry was going through a period of boom This is one of the disadvantages of allowing the undesirable practice of profits being converted into capital If an industry requires more capital, there is nothing wrong if the industrialists appeal to their shareholders, after the shareholders get their money in their hands, to purchase additional shares, but it is wrong to allow the directors to convert the profits into bonus shares or debenture shares or other kinds of shares and convert the profit into capital I feel that this practice is against the interests of the working classes and, therefore, anything done by the Income-tax Act which will encourage this practice is against the interests of the working classes of this country I, therefore, feel that the Select Committee has done a wrong in modifying the definition of dividend in such a way that some of the profits can be converted into capital

An Honourable Member: What is the English practice?

Mr. N. M. Joshi: I am not an admirer of everything that is English

There is another point upon which I would like to say a word The Select Committee has also modified the proposals regarding depreciation I feel that if the industry is to be conducted on sound lines a reasonable amount of depreciation fund is necessary At the same time I feel that it is wrong to permit industrialists to set apart amounts for depreciation which are in excess of the need I feel that the changes made by the Select Committee are likely to permit the industrialists to set apart sums in the name

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of depreciation which ought not to be so set apart I can understand the industrialists setting apart some money for the wear and tear of the machinery but is it not necessary that there should be some money set apart for the wear and tear of the human element? If you set apart large amounts for depreciation of the machinery to that extent you have a smaller amount for making good the wear and tear of the human element I therefore feel that it is wrong to allow larger sums to be set apart for depreciation than are absolutely necessary If some sums are set apart for wear and tear of machinery, I would also like the practice of setting apart some funds in the shape of health insurance, old age pensions and so on That kind of depreciation fund is more desirable than the fund for the wear and tear of machinery

The Select Committee has omitted the Government of India's proposals regarding pooling together the income of husband and wife for higher rate of income-tax I have no doubt that the device of transferring moneys to the wife's name, in order to escape a part of the income-tax, is resorted to by many people and there was nothing wrong if the Government of India had made a proposal that the incomes of the husband and wife should be pooled for the purposes of fixing the rate of income-tax However, I am one of those who take interest in social reform and I would like the wife to have an independent existence and entity From that point of view, if the deletion of this clause will lead to the woman getting a little more independence than she has, as a social reformer I would not go against the proposal of the Select Committee

There is one more point upon which I would like to say a word, and that is the proposal relating to taxing the profits of local bodies I do not know why the Government of India should have taken the privilege away from local bodies regarding income-tax The local bodies do not exist for making profit They carry on services intended for the public good

The Honourable Sir James Grigg: I do not want to interrupt the Honourable Member, but I would point out that for services supplied within their own jurisdiction they are exempt, and they are liable to the tax only in respect of services supplied outside their own jurisdiction

Mr. N. M. Joshi: If the Honourable Member had a little more patience, I would have made it clear to him that I have understood his proposals correctly I agree that it is only when a local body transacts some business beyond its own jurisdiction that the profits of the business will be taxed, but even when a local body transacts business outside its jurisdiction, it is not for the purpose of making profit, but for helping some other local body For example, the Bombay Municipality has good water works There are some municipalities on the way from which the water-supply of Bombay comes, like the Thana and the Kurla Municipalities The Bombay Municipality, in order to help these municipalities, supplies water to them and makes a profit, say, of Rs. 2,000, but surely the municipality is not making this profit for itself, but to improve the amenities of the million inhabitants of Bombay who get the benefit of Rs. 2,000 distributed to them. Therefore, I say it is a wrong principle to tax the profits of local bodies, made even

outside their jurisdiction It may be that one local body carries on business within the jurisdiction of another municipality and that other municipality carries on a bus service in the jurisdiction of the neighbouring municipality. That may be a sort of co-operation and I don't know why the Government of India should be against this form of co-operation and mutual help

After having pointed out some of the changes made by the Select Committee in favour of the assessee, I would like to point out that the Select Committee has done a very right thing in asking the Government of India to change the Government of India Act to permit the pensions which are paid outside the country to be taxed There is absolutely no reason why a pension paid out of the Indian revenues, though it may be paid outside the country, should not be taxed

I would also like to thank the Select Committee on another point and that is they have taken away from the Government of India the future power of granting exemptions It pains me to say that the Government of India used the power of exemption given to them in a very wrong way The Government of India, so far, have been dominantly a British Government and it was an act of almost nepotism on their part to have given exemptions to their own countrymen as regards pensions, leave salaries and several other matters The Government of India have shown by their own conduct that they are unfit to be entrusted with such important powers Therefore, the Select Committee has done a right thing in recommending that these powers should be taken away from the Government of India

I would like to say a word about the much-talked of subject of world income I feel that the income-tax is imposed upon people on the principle that people have to pay according to their ability The income-tax is not a consumption tax that that tax should be levied upon people for services rendered Therefore, when some of my colleagues of this Assembly talk that the Government of India do not render much service to those Indians who go out, and, therefore, the Government have no right to tax—they have not understood the principles upon which income-tax is imposed. Income-tax is imposed at a rate according to the ability of the people to pay. If people make money in foreign countries and they accumulate large fortunes, their ability to pay is increased and, therefore, there is nothing wrong if they are asked to pay, not only on their income in this country but on their income outside Moreover, much has been said that a tax imposed on the world income of people discourages foreign trade, ruins business, and all sorts of calamities are predicted I feel nothing of the kind will happen The income-tax is not a tax on capital, it is a tax on "income" If you have followed what my Honourable friend, Sir Abdul Halim Ghuznavi, told us that if certain people have an income of Rs. 3 lakhs and they have been asked to pay Rs 10,000 in Malaya and Rs. 10,000 in China and another Rs 75,000 in India, they still have an income of Rs 2,05,000, that makes the position clear, and there is absolutely no injustice in the tax imposed upon them both in China, Malaya and in India If persons who had an income of Rs. 2,05,000 wanted more trade to be undertaken with some other country, they had enough money, they could spend, say, Rs. 50,000 a year upon their personal expenses and they would still have left Rs. 1,55,000 with them for further undertaking foreign trade It is, therefore, wrong to say that the income-tax is a sort of impediment

[Mr N M Joshi]

in the way of foreign trade There is nothing wrong in imposing this tax Moreover, it is not quite fair to the Government of India to say that they afford no protection to the Indians who go abroad The Government of India maintain a department called the Overseas Department as a part of the Department of Education, Health and Lands The Government of India maintain agents in South Africa, Ceylon, Malaya and Burma, and they propose to employ agents in some other places They have also got trade agents. Besides that the Government of India have sent deputations of officers to help Indians abroad, and if you want to know what the Government of India do, I saw an instance of what they had done last year when I was returning from Europe I met a gentleman belonging to the firm of Mahomed Ally and Co , who were trading in Abyssinia and I learnt that they had just got at that time large sums of money from the Italian Government Could they have got that money from the Italian Government without the help of the Government of India? I am not suggesting that the Government of India do everything that they should and ought to, but certainly it is wrong to say that they render no help to the people who go abroad

Sir, I am in favour of imposing taxation on the whole income of every one who resides in India I am, therefore, against the proposal of the Government of India for excluding Europeans from some of this additional taxation. It is wrong for them to make a discrimination between Indians who reside and are domiciled in this country and those people who reside here and do not get domiciled We are not asking these people who are to my right that they should not get a domicile They refuse to be domiciled, and they refuse to be domiciled because by that method they can escape taxation Is it right for the Government of India to thus discriminate and help peole who work in a country, who get the best out of the country and then refuse to give that country the benefit of their experience and run back to a country which had not given them anything? I feel it is wrong for these Britishers to come here and not get a domicile I was told by my Honourable friend, Sir Yamin Khan, that for various reasons discrimination between Europeans and Indians is necessary The European must be taxed less. I feel, however, there are good grounds why the Europeans should be taxed more We Indians are prepared to give equality to these Europeans who live in our country and get domiciled and secure rights of citizenship, but they are not content with the equal rights of citizenship, they want special privileges

May I ask, Mr Deputy President, whether the few thousand Britishers who are in this country could have, on the basis of population, secured these nine seats in this Legislature? Without a special privilege, could they have secured the seats they have at present in Bengal? Sir, the European Group in the Bengal Legislative Assembly holds the whole Government of Bengal in the hollow of their palm They are trying the same game in Assam They are able with this special representation to control the Governments in Bengal and Assam How are they able to do this? By special privileges If these Britishers, who come to this country and who refuse to get domiciled but are given special privileges, is there anything wrong in asking them to pay for these privileges? Sir, we are not asking them to pay for those privileges, we are asking them to pay what the Indians pay.

What is the ground for complaint, therefore, if they are asked to pay similarly as the Indians pay? If we are to be fair, we might ask them to pay at even a higher rate than the Indians do I, therefore, appeal to the Government of India and say that they are wrong in making this discrimination,—and let me tell my European Group friends here that they may, of course, enjoy the fruits of this discrimination for some time but—I am not making a threat if I tell them that we, as men of self-respect, cannot agree to the privileges enjoyed by them Is that a threat? I may tell you what passes in my mind. They cannot have our good-will, when they claim privileges and refuse to pay for these privileges

I feel there is another point on which I can say a word and that is about double tax. I feel there is nothing wrong in a double tax. I do not see why any relief should be given for a double-tax and it is wrong to give that relief to people who refuse to take domicile in our country I do not know why any relief should be given to them Double tax—if you have got money—certainly is not wrong These people want to keep their incomes and everything in England They want to get the benefit of that They come to India, they exploit us, they get many advantages, and if they are taxed by us, they say it is double taxation. The agreement made by our Government with Great Britain is not in our favour, that agreement again was made by a Government which was British, that agreement should not have been made by them If I were in their place, I would not have made it I think it is an act of nepotism, but they made it We are asking them now to change that agreement If there is to be an agreement, let there be a fair agreement but we do not want an agreement If, as a result of our not having an agreement, we find that these friends of ours will go back to Great Britain, we may feel some sorrow for having lost some friends but at the same time we shall not go in deputation to the Governor General and say, "keep them here"

Sir, I do not wish to take up any more time of the House, but, before I sit down, I should like to say a word about the income-tax machinery. The Income-tax Act itself is a complicated measure, and I myself find it very difficult to understand. I have been trying to wade through its sections during the last few days and I have not yet been able to completely understand it This amending Bill is going to make it more complicated Therefore, the ordinary people will not understand the provisions of the Bill very easily. It will give scope to the officers of the Department to harass them. Moreover, this Bill is giving discretion to the officers in the matter of the imposition of the tax, or the rate of tax, or the amount of tax I feel that under those circumstances there is some room for harassment and corruption I would like the Honourable the Finance Member to take care to see that his staff and the department will be efficient and will be above any temptation I hope the Honourable the Finance Member will take steps in this direction I support the motion for the consideration of this Bill

Mr. K. S. Gupta (Ganjam *cum* Vizagapatam Non-Muhammadan Rural): Sir, this amending Bill is the pet child of the Finance Member The child has been examined by two doctors, one doctor from the other side, and one from this side The doctor on the other side said that it was quite a healthy child, but the doctor on this side said that it has defects which are incurable. Now, I examine it from a layman's point

[Mr K S Gupta]

of view. I see that it is a Bill full of pledges and penalties When the world is surfeit with broken pledges, I am afraid the House should insist on some safeguards as these pledges may come to pass or may not come to pass I will give you the list of pledges which are to be found in the amending Bill (1) With regard to salaries, (2) relief to those foreign nationals where the D I T relief is not given, (3) new rates of depreciation would be discussed with interests concerned, (4) that Notices shall as hitherto be served on all persons believed to have incomes liable to assessment, (5) section 49, (6) to rescind the exemptions numbered 20, 21, 22 and 23 in the list set forth in paragraph 17 of Part III of the Income-tax Manual and (7) Tribunal Appellate These are the pledges, and penalties are to be found at every stage There is a proverb in our language which says

"If I sit, I sit on a penalty and if I lie, I lie on a penalty, and God knows when I will be free from these penalties "

The assessee from the beginning of the submission of his returns till he finishes with the appeal stage is confronted with penalties

The other day, the Finance Member said that this Bill is intended to rope in dodgers He can certainly do it, but may I ask a question of him? Can there be a more skilful dodger than he himself when a straight question is not answered by him in a straight manner? He is notorious for dodging and so are the Members of the Treasury Bench He has come to teach us morals by saying that we should be penalised at every step for having dodgers and evaders in income-tax. What medicine should we apply to correct your dodging with us and the system of which you are a representative? Sir, this dodging and evasion is due to the human apathy to pay taxes. Even in the days of Christ the tax-gatherer was considered to be an abominable creature He is more so today I know the assessees are not afraid of criminal summons or civil summons but of your demand notices which are so exacting and terribly horrifying to every assessee. He may not remember when he received it or it might have been received in his absence or it might have been mislaid, and yet you punish him according to the best judgment under section 23 (4) Is it the best judgment of the Mughal who sits as the Finance Member is now sitting in his bench? Sir, he does not care for the Chair I will tell you how these Income-tax people behave One income-tax officer had a camp in a village and he asked the assessees to come and represent their grievances and submit their accounts That income-tax officer did not turn up that day and sent one of his clerks to take pledges from the assessees that they would turn up the next day. One assessee came there from a distance of 30 miles by cart and also he had to walk a certain distance Mr. Chambers, the expert, who has now been imported may not know that there are lakhs of villages in India where there is no proper road as an approach to towns This assessee who came from that distance was asked to come the next day He said "Tomorrow is my father's annual ceremony Will you please give me leave?" The clerk replied: "Who am I to give you leave?" The assessee said: "If so, I do not recognise you as the representative of the income-tax officer". Then he went away and reported the matter to the Income-tax officer. The Income-tax officer got annoyed and taking advantage of section 23 (4), because he disobeyed the notice of presenting himself on the day that he was asked to do so,

enhanced the tax three times he paid last and sent a notice to the man The man filed a petition saying he was not at fault Then there was the hearing This man came before the income-tax officer who was sitting with a very big cigar in his mouth like the Mughal He looked at him from top to toe and said, "You seem to be a trickish fellow". The man said, "Sir, I know no tricks. I come from a village which is very far off from this place I do not know what tricks I have played and I shall be obliged if you will let me know what they are" Then, the income-tax officer fell foul on him and said, "You scoundrel, do not talk these are the statements that were made against you " Sir, I was an eye-witness to this incident The man began to shiver. The Income-tax officer asked him why he was shivering. He said, "Sir, I am now in a tiger's cage You are the tiger and I am the lamb." Sir, we know that there are slaughter-houses for cattle and for sheep and the Income-tax Department has been created as a slaughter-house for human beings without death

Mr. K. Ahmed: And what were you doing as a Member of the Assembly?

Mr. K. S. Gupta: Will you please stop your gassing?

Now, Sir, let us see how these income-tax assessors or income-tax inspectors, as they are called in the amending Bill, behave in the villages. What they do is this They harass these merchants from village to village, from house to house, and from fair to fair They do not allow them to do their business In these village fairs they will have some rough books and from which they prepare fresh accounts which are considered to be the second set of accounts I do not know what is in the brains of these people they may be suffering from insanity or some similar disease

Sir, this Income-tax Department has played havoc with the Hindu joint family I know that in my district and in the two contiguous districts several hundreds of families had to divide They had to keep themselves separated because of this Income-tax Department What do the income-tax officers do with the question of partition? If I make an open declaration that I do not want to be a member of a joint Hindu family, it ought to be taken as final for income-tax purposes But the Income-tax officer comes and says 'your grandfather's property is there and it has not been separated and so your property has not been separated by metes and bounds, I cannot accept your statement that you are not a member of a joint Hindu family' By this he wants to enhance the tax He wants to squeeze as much tax as possible by setting aside even the Hindu law. Sir, income-tax is considered by some people as feeding the beast Certainly it is so in many respects I am afraid this Niemeyer award may be made the apple of discord between the people and their representatives Let it not be so. I find some good features in this Bill, but there are stings attached to every one of them. With regard to appeals there is a Tribunal to be set up It is a most welcome and desirable thing. It is long overdue and if it is postponed—justice delayed would be justice denied You have made provision for carrying forward of the losses of a particular year. There is a sting, since the losses should only be carried forward with regard to that particular business which is a hardship. When I have lost a good deal on a particular business this year I may not continue the same business—I should

[Mr K S. Gupta]

first see to the fluctuations of the market and wait for favourable conditions—what is the use of permission to carry forward losses for six years when I cannot, under such circumstances, carry on the trade So, you see to the removal of that sting The slab system is a welcome feature The step system is a great hardship to the assessees If an assessee's income is a little less than 15,000, he has to pay tax of Rs. 1,000 If he gets Rs 500 more, in income, he has to pay an increased income-tax by Rs 400 That is a real hardship and, therefore, I welcome this slab system But I am sorry to note, you have carefully avoided giving the rates If the rates are given, then we can easily find out whether it works to the advantage of the assessee or to his detriment With regard to Depreciation, for the last 18 years the previous system was working very well The other day, Mr Chambers was saying that this had to be changed because the income-tax officers paid more than what is due under the head of depreciation Is it for the fault of the assessee that there should be a change? If the income-tax department has erred somewhere, let it be corrected Instead of correcting his own department, he wants to punish the assessee by denying the privileges which the assessee has been enjoying for the last 20 years For instance, if there is a plant or a machine worth Rs 100, then it is divided into five years. For the first year, he must get 20 and for the second year 100 *minus* 20 and then five per cent and so on, but, in the end he loses one-third of the cost value which has been spent on the machine Why should he lose it? He was getting the entire value towards depreciation of the machine in previous years, now he is denied to that extent I know several assessees have no figures for the depreciation values and are to be found only in the accounts of Income-tax officers These forms which were supplied to them were filled before the Income-tax officers according to their dictation When they have no figures available, how can they write down the values and from the written down values they have got to calculate sums to be written off in their accounts Above all if he has not got sufficient income to see that it is set off and then it should be carried on as an ordinary loss Why should there be any such restriction for the depreciation to be allowed? I am entitled for depreciation over the whole cost of the thing Thus it is seen that there are several stings and, therefore, this system ought not to be encouraged and let the assessee continue to be as peaceful as before I am glad you have paid some attention to practitioners because every Tom, Dick and Harry calling himself an income-tax expert adviser was giving unnecessary worry to the income-tax assessees and thus made them pay more

Now, I come to the vexed question of foreign income With regard to our nationals let us continue the system which has been in existence on 'the remittance basis' and not on 'accrual basis', which for a variety of reasons has been condemned previously and also on the floor of the House Reopening of accounts is another bug bear to the assessee since the door is kept open for four years to give a chance for the income-tax officer to act as the Great Moghul. Discretion is given to him in three respects The first is with regard to irrecoverable loans and bad debts. I must see at the end of every year what loans of mine are irrecoverable and what debts of mine are bad and, then, I must write them off. When once I write them off I cannot raise them up next year It is only when I find it impossible to recover, I write off But the Income-tax officer

comes and says he would use his discretion He says what I have written down as irrecoverable and bad debts is absolutely wrong. Where a discretion is given, it is always used against me With regard to registered and unregistered firms, if it suits the Income-tax officer, he says "I want to treat a registered firm as an unregistered firm" and if it does not suit him he will treat an unregistered firm as a registered firm This discretion is wholly objectionable If he considers that a firm is likely to yield as income-tax less than what he thinks he ought to get, he will have recourse to this subterfuge of 'Discretion'! He is also given discretion with regard to revocable and irrevocable trusts There also one must be very careful with regard to the discretion given to the income-tax officer

Submission of statements is another nuisance to the assessees I know that the assessees will, hereafter, be compelled by law to submit statements But even before any provision of this kind existed they were made to give statements for payments and receipts even for Rs 100 Now, they have to give statements, which they could have refused There are several people who have no accounts What will be the case of such people who cannot submit statements? Several people who have got accounts have no time to do it, they must engage some clerks. Why not the Government itself send their inspectors to take copies of such items from the accounts of those people who maintain them? Certainly these income-tax inspectors go to the courts and Government offices and railway stations to take down copies of the required information and necessary statements Why not they do the same in this case? Why should the assessee be worried with regard to statements? The last vexed question is entry into premises The other day, Mr Chambers said that the man who is going to enter is not an ordinary individual but a gazetted officer I tell him that a gazetted officer is no Caesar's wife to be above suspicion I know these unscrupulous people would be harassing these income-tax assessees by entering their premises. I know some people have asked the women to open their boxes to search and see whether there was anything like documents or gold pledges within the folds of the clothes in their boxes. This is a raid on the peace and secrecy of a good home It is said that he has to obtain the permission of the Commissioner This is absolutely rubbish In the civil disobedience days unfilled warrants with the signature of the Police Superintendents were given to policemen and the policemen could easily enter the name of any person at any place and arrest him Similarly the I T O can get the permission of the Commissioner and keep the weapon ready in his hand It will be an unfilled warrant or an unfilled permission with the signature of the Commissioner. That is very easy, because the Commissioner is nobody else but the grandfather of the income-tax officer

Sir, we are confronted with 'reciprocity' It is nothing but atrocity committed on the people of India, especially when it suits your purpose you say we must have recourse to reciprocity and when it is against you, and your own countrymen, you would like to hold it under your velvet glove You are certainly anxious to increase the revenue of the country I would help you as a legislator to do it by fair means, you said you are going to plug the loopholes through which income escapes. By all means do it Can you have no embankments to stop the onward flow, the drain of wealth from my country? What about the pensions, which are given by the Government and which are given by others, paid outside India? Who are they who receive them? Is it not your countrymen that are receiving these

[Mr K S Gupta]

pensions and eating the salt of India and you avoid taxing these pensions. With what face can you ask our nationals to pay, when they do not remit their incomes from outside Lastly, with regard to double taxation relief, the Finance Member the other day said "it would be a gross injustice to attempt to withdraw relief from those companies and traders whose business has been established in India for many years on the assumption that the double income-tax relief would be given " When was the agreement entered into by you with your countrymen? Is it not in the year 1922 when the Act was first published and when did these investments come in? Is it not hundreds of years ago that they have come in? Is it not the booty of your ancestors from the High Seas and is it not the money that has been taken away from India? Your ancestors believed that they had only to come to India and shake the pagoda tree to get any amount of money You have invested so much of wealth, not to enrich my countrymen, not to help my countrymen, but to help yourself and to exploit my country and you have done it and no more privileges should be further enjoyed by you There should be an end to this You also said that it leads to discouragement of foreign capital coming to India Yes, that day I shall welcome when not a single pie of foreign capital comes to India It is the sad lot of my country that your foreign capital has degenerated the morality, the dignity and the self-respect of my country and we are to depend upon you for every single pie This is absolutely nothing but degenerated discrimination You said it would have repercussions on the welfare of the millions of Indian agriculturists Certainly it had repercussions to the greatest disadvantage of the Indian agriculturists After you have come to India, after foreign capital has come to India we have seen that the agriculturist is impoverished to such an extent that the autonomous Governments of the provinces are now compelled to pass Agricultural Debt Relief Bills Our agriculturist is no better after your advent into India, surely, their lot will be greatly improved after your departure

Sir, you have got an expert to tighten the strings round the necks of the assessees, to rope in dodgers, to plug the loopholes and what does that expert, that costly expert tell us about the D I T relief? I say, you give a date fruit and take a cocoanut from us With regard to double income-tax relief, you give us Rs 3 lakhs and you take 1,80 lakhs Is it fair to denude the Indian treasury to such an extent? Should you not stop it in the best interests of finance? Should you not as the representative of the Finance Department see that my national wealth is not denuded? It does not matter if you do not get a single pie in addition from outside but you should not take 1,80 lakhs out of the poor agriculturists of India towards double income-tax relief to your countrymen. This is absolutely unjust and it should be stopped at once My friend, Mr Kabeer-ud-Din Ahmed, was weeping this morning with a headache As there is a void in England on account of the import into India or the export from England of Mr Chambers, I suggest to the Finance Member that Mr Kabeer-ud-Din Ahmed, this black knight, may be exported to fill that deep void in England Sir, you must see before you tax my countrymen their capacity to pay Taxation should not be with the intention of grabbing, or scraping the last pie from out of the rich and the poor of my country

The Honourable Sir James Grigg: Out of the rich, not out of the poor.

Mr. K. S. Gupta: I know you have shed enough crocodile tears for the poor of my country, but let there be an end to it Exemptions under section 60 (*1*) are unwarranted and they should be scrapped. If you can stop the flow of wealth from my country to yours you will be a good Finance Member Till then I must keep you in the list of those people who are not only not interested in this country, but who are out for discrimination and reciprocity and such other atrocities to be committed on my countrymen

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions Muhammadan Rural) Sir, I began a story while discussing the Reserve Bank Bill in 1933, and I wish to continue a portion of that story forward today Sir, three or four people were having their food together I do not remember who they were—perhaps, Sir Cowasji Jehangir, Sir Muhammad Yamin Khan, Mr Aikman—and a lemon was cut into two and put in front of those people Those honest people took out a fair amount of juice and they thought that nothing was left; then came a wrestler and from what was left he squeezed out enough for himself People asked who he was He said he was a professional donation collector, who can collect water from the tears of human beings Another wrestler came and from that lemon he managed to take out some more juice People asked who he was, and he was found to be a wrestler trained in the school of beggary in Paris Now, I visited the school myself—it is not a story—in 1906, and I actually saw those people at work I saw the dictionary which they had prepared of charitable persons. All the men are trained there He said that every beggar trained in the Paris School of Beggary could get juice out of a lemon where nothing could possibly be expected Then, these people gave up the piece of lemon as useless and as containing no juice, when a third wrestler came along and took the lemon and managed to get some juice out of it, and then these men looked at each other and wondered who he was and discovered that he was an Income-tax Commissioner trained in the Income-tax Department in Great Britain Later on, came one more person—and I will continue the story when Sir Homi Mody is here—who were trained in Sir Homi Mody's orphanage known as the Millowners' Association these people dodged the Income-tax Commissioner in a manner which I will relate later on Sir Homi Mody described this Bill as one which no one understands, and that the only one who understood its conundrums was in the lunatic asylum I said in 1932 the same story about the exchange when Sir George Schuster got up and said "But he is out of it now" I pass it on to Sir Homi Mody and give the same reply that that man is now out of the lunatic asylum It was pointed out that only 30 persons out of 25,000 in British India pay income-tax at all This Bill will affect favourably 26 persons out of those 30, while three will be left with the *status quo*, and only one out of this 30 income-tax payers or one in 25,000 of the population will be affected by it he will have to pay a little more Compare the position of these big industrialists and capitalists with the millions of agriculturists in British India The agriculturist who tills the soil pays eight annas out of every rupee of his income If his income is ten rupees a year, he pays out five rupees. Consider again the case of the landlords. In the United Provinces, they pay 12 annas in the rupee at present; and thanks to the energies of the Congress people, they think even 12 annas is too little and they want fourteen or fifteen annas in the rupee from these landlords

4 P M

[Dr. Sir Ziauddin Ahmad]

If these persons can be taxed like this, I do not see any reason why these others who are enormously rich, much richer than the agriculturists or landlords, should not pay more than they are doing at present We have also got to bear this in mind that these Indian States are treated for our income-tax law as foreign countries, there is no such thing as Indian States in England or in any other part of the world Here we have this peculiar position

My friend, Sir Muhammad Yamin Khan, gave a number of illustrations as to how income-tax is evaded, how you can sell things to a Maharajah and make 50 lakhs and keep the money there for a year or so and bring it later on in the shape of goods or by exchange into British India and so avoid taxation altogether. These things actually exist, and I ask all those who are really for the poor and who think the rich man ought to be taxed—and I am sure most of the Congress back benchers hold this opinion—why the rich should not be made to pay After all, the Government have to collect the money If you avoid income-tax altogether, then it must come in some other shape from the poor people—in the majority of cases it falls on the poor it is only income-tax which falls on the rich Why should we, therefore, show any mercy to the rich? This is the point made out by Mr Joshi also, and I see no reason why it should not be done

Some Members have raised the point that we ought to encourage our traders to trade with foreign countries I quite agree, but when these agriculturists want to open agricultural farms and try new methods, our Congress people do not give any relief to the landlords but charge full revenue They have one rule for the agriculturist for whom they speak so loudly and lecture so strongly at the time of the elections, but now they ignore them altogether and concentrate their attention for the benefit of this one out of 25,000 persons who has become rich simply by the laws which we have enacted in this country If my friends agree that evasion is going on—and evasion is going on on a large scale, and on this remittence basis we do not collect a large amount of revenue which we ought to collect—then I see no reason why any honest man should object to tax being charged on accrual and not on collection only

There are certain omissions about which I have a very serious complaint against my friend, the Finance Member He has got no excess profits tax We had in 1921 a provision for taxing excess profits, and I see no reason why they should not be taxed, especially when it is made by putting a special duty on consumers Take the case of iron and steel We passed a law and put 18 crores directly into the pockets of their shareholders I am very strongly in favour of the development of the steel industry in this country, but, at the same time, I am not in favour of these people paying extremely high dividends to their shareholders at the sacrifice of the taxpayers, these excess profits should be shared between the shareholders and the consumers or taxpayers

Bhai Parma Nand (West Punjab Non-Muhammadan) When there is a loss?

Dr. Sir Ziauddin Ahmad: In the case of these protected industries, loss is out of the question, because we have given them enough protection to cover all possible losses, losses would be an impossibility. I cannot recall

a single example of a protected industry since 1930 which runs at a loss. take the sugar industry they had been paying from 50 to 100 per cent in the first few years of protection, and even now they are paying more than was allowed for by the Tariff Board The principle is this They all admit that any taxation on the rich will relieve the poor from other taxations So this is a thing which must be borne in mind when we collect money for nation building purposes, that is to say, we should take money from those who are in a better position to pay and relieve those who cannot afford to pay

Sir, I do not want to go into the details of the clauses, because, as I said, there is only one man who understands all the details of the clauses, but I should like to lay down two fundamental principles to be followed One is that no income should be taxed twice over, because it will be very unfair to do so Every income should not be taxed twice, and no income should be left untaxed Perhaps the Honourable the Finance Member knows the old story as he has been in Cambridge as to how the students in Cambridge are prohibited from smoking, and if anybody is found out, he has to pay a fine every time After a certain debate, one day, a student was walking down smoking a big cigar As soon as he came out of the Church, he met the Proctor and he had to pay a fine of 7*sh* 6*d*

The Honourable Sir James Grigg: Not 7*sh* 6*d* but 6*sh* 8*d*

Dr. Sir Ziauddin Ahmad: I stand corrected When the student came near the post office and another Proctor also saw him, he had to pay another 6*sh* 8*d* When the student entered the gates of the college, he met the Senior Tutor, and so the fellow had to pay another 6*sh* 8*d* Then came the Senior Warden, and so again he had to pay 6*sh* 8*d*, and thus four or five times the poor fellow had to pay 6*sh* 8*d* on the same cigar So this tax is really unfair, you cannot ask a man to pay income-tax once, twice and thrice over on the same amount in one country, in another country and in a third country Sir, the world has been suffering from different kinds of manias recently There is the mania of ammunition, there is the mania of developing a universal language, and there are all kinds of manias, and one mania which is recently being developed in this country is to charge everybody on his world income, and not on the actual income accrued in his own country If income is charged on the incomes of all the countries, what would happen? I think the time would probably come, if this mania goes too far, when we may have to open some kind of bi-lateral income-tax arrangements in the same way as we have the Ottawa and other pacts And if we pursue this mania, probably we may come to the conclusion that we should give up the world basis altogether, that every country should keep for itself all the taxes accrued in that particular country, just as we have in the post offices in regard to stocking stamps. The arrangement there is that every country keeps all the stamps sold in that country, never mind whether they exchange or interchange So some kind of arrangements similar to the one which exists in the post office will have to be made, if this mania of charging the world income continues . .

Mr. K. Ahmed: Why did you not take the seven lakhs from the Aligarh College for your education abroad?

Mr. S. Satyamurti: Sir, is the Honourable Member licensed to interrupt every speaker? I have noticed it for the last five days. He has been interrupting every speaker who gets up

Dr. Sir Ziauddin Ahmad: I shall reply to him outside the House

Mr. S. Satyamurti: Sir, as a Member of the House, I appeal to you that there should be some order This is really getting intolerable

Mr. Deputy President (Mr Akhil Chandra Datta) The Chair has been trying throughout the day to prevent interruptions from the Honourable Member, and unless better state of things prevails, the Chair may be driven to unpleasantness

Dr. Sir Ziauddin Ahmad: Sir, I think we will have to come to some arrangement with other countries to see that all the income accrued in a particular country ought to be kept in that country Still we cannot legislate today unless all Members in the front Benches, the Honourable the Leader of the House and others agree to come to some kind of arrangement with foreign countries They should take things as they are at present, and I think I should judge all the amendments to the various clauses from the viewpoint of the principle I have laid down that no income ought to be taxed twice beyond a certain minimum and that every kind of income ought to be included

Then, Sir, some Honourable Member raised the question of a minimum There was also a suggestion thrown out that we ought to lower the level. I think I should rather raise the level from Rs 2,000 to Rs 2,400, and I am not at all in favour of lowering it at present

There is one loophole which I probably did not understand, because I am not one of those who understood everything about the Bill, and it is this, that we have not explicitly provided for those Indians who are non-resident in India and yet are carrying on business or trade here, they come here for a while, they have their families and their homes here, but they themselves live outside India I was told that section 4(c) meets that requirement This was the point urged by my friend, Sir Abdul Halim Ghuznavi, in his speech I do not know whether provision has been made explicitly for such Indians

An Honourable Member: Yes, the provision is there

Dr. Sir Ziauddin Ahmad: Very well

Then, Sir, there are one or two points to which I should like to make a passing reference One is that the accounts should be kept for seven years, I think it is rather a very long period Most of these business houses will then become record offices, and they will have neither the space nor the time to do their own business. I think the period should be reduced to three years, and it will meet with approval of all

Then, I should like to say something about Wakfs There is a difference of opinion on this question, and I know that a large amount of litigation has been going on, and so, in order to stop such litigation altogether, it is very desirable that this Wakf Validating Act of 1913 should be explicitly mentioned somewhere in the Bill. We will move an amendment

to the effect that the Wakfs should be exempted from the Income-tax Act, but the beneficiary who receives the money may be taxed in the same manner as people who get money from other colleges and other charitable institutions.

There was another point which was raised by my friend, Mr. Nauman, and which he did not develop. This is a point which we will have to discuss later on. No doubt there are a large number of loopholes which require rectifying when we come to take up the clauses, but as I read the Bill I showed my opinion to Mr. Chambers and he certified it as correct.

Mr. S. Satyamurti: An old Vice-Chancellor goes to a young expert!

Dr. Sir Ziauddin Ahmad: I am not an expert in income-tax It is his business, and he is the only man who understands these things much better than we do.

Now, Sir, compare the existing Bill and the Bill as it is drafted, and I find that we have not got quite enough, but I think we were probably better off than we are under the present measure, and that applies not to individuals, but only to business firms The present position is that a non-resident Indian at present pays four annas per rupee for his world business income, he pays four annas to U K. for his U K. income, and two annas to U K for his Indian income, and the remaining two annas will have to be paid in India for his Indian income If the provisions of the Bill are adopted, the assessee will pay the same four annas per rupee on his world income, but now he will pay two annas to U K. for all income and two annas to India for all income The advantage to India is that he gets an additional income of two annas a rupee. The net result is that India will get an additional income of two annas per rupee on the U K income, and this will be not from the assessee, but from the British Exchequer.

There is again another small point about the quantum of taxes on which I should like to say something. In India, in addition to all the visible taxes, there is another invisible tax which we pay. I mentioned some years ago what it comes to In India, every person is required to support persons who are unemployed. In England, the unemployed are supported by the Exchequer by the visible taxes which we all pay I tried to calculate the amount of the invisible tax, and I took some votes of the House and they came to the conclusion that in the case of Indians it is from four annas to six annas per rupee In addition to all these taxes, there is one more tax which we in India have to pay to support all our relatives, distant relations and our friends who are unemployed, who in other countries are supported by the State, but they are supported by the invisible tax which does not come anywhere on paper. With these words, I resume my seat.

The Honourable Sir James Grigg: I propose to confine most of my speech to the two big questions of controversy, namely, clauses 4 and 53, but I would like to make two or three preliminary remarks. In some respects this has been rather a depressing debate. Some Members have repeated speeches which they made on the first stage of the Bill; the

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motion for Select Committee, bitterly complaining about certain things in the Bill, and they go on repeating their complaints about those particular provisions in spite of the fact that on the last occasion I was at great pains to explain in detail that their fears were unnecessary Then, other Members have delivered slashing attacks on provisions which are no longer in the Bill Dr Deshmukh did a great deal of that and emitted a great many other inaccuracies too I believe that Dr. Deshmukh is a distinguished surgeon, but I am bound to say that if he is not more accurate in the use of the knife than he is in debates in this House, he will not need to have any contact with the income-tax officer, and certainly his patient won't. Dr Deshmukh's was the most extreme attitude towards the Bill It reminds me of the old story of the criminal in the dock who was asked whether he objected to any of the jury "Object! I object to the whole lot of them." Then, we have the very general attitude of the Congress Party "This is a rotten Government and people ought not to pay any taxes to it, and, therefore, tax-dodging is not only natural, but praiseworthy" But I would like to point out to members of the Party opposite that all the money under this Bill will go to the provinces, and perhaps I may call particular attention to that fact. I said at the beginning of my remarks that this had been in some ways rather a depressing debate One of the most depressing features of it was the attitude of Mr Sri Prakasa who adopted this very attitude that tax-dodging is a very natural and human—not weakness,—but quality, and one which any self-respecting Government ought to take into account I have been at some pains to understand his attitude to the Bill and his indifferece to the fact that the money under it will go to the provinces I can only put it down to the fact that he is a Tolstoyan anarchist, and, therefore, he disbelieves in all Government, and, therefore, in all Governments, and he holds accordingly that no money should be paid to any of them, not even to the U. P Government Then, we have got the Honourable Member, Mr Manu Subedar, who represents the business interests in this House He did a good deal of swallowing what he said on an earlier occasion when he was talking on another ticket, and I call particular attention to his inconsistencies, because I fancy from the warning given by Sir Cowasji Jehangir that we are going to have that argument trotted out a good deal in the course of our detailed discussion of the Bill—I mean the argument based on "what did Mr Gladstone say in 1884?" But I will come to Sir Cowasji a little later I would like again to read from Mr Manu Subedar one or two extracts from what he said, shall I say, in another capacity?

"I have always desired that direct taxation should play a much larger part in the financial system of India, and I am glad that the report provides a sound foundation on which the levy and collection of income-tax in India in future could be based The loopholes for evasion legitimate and illegitimate—(*what legitimate evasion is I do not quite know, I think he means legal*)—which existed have been plugged up and the honest taxpayer is going to have the solace that the cleverness of those who were escaping hither will not avail in future The public in India must develop a conscience against those who dodge taxes."

My Honourable friend, Mr Sri Prakasa, might put that in his pipe and smoke it!

"There will be those who will accuse the Finance Department of increasing taxation on the plea of reform, but I think most of the measures would commend themselves to persons like me, who desire to see the income-tax occupy a more important place amongst the sources of India's tax revenue"

I may be forgiven for one last quotation.

"It is a happy coincidence that the consolidation of income-tax law in this country should be completed by the present Finance Member who has a great reputation as an authority on income-tax matters"

Mr. Manu Subedar: You have not brought in a consolidation measure, but only an amending Bill.

The Honourable Sir James Grigg: I thought you were going to say that. My Honourable friend, Mr. Joshi, condemned me roundly, but from quite an opposite point of view. I am bound to say that I am rather inclined to agree with him. Perhaps he will forgive me if I put it down to the fact that the unusual experience of being hailed as reasonable has gone to my head

Then, Sir, another very frequent attitude was the one of criticism of the standards of income-tax administration. Several Honourable Members have sought to convey the impression that the income-tax officers as a class acted harshly and unconscionably towards the tax-payer. I am not prepared to say for a moment that there is no justification whatever for such criticism in particular cases, and some Honourable Members produced particular cases But, I am bound to say that I think such cases are the exception rather than the rule, and I feel that this House ought to be very careful of condemning roundly income-tax officers who have got an extremely difficult task to perform Let me give the House one figure to show that if every tax-payer furnished his return which, to the best of his belief, was correct, there would not be, in fact, need to be any harshness on the part of the income-tax staff. But, unfortunately, all tax-payers are not willing to present returns which they believe to be accurate, and if the public are not prepared to co-operate in this way some harassment is bound to result Let me come to the figure which I was mentioning just now. In the three years 1934-35, 1935-36, and 1936-37, on directly assessable income, if we had taken the returns of tax-payers as correct, then we should have collected three crores a year less than we actually did collect, which means that on an average every one of the directly assessed tax-payers understated his income by at least 30 per cent ! And when Honourable Members are inclined to condemn the suspicious attitude of the income-tax staff, they might bear that in mind and also bear in mind that the three crores which has been obtained by their very legitimate suspicions is a contribution to the taxation of the country which would otherwise have had to be found from some other source I think this House is bound to support the income-tax officers in all legitimate efforts to safeguard the revenue Some Honourable Members have talked a great deal about the "poor assessee" who is harassed, but as time went on, I got strongly the impression that the poor were generally people who get Rs 20,000 a year, or so, and I doubt very much if many of the rich tax-payers can complain of harassment They have at their disposal all the machinery of expert legal advisers and expert accountants, and if anybody is at a disadvantage in such a contest between the tax-payer and the tax-gatherer, for that class of people, it is the tax-gatherer As for the assessee with a small income, I have made it clear on more than one occasion that I am not, nor is the Department, going to be a party to any harassment of the smaller tax-payer or the big, for the matter of that, unless it is justified, and we are not going to use the

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provisions of the old Act or the provisions of the new for that purpose, and I propose to have instructions issued to that effect But you cannot incorporate instructions of that kind in detailed provisions of the Act without tying the hands of the income-tax staff unduly so that they cannot deal with the evasive or the dishonest tax-payer. I repeat, however, that we intend to take steps to see that in future the income-tax officer devotes his attention, whatever he has done in the past, mainly to the big tax-payer and that he gives the small tax-payer as little trouble as possible. Indeed I am not at all sure that this intention of ours is not shown by the agitation against the Bill which is being conducted by the undeserving rich who as usual are sheltering behind the bodies of the deserving poor.

Now, Sir, I come to the two main issues. Let me take clause 53 first The controversy which has surrounded this question has brought home to me one of the fundamental difficulties which attends arguments between myself and the party opposite, namely, that the arguments never meet at all, because, the two sides are basing themselves on statements of principle which are totally opposed to each other I can best illustrate what I mean by repeating an old pun of Sidney Smith's in describing two Edinburgh housewives shouting at each other across the street He said "they will never agree because they are arguing from different premises" Broadly speaking, the party opposite believe that they are entitled to cancel any arrangement made by a Government in India which they do not themselves control and this, whatever the consequences may be to the other parties to the arrangement, whether those parties be foreign interests carrying on business here or any minority communities living here. Our view is that at a time when a very large amount of delegation of responsibility takes place, we are entitled to insure so far as in us lies that there shall be no violent disturbance of the conditions under which interests and communities which are not likely to enjoy a majority under the new constitution live and carry on their business. Let me illustrate the two views by referring to this very question of double-income-tax relief In the first place we are proposing no new extension of it and I would like to digress here for a second or two to point out that most of the press comment that I have seen on this question is, I would not say designed, but succeeds in conveying the impression that we are giving an enormous new relief If Honourable Members want an example of that, let them read the Leader of the *Sind Observer* of Tuesday, the 15th November There is not a single statement in that which is literally inaccurate, but the whole impression is misleading from beginning to end. I repeat what I have made abundantly clear to this House, that we are proposing no new relief and no extension of any existing relief On the contrary we are tightening up the existing relief and in a way which will produce extra revenue of some 15 lakhs a year to the exchequer, but apart from that we propose to maintain it in force I will tell the House why In the main double income-tax relief applies to the earnings in India of the 400 million pounds worth of British commercial capital invested here. When that capital came here, India was badly in need of capital for commercial development It came here or was retained here under conditions which in effect promised that its earnings would not be subjected to income-tax at a rate higher than the higher of the two rates in India and in the United Kingdom. Honourable

Members will notice that I used the word 'retained' here, and I do this for obvious reasons to meet the argument which the last speaker but one had advanced vehemently, namely, that this relief did not begin to operate before 1922. As a matter of fact on the United Kingdom side it began to operate from 1916 which was as soon as the rates of income-tax began to rise above the very low rates which prevailed in pre-war days. Anyhow, capital which was already here in 1922 would have slowly moved out from this country after that date if it could have been foreseen that a time might come when there was a possibility of its having to pay not the higher of the two rates, but the sum of the two rates And here let me again emphasize the point I made in my opening remarks. English companies operating in India are not subsidized to the detriment of Indian companies In fact they pay about 30 per cent more, comparing like with like Admittedly they pay less to the Indian exchequer, but this is the inevitable consequence of any system where there is a mutual arrangement to give relief and again, as I have pointed out, of this relief, the United Kingdom pays at least two-thirds

Now, let me take another point I do so because Sir Cowasji Jehangir, perhaps unintentionally, managed to convey the impression—to me at any rate—that in the relief there was an actual discrimination between individual Indian concerns and individual British concerns That is not so There is no discrimination If their circumstances are the same, namely, if they are doubly taxed, they get exactly the same relief and in both cases the United Kingdom pays two-thirds of it The charge of discrimination, of course, arises from the fact that more English companies get the relief than the Indian concerns, and that is, quite true It is an inevitable consequence of an arrangement which was entered into in order to attract and retain here capital required for the development of India I ask Honourable Members to remember that foreign capital was urgently required in this country as recently as the early nineteen thirties It is only since the proceeds of some 300 crores of India's hoarded gold and the vast amount of capital hitherto employed in rural money-lending has been made available for industrial development that India has been in a position to supply capital for herself at reasonable rates.

Incidentally I would like to remove one misconception created by the Federation of Indian Chambers of Commerce and Industry, namely, that India is the only part of the British dominions which gives relief in respect of any United Kingdom taxation As a matter of fact I think Mr Gadgil repeated that, reading from his brief, and I contradicted him at the time As a matter of fact, there are twenty-eight dominions and colonies

An Honourable Member: They are empire countries

The Honourable Sir James Grigg: . . . . twenty-eight different parts of the British empire which give double income-tax relief Eire is the case most nearly in point with British India Now there is a great deal of British capital in Eire and very little Eire capital in the United Kingdom, and yet Eire, of her own free will in 1926, entered into an arrangement for the relief of double taxation whereby she exempted British residents in Eire—in the technical sense, of course—completely, and paid not one-third but one-half of the cost of relieving the people doubly

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resident who would be doubly taxed And to Honourable Members opposite who have been over a period of many years apt to pay great attention to the example of Southern Ireland, I commend that example

Mr. Manu Subedar: De Valera would not give it

The Honourable Sir James Grigg: De Valera did not give it, but he maintains it I am willing to bet the Honourable Member that Mr. De Valera will never repeal that double income-tax relief, and for very good reason

Now, let us look at the other side of the picture The financial interests which are so closely associated with the party opposite now see that they are in a position to borrow cheaply in India for development purposes and they certainly have used and are using Indian capital for a good deal of new development But the Indian business man does not want to be limited to new enterprises He wants also to acquire a growing share in the old ones and this is a perfectly legitimate objective. It is only when one comes to the method and tempo of its attainment that there is room for differences of opinion I think, and I hope all right-minded people think, that the proper method is to purchase gradually, and as opportunity offers, at a value commensurate with the net earning capacity I am afraid, however, that some Indian business men think it legitimate first to depreciate the assets either by political boycott or by loudly demanding discriminatory taxation and then to seek to buy at a value based on a very much reduced earning capacity And that is not all. At the present moment it is impossible to move capital out of a country in bulk without smashing the exchange, and the inducement to sell cheaply is to be enhanced by the fear of further depreciation owing to transfer difficulties That is the real issue There is no question of giving any new or increased relief and of taxing Indians to pay for it It is a question of maintaining an arrangement which has been in force for seventeen years and which has become as contractual as anything not actually signed, sealed and delivered could be It is a question of breaking these quasi-contractual arrangements, of subjecting capital to which it applies to substantially increased burdens and in so doing to depreciate it to a point where it can be taken over for much less than its original cost The difficulties of transfer are a very vital element in that case

Now on this subject there is one final point though it is somewhat of an anti-climax. The Leader of the Opposition conveyed the impression—again I have no doubt unintentionally—that we were taxing Indians to give some new relief to Europeans, I have shown that we are not doing it

Mr. Bhulabhai J. Desai (Bombay Northern Division Non-Muhammadan Rural): I am quite sure if you read my speech again, you will find it wrong

The Honourable Sir James Grigg: Well, for that I will substitute this and say that in listening to the Honourable Member his remarks seemed to me to be capable of conveying that impression.

Mr. Bhulabhai J. Desai: You read the text of my speech.

The Honourable Sir James Grigg: I say, more than that. Of the new money to be obtained from clause 4 *plus* the taxation of leave pay, the whole of the latter, which is Rs 16 lakhs, comes from Europeans and some at any rate of the former. On the other hand, under the Bill and the concomitant new scale of rates to be laid down in the Finance Bill considerable reliefs are to be given For example—the carry forward of losses, the new basis of taxation for insurance companies, lower rates for five-sixths of the individual tax-payers, and so on For the first two of these a great deal and for the third practically all of the relief will go to Indians and I think I can say without fear of contradiction that on the other hand nearly every European in India will under this Bill as a whole pay increased taxation Altogether, I think I can safely trust the House or the majority of it not to be taken in by this latest effort of Indian big business to raise the racial issue and in order to resist an effort to make them contribute to the upkeep of the country to an extent more in keeping with the wealth they extract from it. This comes ill from people who have derived and continue to derive such wealth from the intervention of the State on their behalf Incidently, I ask the House to note the suggestion of Dr Sir Ziauddin Ahmad that these people should be subjected to an excess profits duty I do not propose to accept his invitation as I want to make it quite clear that it is not intended to make this a Bill of pains and penalties but a device to secure fair and not penal taxation As I say, and as the learned doctor pointed out, these self-same industrialists who are raising the racial discriminatory issue are the people who have derived and continue to derive an enormous benefit from the intervention of the State on their behalf and we have tariffs, subsidies, stores purchase rules and such-like the cost of which, again as the learned doctor pointed out and as I have very frequently pointed out, must in the end come from the consumer who is an infinitely poorer person than the individual he is subsidising

Now, I come to clause 4 The House is now fully aware that this clause seeks to tax the foreign income of residents in India on the accrual instead of the remittance basis A good deal of objection has been taken to this clause on the ground that it affects injuriously particular classes. But even if these objections are valid in themselves, we must beware of condemning the whole clause on account of its effects on particular individuals Nobody has yet seen fit to plead the case of the millionaire who has placed large sums of money abroad so that it may be out of the reach and outside the scope of Indian income-tax Even Sir Cowasji Jehangir would not do that He produced piles of quotations from other people in the past who objected to taxation on the accrual basis and he gave notice to my Honourable friends of the European Group that he proposed to raise against them the charge of inconsistency if they dared to support the proposals in the Bill. I will give them a useful answer In 1933, I think, a Bill was introduced in this House to tighten up the operation of the remittance basis. I think somebody accused Sir Cowasji Jehangir of once having supported the accrual basis somewhere either in the war days or in the early post-war days. Sir Cowasji Jehangir said that he had no recollection of having done this, but if I did agree, I have changed my mind now I am wiser, the passage of time makes us wiser, and I am convinced that time will make us all wiser. Sir, on this aspect of the millionaire placing his assets abroad,

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the only objection of principle is that the clause discriminates in favour of the non-domiciled resident I will come back to that question later. But, apart from that, I see no reason to argue the case of the millionaire. Why should he be given a special incentive to invest his capital abroad? I think Sir Muhammad Yamin Khan very effectively answered that question. Most of the objection has been taken to taxing the foreign business profits on the accrual basis, and let me say that there is here no discrimination whatever, for the non-domiciled resident is exactly on the same basis as the domiciled This being so, the querulous complaints of Mr Vencatachelam Chetty were very much beside the point What is complained of here is the penalty on Indian enterprise abroad We are not seeking to impose any penalty. We are merely taking steps to place Indian enterprise abroad on the same footing as Indian enterprise in India So far, I have heard no valid reason for treating with favourable discrimination Indian business abroad and yet that is the case to which the Opposition will have to address themselves and to which they have singularly failed to address themselves. Objections of detail have been put forward In so far as these demand a case for relief from the full rigours of the clause, we can consider them, but these are being put forward as a general case and clearly no general case is made out by them

Let us consider some of the particular illustrations which have been put forward First of all, there is the case of businesses carried on in countries subject to exchange restrictions We gave an assurance to the Select Committee that we would meet such cases by administrative action and our intention was to do so by postponing payment of the tax for so long as it might be necessary Mr Vencatachelam Chetty said "We do not trust your promises" All right If a suitable method can be devised, I am quite ready to consider its inclusion in the Bill Then, we have here the objections on grounds of administrative difficulty, such as, the difficulty of ascertaining the foreign profits and the consequent necessity of assessees having to send for books from the four corners of the universe Why should not audited accounts be furnished? When the Chetties furnish audited accounts in Ceylon, why should they not do it in India? Calling for books is only necessary because proper accounts are not furnished. As a matter of fact, administrative considerations are all in favour of the accrual as against the remittance basis The remittance basis is in practice extremely difficult to operate because remittances can be disguised in so many different ways. There are scores of loopholes both for fraudulent assessees who directly falsify their returns and for the other type of assessees who bring the income and disguise it as a capital I need hardly remind the House that disguising income as capital is very much easier for the wealthy taxpayer who has got lots of income than it is for the small man, and that is another reason for preferring the accrual basis. Moreover, it is very much easier for the rich man to leave his income abroad and not to remit at all and spend it when he goes abroad Apart from the easy way in which tax on the remittance basis can be avoided, there is another stumbling block for the income-tax officer. Where some branches of an Indian business are in British India and some are outside, the branches outside have an odd way, a way which is unfortunate for the revenue, of proving more profitable than

those in British India! At least, they appear more profitable in the books produced, and the reason is that the result is only too often manipulated to avoid tax.

Now, there is the third special objection, namely, that the accrual basis operates unjustly against the Chetties who are doing business in Burma. Of course, in so far as their ordinary money-lending business is concerned, this is simply not true. They have always paid tax on their full profits, at least I hope they have, and we are asking them to pay nothing extra. The real question is the income from some 2½ million acres of agricultural land in Burma, the possession of which has been obtained by foreclosure on the security for ordinary loans.

An Honourable Member: What is the acreage of the whole of India?

The Honourable Sir James Grigg: I will give the Honourable Member an illustration. It is a square, one side of which would be rather more than the distance from Lahore to Peshawar. It would, of course, be possible to argue that this income is not agricultural income at all, and thus particular case is an illustration of the logical absurdities one is pushed into by treating agricultural income differently for income-tax purposes, anomalies which have, I think, been forcibly pointed out in one of the early incarnations of Sir Homi Mody and Mr. Manu Subedar.

Sir H. P. Mody (Bombay Millowners' Association: Indian Commerce): And now of a reformed character!

The Honourable Sir James Grigg: You have changed your mind. But I do not think it is necessary to argue this question, for under the Government of India Act agricultural income is definitely contemplated as a special subject for provincial taxation. One province has already taxed it and, if reports from the newspapers are true, three more are preparing to do so. In the light of this, the objection urged by Mr. Venkatachelam Chetty on the score of principle falls to the ground. In any case, the Chetties' agricultural income from Burma even now is taxed in so far as it is remitted.

Now, I come back to the charge of racial discrimination or discrimination in favour of the British which, as I have said, can only have any application to the case of foreign investment income. But does it really apply even here? I will try and show that it does not. It is a plausible case on the surface and its exponents are very careful to point out only the case of the nabob who makes his living in India and remits his surplus profits, incidentally after having paid full Indian income-tax, to the United Kingdom and invests them there. After they have become United Kingdom investments, he pays no Indian income-tax but only the United Kingdom income-tax on the resultant income, and, as I have said before, the United Kingdom tax is higher than the Indian income-tax. But this is not a very frequent case and it certainly is not the typical case. In any event, it is only a question of the transfer of a few lakhs from the United Kingdom exchequer to the Indian exchequer. But there are other cases where it will be quite ridiculous to tax on total world income. Let us take the case of the rich American, who comes to India for six months' holiday. If the pure residence basis were adopted, he would be taxed on the whole of his world income, whether he got it from the United States or the United Kingdom or anywhere else. Incidentally I notice that some Members have put down an amendment

[Sir James Grigg]

lowering this period from six months to three months. So that if they have both their ways anybody who comes to India for three months holiday is going to be taxed on his total world income and that would be pretty good inducement for them to come and spend money in India

An Honourable Member: Business visits

The Honourable Sir James Grigg: I will take the case of a man who makes business visits to India of three months for three or four years in succession, and who under the legal decisions becomes a resident Let us take the case of a Dutchman who does a comparatively small part of his business in India He will pay Indian tax on the whole of his business income whether it comes from Java, Australia, Japan or anywhere in the world We will take another case, the subject of an Indian State I gather this is a very frequent case in India The subject of an Indian State keeps a furnished house in British India If he occupies it for a single day then under the decisions of the Court he is resident in India and pays tax on the whole of his income It was the consideration of such cases as these which led us to the conclusion that pure residence basis had too many absurd results for it to be adopted and that is why we adopted the only other example that I know of, a basis other than the remittance basis and that is roughly the United Kingdom basis We have made some slight variations from it, but it is substantially the basis of the United Kingdom law My Honourable friends opposite who are raising this bogey of racial discrimination in favour of the British can take it from me that if the proviso to clause 4 (*a*) goes, the damage will fall almost wholly on the Indians domiciled in Indian States Moreover in so far as it would fall on an Englishman, he has generally speaking double income-tax relief available, but in the case of Indian States, it is either not available at all, or available only up to a very limited degree

5 P.M.

So much for the general argument on merits But there are one or two considerations of a financial nature which I must put before the House Most of the money to be obtained from the Bill, apart from the new scales of rates ultimately to be inserted in the Finance Bill, comes from clause 4 *plus* the repeal of the exemption of leave pay If clause 4 is substantially altered, then my undertaking in regard to leave pay becomes obviously invalid If those circumstances are unhappily going to arise, the question is bound to occur whether from the financial point of view, it is worth while going on with the Bill at all if clause 4 is to be mangled If the Bill is dropped, I should remind the House that the various concessions go with it, namely the carry-forward of losses, the new basis of assessment for insurance companies, the new appeal machinery and above all the slab system under which as I have so often pointed out, five-sixths of the individual taxpayers will pay less than they do now

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

"That the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee, be taken into consideration"

The motion was adopted

The Assembly then adjourned till Eleven of the Clock on Monday, the 28th November, 1938

LEGISLATIVE ASSEMBLY

Monday, 28th November, 1938

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

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DEATH OF MAULANA SHAUKAT ALI

The Honourable Sir Nripendra Sircar (Leader of the House) Sir, may I have your permission and the permission of the House to mention the very sad event of the passing away of Maulana Shaukat Ali, a very prominent figure in Indian politics? I am sure that others who have known him longer and more intimately will speak at greater length, but I cannot help saying a few words on this occasion. I may also be pardoned if I quote some passages from an article in the *Statesman* of today, because I cannot put the matter better than it has been done there It says

"Throughout his life he was a staunch fighter for Islamic causes . . A zealous guardian of the Moslem community's rights, he was at the same time a fervent Nationalist and strove hard for communal unity In the general election of 1934, that led to the defeat of a number of notable public men, both Moslem and Hindu, Maulana Shaukat Ali secured an ample majority for a United Provinces constituency, and at once became one of the Central Assembly's personalities"

I may also add that in the Select Committees and also in this House we very much appreciated his presence and his services, and if I may add further from what has been said in that same article

"Not in Islam only will there be the sense of irreparable loss that always invades us when a personality abounding in energy is suddenly struck down No one ever thought of the Maulana as old He strode through life, a gigantic, charming, boisterous, friendly figure Always he seemed to be enjoying himself The Big Brother was a rousing fighter "

And I think the conclusion in that article expresses a sentiment which will be generally accepted by not only every one in the House, but by people outside

"None of his opponents can, we think, ever have hated this vital, friendly, magnificent man India is indeed poorer, for there was a richness in him"

Sir, I beg to request you on behalf of the section I represent in this House that you will be good enough to convey to the proper quarters our deep sense of loss over the demise of Maulana Shaukat Ali

Mr J. Desai (Leader of the Opposition): Mr President, on behalf of myself and my colleagues, I rise to pay our humble tribute of respect and admiration to the memory of Maulana Shaukat Ali The sudden and sorrowful death of the most vital figure in this House has robbed not merely this House, but has left India poorer indeed Magnificently endowed as he was in mind, in emotions and in physique, he was cut out for the larger life which he chose for himself along with his brother Maulana Muhammad Ali. And I recollect the days when in the Bar

[Mr Bhulabhai J Desai]

Library in Bombay, Maulana Muhammad Ali came with the *Hamdard* which he had then started and I first made the acquaintance of the two brothers Maulana Shaukat Ali was among the pioneers of the freedom movement in this country And notwithstanding the fact that in the infinite varieties of life, he espoused many causes, the greatest quality of the Maulana was that with the directness and the simplicity of the faith, both personal and spiritual, which he entertained, he threw himself into them with a concentration and an energy which has yet to be surpassed But with all that abounding energy, he was a man of peace, and when all the causes are forgotten in this varying complexity of human drama, the spirit behind it will remain,—the vigour, the energy, the concentration and the cleanness of the fight He loved *bonhomie*, he would never break the bounds of human equality and human friendship, and he will always remain with us, the same united brother that he lived and died

Mr. M. A. Jinnah (Leader of the Muslim League Party) Sir, my very close and intimate association with Maulana Shaukat Ali naturally affects me personally very deeply He was a friend of mine and we know each other now for more than 25 years His sudden and unexpected death has given a blow over which I personally find it very difficult to get over, a blow to the Mussalmans of India and, if I may say so, to the people of India Maulana Shaukat Ali worked courageously and honestly, and he was a great fighter He, by his actions, demonstrated that no sacrifice was too great in the service of his community and his country He was a lovable nature, full of affection, large-hearted, and he bore no malice towards any one Sir, it is very difficult to express adequately what one feels for a man like that But I am sure I am not exaggerating when I say that in him I personally have lost a dear friend and a colleague and a staunch and loyal co-worker In him the all-India Muslim League has lost one of the strongest pillars of that organisation In him India has lost a great big man and a great soul Sir, the loss is irreparable and I wish and pray that his soul may rest in peace His is an example of service, not only to his own community, but to the country, for which it is difficult to find a parallel I hope that you will convey to his family our deepest sense of sorrow and sympathy for the loss that they, who are directly connected with him, have suffered and the country at large deeply mourns his death

Mr. M. S. Aney (Leader of the Nationalist Party) Sir, on behalf of my Party, I desire to associate myself with the feelings which have been given expression to owing to the death of our colleague, Maulana Shaukat Ali I had the pleasure of coming in contact with him since the year 1920, and you will be surprised to hear that owing to my differences with Mahatma Gandhi on the triple boycott programme at that time, Mahatmaji thought of having a conversation with him so that I should be persuaded, and he entrusted that work to Maulana Shaukat Ali. It was he with whom I had to reason and argue, and that was the confidence reposed by Mahatmaji in Maulana Shaukat Ali I am mentioning this to show what a tower of strength Maulana Shaukat Ali was to Mahatma Gandhi in the arduous work which he began in 1920 We know that even before that year my province was the place of shelter wherein the two brothers were interned, and in that connection also we

had to go and see them now and then After that, another occasion which brought me in close contact with him was when we were discussing peace terms at Allahabad under the lead of Pandit Madan Mohan Malaviya, sometime when the Round Table Conference was going on At that time, we were sitting together for a number of days, and though I might not have agreed with the suggestions which came from him or other persons, I found in him a genuine and burning desire for bringing about a permanent solution of the Hindu Muslim problem and permanent peace between the two communities That sincere desire was discernible in everything that he was doing and in every suggestion that he was making About that there was absolutely no doubt left in my mind It is not necessary for me to dilate at length upon what he did But one thing is certain His name will be remembered in this country as one of those who have kindled an awakening and yearning for freedom even amongst those who were till then comparatively indifferent to the political struggle in the country If there is now a real and genuine awakening in the Muhammadan community, much of the credit for that will have to be given to the efforts made by Maulana Mubammad Ali and Maulana Shaukat Ali He was properly described as the Big Brother. he was big in every sense of the term Not only was he endowed with a magnificent and majestic physical stature, but there was a bigness in his mind, and in the presence of that bigness I always looked as very small On the first occasion when I had to meet him, he stood before me like a giant, and I looked a dwarf Notwithstanding all the differences, however, whenever we used to meet in the lobby, he used to remind me of the first occasion when he met me and tried to convince me that I was in the wrong and he was in the right That feeling of affection he carried all along with him about myself till the last day In fact, the last time I saw him, he asked me of his own accord for the little thing that I always carry in my pocket of which so many of my friends show me a kind of regard by asking for he did that, and that feeling of affection he always carried for us notwithstanding all the differences That showed the real man Our differences are superficial we serve our country according to our lights. But that does not take away from the fact that he is my countryman and I am his countryman, and that both of us are striving for the same goal, and, therefore, there is a kind of unity, an one-ness amongst us that is the real thing that a man has to see He who sees that is a real son of this country That son Maulana Shaukat Ali was, and I, therefore, pay my humble homage to his memory now that he has passed away, and I pray that his soul may rest in peace, and request you to convey on behalf of my Party also a message of condolence to those who are left behind to mourn his loss.

Mr. A. Aikman (Leader of the European Group): Sir, I wish to express on behalf of my Party our profound regret and sense of loss, not only to this House and to India, but to ourselves personally on the passing of Maulana Shaukat Ali. We were permitted to appreciate and to enjoy his great personal charm, his cordial geniality as well as his sincere open-mindedness. In him India has lost a son of great qualities, courage, sincerity of purpose and generosity of mind. We are readily able to understand how the members of his own community must regard his loss as an irreparable one. I would ask you, Sir, on behalf of myself and my colleagues to include us in the message of sympathy which you will send to his family.

Mr. President (The Honourable Sir Abdur Rahim) I associate myself with all that has been said by the Leaders of different Parties in the House as a tribute of respect to the memory of the late Maulana Shaukat Ali who was with us until only the other day and whom, I am sure, the Assembly will greatly miss I had known the Maulana for a long time and, as has been said, he had a charming and arresting personality At the same time, he was a great fighter for the cause he believed in. He was a dominant figure in the political world of the country, and his services in various directions will, I am sure, be long remembered I shall convey, as desired, the warm sympathies and condolence of the House to his bereaved family I may also announce that the funeral prayers will take place at 1-30 P M today at the Jumma Mosque, and the burial will take place in front of the Mosque about 15 minutes later.

I believe it is the general desire of the House that we should adjourn the business for the day.

Several Honourable Members: Yes, yes

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 29th November, 1938

LEGISLATIVE ASSEMBLY.

Tuesday, 29th November, 1938.

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

MEMBERS SWORN.

Sardar Bahadur Sardar Sobha Singh, O.B.E., M L A, (Nominated Non-Official);

Mr. John Bartley, C I E, M L.A., (Government of India: Nominated Official); and

Mr Gurunath Venkatesh Bewoor, C I.E, M.L A, (Director General, Posts and Telegraphs)

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS.

†1433-1473.

‡1474-1502.

§1503-1547.

SCHEME FOR THE IRRIGATION OF THE KHAJURI PLAIN FROM THE SABATANGI WATER SUPPLY.

1548. †Mr. S. Satyamurti (on behalf of Mr Abdul Qaiyum) Will the Foreign Secretary state

(a) whether any scheme to irrigate the Khajuri plain from the Sabatangi water supply is under consideration,

(b) what is the nature of the scheme; how much it will cost; and the extent of tribal area it is likely to irrigate,

(c) when it is likely to give this scheme a practical shape; and

(d) the reasons for the delay?

Sir Aubrey Metcalfe: (a) Yes.

(b) The object of the scheme is to irrigate land in the Khyber Agency, and to supply water to Jamrud The rough preliminary estimate of the cost is Rs. 4½ lakhs,

†These questions, which were on the Order Paper for the 25th November, 1938, have lapsed, the meeting fixed for that day having been cancelled.

‡These questions, which were on the Order Paper for the 26th November, 1938, have lapsed, the question hour for that day having been dispensed with

§These questions, which were on the Order Paper for the 28th November, 1938, have lapsed, the House having adjourned in memory of the late Maulana Shaukat Ali, M.L.A.

(c) and (d) It is not possible to say whether or when the scheme will be given practical shape. There are many technical and financial considerations involved which require careful examination.

SCHOOLS OPENED IN THE TRIBAL AREAS.

1549. *Mr. S. Satyamurti (on behalf of Mr Abdul Qaiyum): Will the Foreign Secretary please state:

(a) the total number of schools opened in the Tribal areas from the 1st January, 1938 to the 1st November, 1938;

(b) the total number of students in all the schools in the tribal areas, and

(c) how many of these are *bona fide* residents of the tribal areas?

Sir Aubrey Metcalfe: (a) Nil

(b) North-West Frontier 234, Baluchistan 1,373

(c) North-West Frontier 234 Information is not at present available regarding Baluchistan

These replies, so far as the North-West Frontier is concerned, refer only to the tribal areas under the control of Deputy Commissioners in charge of the settled districts Information regarding the other tribal areas on the North-West Frontier is being obtained and will be laid on the table in due course

Mr. Badri Dutt Pande: May I enquire if there are any high schools in the tribal area, or there are only primary schools?

Sir Aubrey Metcalfe: There are no high schools as far I know There are only secondary schools

Sardar Mangal Singh: May I know whether this number has increased during the last years or is stationary?

Sir Aubrey Metcalfe: I think it has increased considerably, but, as I say, the information given is unfortunately incomplete owing to a misunderstanding on the part of the North-West Frontier Administration as to exactly what was wanted I hope to get complete information later on and will place it on the table of the House

Mr. T. S. Avinashilingam Chettiar: May I know whether any funds are specifically allotted for giving education in the tribal areas?

Sir Aubrey Metcalfe: Yes, there are funds allotted for that purpose

Mr. T. S. Avinashilingam Chettiar: What is the amount?

Sir Aubrey Metcalfe: I could not tell you without notice.

REPORT OF THE COMMITTEE ON XB ENGINES.

1550. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member for Railways state:

(a) whether the expert enquiry committee regarding the XB Engines have submitted their report;

(b) if so, what are their main recommendations;

(c) whether Government have considered the report; and

(d) whether they propose to place it before the Assembly for consideration?

The Honourable Sir Thomas Stewart: (a) Not yet

(b) and (c). Do not arise.

(d) As promised by the Honourable Mr Clow in this House on 12th August, 1938, our proposal is that the report should be placed before the House and that there should be a reasonable opportunity for discussion

Mr. T. S. Avinashilingam Chettiar: May I know whether they have made any preliminary recommendations for safety purposes?

The Honourable Sir Thomas Stewart: No I am not aware of any such preliminary recommendations.

Mr. Badri Dutt Pande: When is it likely that we shall get this report? Can the Honourable Member give us any idea?

The Honourable Sir Thomas Stewart: It is not within my power to say that

UNIFORMS SUPPLIED TO POSTMEN AND OTHER LOWER GRADE POSTAL STAFF IN THE PUNJAB AND NORTH-WEST FRONTIER PROVINCE.

1551. *Mr. S. Satyamurti (on behalf of Mr Abdul Qaiyum) Will the Honourable Member for Communications please state

(a) whether he is aware that the Punjab and North-West Frontier Postmen and Lower Grade Staff Conference passed the following resolution at Ludhiana on the 16th October, 1938

(i) that postmen and lower grade staff be provided with one winter and two summer uniforms;

(ii) that *pyjamas* be substituted by trousers,

(iii) that the cast of warm uniform should have lining underneath,

(iv) that on transfer an employee be permitted to take his own uniform along with him, and

(v) that two warm uniforms be provided in hill stations, and

(b) what action has been taken, or is proposed to be taken to redress these grievances?

The Honourable Sir Thomas Stewart: (a) and (b) Government understand that a copy of the resolution has been received by the Postmaster General, Punjab and North-West Frontier Circle, and is at present under his consideration.

Mr. S. Satyamurti: With regard to this warm uniform during the winter, may I know whether Government will expedite the grant of these things, considering the climatic conditions in which these people have got to work?

The Honourable Sir Thomas Stewart: The Honourable Member is anticipating the decision of the Postmaster General.

CERTAIN FACILITIES GIVEN TO MAIL OVERSEERS.

1552. *Mr. S. Satyamurti (on behalf of Mr Abdul Qaiyum): Will the Honourable Member for Communications please state

(a) whether mail overseers are given the following facilities:

(i) travelling allowance,

(ii) stationery allowance,

(iii) tables and chairs for office work,

if not, the reasons therefor,

(b) whether mail overseers have to travel more than ten miles daily, and

(c) the reasons why house allowance is not given to them?

The Honourable Sir Thomas Stewart: (a) (i) Yes, but in the case of journeys within their jurisdiction only actual fares by rail or steamer, or charges on account of ferries and tolls are paid Full travelling allowance is allowed for journeys on duty outside their jurisdiction

(ii) Yes, except when stationery is supplied by the post office to which the overseer is attached.

(iii) No, because the clerical work they are required to do can be and is done either at the headquarters' post office, or at any post office which they may visit.

(b) Sometimes

(c) There is no rule precluding the grant of house rent allowances to overseers but such allowances are granted only in expensive localities and are fixed on the merits of each case

LEAVE AND PENSION PRIVILEGES OF POSTAL AND RAILWAY MAIL SERVICE LOWER GRADE STAFF.

1553. *Mr. S. Satyamurti (on behalf of Mr Abdul Qaiyum): Will the Honourable Member for Communications please state:

(a) whether the lower grade, postal and Railway Mail Service staff enjoy the same rights and privileges regarding leave and pension as are applicable to postmen; and

(b) if not, the reasons for such discrimination?

The Honourable Sir Thomas Stewart: (a) No

(b) Because postmen belong to the superior service while the staff referred to are in the inferior service, and the pensionary and leave rights of the two services are different.

Mr. S. Satyamurti: But what are the reasons? The Honourable Member has not given any reason except by calling one superior and the other inferior Clause (b) of the question wants to know the reason for discrimination.

The Honourable Sir Thomas Stewart: The services performed by the two categories are different in nature.

STATEMENT OF LORD HALIFAX ABOUT PUTTING MAHATMA GANDHI IN JAIL.

1554. *Mr. Govind V. Deshmukh: Will the Foreign Secretary please state if it is a fact that about the 24th September, 1938, Lord Halifax said "War was inevitable, that it was necessary to throw Gandhi in prison once again"? If so, was this statement of putting Mahatma Gandhi in jail made on the advice given by the Government of India?

Sir Aubrey Metcalfe: The Government of India have no such information The second part of the question, therefore, does not arise.

Mr. S. Satyamurti: May I know whether the Government of India attempted to get any information on the first part of this question, after the receipt of this question by them?

Sir Aubrey Metcalfe: No. We made no attempt

Mr. S. Satyamurti: May I know the reasons why, when an Honourable Member of this House puts down a statement as having been made by the Foreign Secretary of Great Britain, of such vital public importance, Government took no steps to find out whether such a statement was actually made or not?

Sir Aubrey Metcalfe: The Honourable Member has not stated when this remark was made He has merely asked whether it was made He gives no information, no indication whatever of the particular occasion, on which the remark was made So it did not seem suitable to the Government of India that enquiries should be made upon a question of that sort

Mr. Govind V. Deshmukh: May I inform the Honourable Member that this was the information given by a renowned French journalist—unfortunately, I have not got the reference If not these very words, something to this effect was said

Mr. President (The Honourable Sir Abdur Rahim) That is rather vague

Mr. S. Satyamurti The Honourable Member could have got into touch with the Honourable Member who gave notice of this question and asked for information as to when it was uttered, in order to enable him to find out whether it was actually made or not. The date is given

Mr. President (The Honourable Sir Abdur Rahim) When allegations of this sort are made, there ought to be some better foundation for putting the question.

Mr. S. Satyamurti: The foundation is the position of an Honourable Member of this House It must be assumed unless the contrary is proved, that an Honourable Member of this House does not put a question of this kind in a light-hearted manner He gave the date, 24th September, 1938, and if the Honourable the Foreign Secretary wanted any further information it was open to him to ask the Honourable Member to supply the details.

Mr. President (The Honourable Sir Abdur Rahim). The Honourable Member should have referred to any newspaper cutting or some other report on which to found a question like this

Mr. Govind V. Deshmukh: May I inform the Honourable Member that a similar question about railway accident was given notice of, but I had not given the reference, so it was returned to me But when this question was not returned to me, I took it that they did not want any reference

Mr. President (The Honourable Sir Abdur Rahim) That depends upon the Honourable Member for Government If he thought that there was sufficient justification for this question, he might have answered

Mr. Govind V. Deshmukh: May I know if there was any justification . . .

Mr. President (The Honourable Sir Abdur Rahim) The Chair cannot allow that.

Mr. Govind V. Deshmukh. May I take it that the enactment of the Criminal Law Amendment Act is an indication of the policy of this Government of India or the advice that they received from the British Government?

Sir Aubrey Metcalfe: That, Sir, is a question which should not be addressed to the External Affairs Department.

Seth Govind Das: Will Government make inquiries into this now?

Sir Aubrey Metcalfe: No

Seth Govind Das: Why not?

Mr. President (The Honourable Sir Abdur Rahim). That has already been answered.

1555. ***Mr. T. S. Avinashilingam Chettiar:** Sir, I do not want to put this question. This is a repetition.

MAKING THE PROCEEDINGS OF THE BOMBAY PORT TRUST OPEN TO THE PUBLIC.

1556. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable Member for Communications state

(a) whether he has received replies from the Bombay Port Trust in the matter of making the proceedings of the Port Trust open to the public; and

(b) if so, whether they have come to a conclusion in the matter?

The Honourable Sir Thomas Stewart: (a) Yes

(b) Not yet.

Mr. T. S. Avinashilingam Chettiar: What is the reply he has received?

The Honourable Sir Thomas Stewart: The substance of the reply is that the matter is being considered by a committee of the Port Trust and the views of the committee will shortly be considered in the full meeting of the Trust.

Mr. T. S. Avinashilingam Chettiar: What is the report of that committee in this matter?

The Honourable Sir Thomas Stewart: I do not think I will be justified in giving the information before the report has been considered by the Trust.

Mr. M. Thirumala Rao: Is the Honourable Member appraised of the views of the sub-committee that went into this?

The Honourable Sir Thomas Stewart: I am aware of what the sub-committee have recommended.

POSTAL STAMPS SOLD TO PUBLIC AND SERVICE STAMPS USED IN GOVERNMENT DEPARTMENTS.

1557. ***Mr. Brojendra Narayan Chaudhury:** Will the Honourable Member for Communications please state

(a) the total value of stamps for (i) Postal and (ii) Telegraph service sold to the public in the latest year for which figures are available;

(b) the total value of "Service stamps" used in the same year by Government Departments,

(c) whether any formal payment is made by the various Departments of the Government of India to postal accounts for the service stamps;

(d) whether any such payment is made by the Provincial Governments; and

(e) the portion of the amount mentioned in part (b) that goes to the debit of Provincial Governments?

The Honourable Sir Thomas Stewart: (a) Separate figures of stamps sold to the public for postal purposes and for telegraph purposes are not maintained. The total value of postage stamps sold during the year 1937-38 was Rs. 691·23 lakhs.

(b) Service stamps are used by Departments of the Central and of Provincial Governments as well as by a number of quasi-Government bodies mentioned in clause 354 of the Post and Telegraph Guide No separate figures of service stamps used by Government Departments are maintained The total value of service stamps sold during the year 1937-38 was Rs. 108·88 lakhs.

(c) to (e). The full face value of service stamps is paid in cash at the time of purchase by Departments of Central or Provincial Governments or by quasi-Government bodies. No separate figures of the amount paid by Provincial Governments is available.

Mr. E. Santhanam: May I know how Government calculate the profit and loss of the Telegraph Department if they don't have separate accounts for service stamps?

The Honourable Sir Thomas Stewart: It would not help towards that end, as the telegram are also sent against cash payments. Every telegram is not sent by affixing stamps

Mr. E. Santhanam: May I know how they calculate the receipts from telegraph without calculating these stamps also?

The Honourable Sir Thomas Stewart: I should like to have notice of that question.

Mr. T. S. Avinashilingam Chettiar: Is it not the case that in every instance in which telegrams are sent, stamps are affixed to them?

The Honourable Sir Thomas Stewart: That is not the case.

Mr. S. Satyamurti: I have never sent a telegram without being called upon to affix stamps. Where is it done?

The Honourable Sir Thomas Stewart: In Bombay and Calcutta, I am informed.

Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member give figures for telegrams which have been sent with stamps and without stamps?

The Honourable Sir Thomas Stewart: No, Sir I am unable to give the figures.

RECENT EARTHQUAKE SHOCK IN SOUTH INDIA.

1558. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member for Communications state.

(a) whether there was an earthquake shock recently in South India,

(b) what was its duration and effect, and

(c) whether the cause of the shock has been investigated, if so, what are the causes?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) Seismograms recorded a shock of less than half a minute; no loss of life or damage to property was reported.

(c) Its cause is unknown.

NON-ALLOTMENT OF QUARTERS TO NEWLY-RECRUITED MUSLIMS ON THE EASTERN BENGAL RAILWAY.

1559. *Mr. Muhammad Nauman: (a) Is the Honourable Member for Railways aware of the fact that newly-recruited Muslims on the Eastern Bengal Railway are generally not allotted quarters in the districts?

(b) If the reply to part (a) be in the negative, will the Honourable Member be pleased to place on the table a statement showing.

(i) the total number of quarters in different colonies and districts, and

(ii) the number of newly recruited Hindus who have been allotted quarters, and the number of newly-recruited Muslims who have been allotted quarters, and who have not been allotted quarters?

The Honourable Sir Thomas Stewart: (a) Government are informed by the Eastern Bengal Railway administration that the facts are not as stated by the Honourable Member

(b) Government have no information and do not propose to collect it because the labour and expense involved in its collection will not be justified by the results to be obtained

POSTING OF MUSLIMS TO CERTAIN OFFICES ON THE EASTERN BENGAL RAILWAY.

1666. **Mr. Muhammad Nauman:** Will the Honourable Member for Railways be pleased to state whether efforts have ever been made by the Railway Administration to post Muslim officers in the Personnel Branch, Welfare Officers, Traffic Manager's Office and General Manager's Office of the Eastern Bengal Railway, to safeguard the interests of Muslims who have been allotted 45 per cent posts and are 60 per cent of the population in the country through which the Railway runs? If Muslim officers were posted in the above-mentioned offices, will the Honourable Member state the names of the Muslim officers?

The Honourable Sir Thomas Stewart: Government cannot accept the proposition that the posting of railway servants should be regulated on a communal basis or that the posting of officers of a particular community is necessary to safeguard the interests of subordinate employees of that community

Mr. Muhammad Nauman: Is the Honourable Member aware that by manipulations Muslim officers are put in unimportant places and the key positions never go to them really?

The Honourable Sir Thomas Stewart: I am not so aware

Mr. Lalchand Navalrai: May I know if Government and the Honourable Member have a soft corner for Muslims? I should like to have an answer.

Mr. President (The Honourable Sir Abdur Rahim). That is not a proper question.

Mr. Muhammad Nauman: Will the Honourable Member make investigation and see if they have been able to give Muslims any important positions since the last Resolution.

The Honourable Sir Thomas Stewart: The Honourable Member in other questions has made the suggestion that there has been differential treatment of his particular community. The information I have from the Railway Administration is that the facts are not as stated by the Honourable Member

Mr. Muhammad Nauman: I take a definite stand that there has been differentiation and that it is continuing Will the Honourable Member make further investigation in the matter and find out how things stand.

(No answer)

NON-GRANT OF INCREMENTS OF PAY ON THE EASTERN BENGAL RAILWAY.

1561. *Mr. Muhammad Nauman: Is the Honourable Member for Railways aware of the fact that employees on the Eastern Bengal Railway are not granted increments of pay regularly for not passing certain departmental examination? If so, what are the latest rules from the Railway Board on the subject?

The Honourable Sir Thomas Stewart: As regards the first part, the position is that the General Manager of the Eastern Bengal Railway is competent to prescribe examinations in order to determine whether an officer is qualified to pass efficiency bars in the scales of pay of certain categories of staff As regards the second part, I would refer the Honourable member to paragraphs 141 and 142, page 43, in the State Railway Establishment Code corrected up to 30th June, 1937, a copy of which is in the Library of the House

Mr. Muhammad Nauman: Is the Honourable Member aware that Muslim employees are not given any facilities even for passing the departmental examination?

The Honourable Sir Thomas Stewart: The Honourable Member has a question to that effect later on

Mr. K. Ahmed: Are Government aware that substantial portions of these questions are under inquiry? Since the Honourable Member was acting as Governor of Bihar and somebody else was officiating in his place here, may I request that the whole matter may be gone into by sending a copy of this question to the Department?

The Honourable Sir Thomas Stewart: I may inform the Honourable Member that representations have been made and have been sent for inquiry to the Department concerned.

Mr. K. Ahmed: Will the Honourable Member be pleased to forward these questions also, so that the whole matter may be inquired into?

The Honourable Sir Thomas Stewart: I am prepared to do so.

Mr. K. Ahmed: I am very much obliged to the Honourable Member.

DENIAL OF FACILITIES TO MUSLIM EMPLOYEES ON THE EASTERN BENGAL RAILWAY TO PASS DEPARTMENTAL EXAMINATIONS.

1562. *Mr. Muhammad Nauman: (a) Is the Honourable Member for Railways aware of the fact that Muslim employees on the Eastern Bengal Railway are not given full facilities in passing departmental examinations, and, if they themselves try to pass the examinations, they are compelled to apply for permission and leave which is normally denied to them?

(b) Will the Honourable Member be pleased to place before the House the rules on the subject and show how far the action of the Administration is justified?

The Honourable Sir Thomas Stewart: (a) Government are informed that the facts are not as stated by the Honourable Member

(b) Does not arise

Mr. Muhammad Nauman: Will the Honourable Member give me any instance in which Muslims have been given facilities for going abroad for passing departmental examination or for any training?

The Honourable Sir Thomas Stewart: There are on record two cases in which special facilities were given. In one case, there was no Muslim in the category of officer to whom the facility was given. In the other case, a man was given leave He went abroad at his own expense I may inform the Honourable Member that certain posts were recently sanctioned for the training of men in establishment and accounts work. Particular care was taken to reserve 50 per cent. of these posts for Muslims

Mr. K. Santhanam: May I know if it is necessary to go abroad to pass a departmental examination?

The Honourable Sir Thomas Stewart: No, Sir.

MANUFACTURE OF AEROPLANES IN INDIA

1563. *Mr. Manu Subedar: (a) Will the Honourable the Member for Communications please state how many aeroplanes are there registered in India under the Civil Aviation Department?

(b) Of what make are these aeroplanes and from which country have they been imported?

(c) What arrangements exist at present for repairs and assembling of these aeroplanes?

(d) Have Government received any representations from any firms supplying them, or other bodies either in India or abroad, for the manufacture in India of aeroplanes?

(e) Has the Industrial Research Bureau been asked to prepare a memorandum estimating the possibilities and the difficulties of such manufacture?

The Honourable Sir Thomas Stewart: (a) There were 153 aircraft registered in India on the 31st October, 1938.

(b) A statement giving the information is laid on the table.

(c) The repair of aeroplanes and the assembling of imported component parts are carried out in India by operating companies, by the agents of the manufacturing firms, by flying clubs and by the Aeronautical Training Centre of India.

(d) No.

(e) No

Aeroplanes registered in India on 31st October, 1938.

Make	No. of aircraft	Country of manufacture
De Havilland Aircraft Company Limited, Hatfield	80	Great Britain
British Aircraft Manufacturing Company Hanworth	8	
Phillips and Powis Aircraft Limited	8	
Percival Aircraft Limited Luton	8	
Sir W. G Armstrong Whitworth Aircraft Limited	4	
A. V Roe and Company Limited, Manchester	4	
General Aircraft Limited, Croydon	3	
Airspeed (1934) Limited, Portsmouth	3	
Saunders-Roe Limited East Cowes	2	
Short Brothers (Rochester and Bedford) Limited	1	
Desoutter Aircraft Company Limited, Croydon	1	
Spartan Aircraft Limited, Cowes	1	
Gosport Aircraft Company Limited, Heaton	1	
British Aircraft Corporation (1935) Limited, Portsmouth	1	
Curtis Reed Aircraft Company Limited	2	Canada.
Waco Aircraft Limited United States of America	12	United States of America
Beech Aircraft Corporation, Kansas	3	
Lockheed Aircraft Corporation	2	
Taylor Aircraft Company Bradford	2	
Taylor-Young Airplane Company, Inc , Ohio	1	
Stinson Aircraft Corporation Inc	1	
Heath Aircraft Corporation	1	
Flying Fleas	4	Components received from England and France
Total	153	

Mr. Manu Subedar: Will the Honourable Member read that statement if it is very brief?

The Honourable Sir Thomas Stewart: It is not at all brief; it is a very long statement

Mr. Manu Subedar: May I inquire what is the rate of replacement in the case of these aeroplanes,—that is, what percentage of wastage is provided for?

The Honourable Sir Thomas Stewart: That is a question I could not possibly answer without notice.

Mr. Manu Subedar: May I inquire—with regard to the last part of the question—if Government have considered, either in connection with communications or in connection with defence, the possibility and the feasibility of having aeroplanes manufactured in this country?

The Honourable Sir Thomas Stewart: I am not aware of any deliberate investigation into that question.

EUROPEANS AND INDIANS RECRUITED ON STATE RAILWAYS.

1564. ***Mr. Manu Subedar:** (a) Will the Honourable Member for Railways please state how many Europeans were recruited for the services of the State Railways in 1936-37 and 1937-38 for (i) superior services for which the proportion of 25 per cent recruitment is laid down, and (ii) for other services?

(b) How many of them were imported from England and how many of them were recruited locally?

(c) With regard to other services mentioned in part (ii) of (a) above, how many Indians on the same remuneration and the same conditions of service were recruited during the same period?

The Honourable Sir Thomas Stewart: (a) (i) Three in each year.

(ii) If by other services the Honourable Member means Lower Gazetted Services, the reply is none

(b) Five were recruited direct from England The sixth came by transfer from a Provincial Government

(c) Does not arise

Mr. Manu Subedar: In connection with workshops—and this is with reference to a previous reply of the Honourable Member—several men have been imported from England without the Public Service Commission being asked to inquire whether men with similar qualifications were available in India My question, (a) (ii), was entirely with reference to that question

The Honourable Sir Thomas Stewart: I am quite unaware of the officers to which the Honourable Member refers

Mr. T. S. Avinashilingam Chettiar: With reference to sub-question (i), may I inquire whether these three were imported because men were not available in India?

The Honourable Sir Thomas Stewart: They were imported in pursuance of the declared policy of the Government of India

Mr. T. S. Avinashilingam Chettiar: What I want to know is this, if they were imported to make up the twenty-five per cent Europeans in that category, or suitable Indians were not available and so they were imported?

The Honourable Sir Thomas Stewart: They were imported in pursuance of the policy by which twenty-five per cent. of the recruitment to higher posts is, for the time being, from the United Kingdom

Mr. Manu Subedar: With reference to a previous answer, I am reiterating my inquiry In a previous answer the Honourable Member said that the Europeans were imported for the superior services in accordance with the percentage laid down, without any inquiry as to whether similar men were

available or not in this country My inquiry on that occasion was about the lower grades and I am asking about that but the Honourable Member is not replying. Were any men recruited for the lower grades from the United Kingdom?—part (a) (ii) of the question "for other services"?

The Honourable Sir Thomas Stewart: The type of person I think the Honourable Member has in mind is for the lower gazetted service and I have answered his question by saying that none were imported

CLAIMS FOR COMPENSATION ARISING OUT OF THE BAMRAULI TRAIN DISASTER.

1565. ***Mr. Badri Dutt Pande:** (a) Reference the Honourable Member for Railways' reply to my supplementary starred question No 1188 asked in this House regarding Bamrauli train disaster, will the Honourable Member for Railways be pleased to state if any claims for compensation were put forward by the relatives of those who died in the train smash or by some injured persons? If so, will he be pleased to state as to whether any compensation was paid or is proposed to be paid?

(b) If so, to whom and how much?

The Honourable Sir Thomas Stewart: (a) and (b) Claims for compensation have been received

Five have been settled, *viz*

J H Rayfield, for Rs 6,851

Mirza Karrar Hasan, for Rs 300.

Anand Swarup, for Rs 650

Gobind Prashad Dubey, for Rs 250

B S Batlaw, for Rs 468/13/-

Offers have been made in two other cases, *viz*

to C N Seth for Rs 400

to Shadi Ram for Rs 500

Mr. Badri Dutt Pande: May I know if no application has come from the Mukerji brothers, who are connected with the Government of India, and three of the members of whose family died at the Bihta train disaster? Have no claims come from them?

The Honourable Sir Thomas Stewart: There are still a certain number of cases under investigation, but I do not know the names of the individuals concerned therein

Mr. Lalchand Navalrai: May I know who investigated these cases of compensation, and who decides?

The Honourable Sir Thomas Stewart: The railway officers do

Mr. Lalchand Navalrai: Which officers?

The Honourable Sir Thomas Stewart: I am afraid I cannot give the individual designations of the officers employed.

DISPARITY IN LEAVE RULES BETWEEN GOVERNMENT AND RAILWAY SCHOOLS.

1566. *Mr. Badri Dutt Pande: (a) Will the Honourable Member for Railways be pleased to state if it is a fact that the Headmaster or the teacher in-charge of Government Schools of the United Provinces during summer vacations are allowed no retrenchment whatsoever in leave, whereas those of East Indian Railway schools are allowed leave on full pay in proportion to the period they forego their vacations?

(b) Is it a fact that the clerks of East Indian Railway schools are treated as teachers in matter of leave whereas those of Government schools do not come under the rules of Vacation Department?

(c) Will the Honourable Member please explain the reason of such disparity in the matter of leave rules between the Government and railway schools?

The Honourable Sir Thomas Stewart: (a) Government have no information with regard to the first part of the question As regards the second part leave on average pay is reduced in proportion to the period of vacation availed of

(b) Government are not aware of the actual practice, but information is being collected so far as East Indian Railway schools are concerned and will be laid on the table of the House

(c) The conditions of service of the teachers in the Government and Railway schools are presumably not the same

Mr. Badri Dutt Pande: May I know why the conditions are not the same?

The Honourable Sir Thomas Stewart: Well, Sir, it is very difficult for me to answer that because I am in no way responsible for the policy that may be followed by the Provincial Government.

Mr. Badri Dutt Pande: Are both these institutions not governed by the same Fundamental Rules?

The Honourable Sir Thomas Stewart: I should imagine not

APPOINTMENT OF AN INDIAN AS AGENT OR DEPUTY AGENT OF A STATE RAILWAY.

1567. *Mr. S. Satyamurti: Will the Honourable Member for Railways be pleased to state·

(a) whether there is any Indian acting as Agent or Deputy Agent in any State Railway;

(b) the reasons why no Indian Agent or Deputy Agent has been appointed so far, and

(c) whether there is any prospect in the near future of any Indian being chosen for the Agent's or Deputy Agent's posts or similar high offices in the Indian State Railways?

The Honourable Sir Thomas Stewart: (a) The designations 'Agent' and 'Deputy Agent' have now been altered to 'General Manager' and 'Deputy General Manager' on the State-managed Railways There is no Indian

acting as General Manager on any State-managed Railway, but there is one Indian officiating as Deputy General Manager on the Great Indian Peninsula Railway.

(b) I would refer the Honourable Member to the information laid on the table on the 10th November, 1988, in connection with parts (c) to (f) of starred question No 81 asked by Mr Manu Subedar on the 8th August, 1988

(c) I am not in a position to give any forecast.

Mr. S. Satyamurti: With reference to the answer to clause (b) of the question, may I know if there has been no case where a non-Indian has been preferred to an Indian, otherwise qualified, for the posts of General Manager or Deputy General Manager?

The Honourable Sir Thomas Stewart: Well, Sir, in answer to Mr Manu Subedar's question I laid on the table a fairly lengthy statement showing cases in which Indians had been chosen as Agents and Deputy Agents

Mr. Manu Subedar: May I know if it is not the case that there was no permanent occupant of these posts?

The Honourable Sir Thomas Stewart: The Honourable Member is entirely wrong I should be obliged if he will read the information I have given, with more care

Mr. S. Satyamurti: My question is if there has been no case in which an Indian otherwise qualified to be selected for the post of General Manager or Deputy General Manager on Indian State Railways was rejected or a non-Indian was preferred for either of these jobs?

The Honourable Sir Thomas Stewart: I was endeavouring to answer that when the thread of my discourse was broken In answer to Mr Manu Subedar's question I laid on the table a fairly lengthly list of cases in which Indians had been put in the posts of Agent or Deputy Agent, and my presumption is that a deliberate choice was made and that they were preferred to all other possible candidates for the posts

Mr. S. Satyamurti: With reference to the future—and this is with reference to parts (b) and (c) of the question taken together—will the Honourable Member give some indication to the House as to when, considering the claims of existing men likely to be promoted to these places, there is a chance of Indians being appointed permanently as Agents or Deputy Agents?

The Honourable Sir Thomas Stewart: As I have already suggested, I am not in a position to make any accurate forecast, but the policy of the Government in that matter was stated at some length in the course of the debate during the last Railway Budget discussions

Mr. Manu Subedar: Will the Honourable Member give an assurance that an Indian will be preferred in future for these places?

The Honourable Sir Thomas Stewart: I refer the Honourable Member to the speech that I made in the course of the debate to which I have just referred.

Mr. Manu Subedar: May I suggest that the Honourable Member should reply to my simple question whether he can give an assurance that Indians will be preferred in future for these places?

The Honourable Sir Thomas Stewart: What does the Honourable Member mean by "preferred"?

Mr. Manu Subedar: Other qualifications being the same, the Indians would be given preference for places of General Managers and Deputy General Managers.

The Honourable Sir Thomas Stewart: I refuse to take into account the contingency contemplated by the Honourable Member

STATE CONTROL OF COMPANY-MANAGED RAILWAYS ON EXPIRY OF THEIR CONTRACTS.

1568. ***Mr. S. Satyamurti:** Will the Honourable Member for Railways be pleased to state

(a) what are the Company-managed Railways whose contracts fall in during the course of the next ten years,

(b) the years in which the contracts of other Company-managed Railways fall in, and

(c) whether Government are taking any steps to take over these Company-managed Railways whose contracts will fall in shortly, if so, what they are, if not, why not?

The Honourable Sir Thomas Stewart: (a) Assuming that my Honourable friend is referring to Companies managing State-owned railways, the contracts of the following Companies can be terminated, after 12 months' notice in each case, during the course of the next ten years, on the dates noted against each

1 Assam Bengal Railway—31st December 1941

2 Bombay, Baroda and Central India Railway—31st December 1941

3 Bengal and North Western and Rohilkund and Kumaon Railways —31st December 1942

4 Madras and Southern Mahratta Railway—31st December 1945

5 South Indian Railway—31st December 1945

(b) The contract of the Bengal Nagpur Railway can be terminated after 12 months' notice on the 31st December, 1950

(c) No The question of taking over a line to State management is considered a reasonable time before notice of termination of contract has to be given which is generally a year

Mr. S. Satyamurti: In view of the fact that we are now at the end of 1938, and the contracts of the first two railways terminate in 1941 and we have to give one year's notice and the investigation must start a year before, may I know whether the Government have begun to address their mind to the question of terminating these contracts, especially in view of the fact that they will require money and the financial future of the Government of India is not very bright?

The Honourable Sir Thomas Stewart: I have suggested that it is our practice to start about a year before the notice of termination has to be given

Mr. S. Satyamurti: But when does the time start? We have got to give notice in 1940 if the contract expires in 1941 and we ought to begin about it What is the earliest date when, according to my Honourable friend, Government will begin to apply their mind to it?

The Honourable Sir Thomas Stewart: The 1st January 1940

Mr. S. Satyamurti: You have got to give notice then?

The Honourable Sir Thomas Stewart: No

Mr. Badri Dutt Pande: When does the contract of the R K R expire?

The Honourable Sir Thoams Stewart: The R K R agreement will be up on the 31st December 1942

Mr. S. Satyamurti: May I ask whether the Government have any policy in this matter or they decide these questions *ad hoc* as each contract falls in and as they begin to apply their mind?

The Honourable Sir Thomas Stewart: As at present advised, the policy is to decide on the merits of each particular case

Mr S. Satyamurti: May I know whether the Government are aware of the sense of this House recorded on more than one occasion by means of Resolutions and by means of cut motions on the Railway Budget demands that as and when these contracts fall in, the State should acquire the management of these Railways also and may I know whether Government have rejected the recommendation and, if so, why?

The Honourable Sir Thomas Stewart: I am aware of the feeling as expressed in the motions to which the Honourable Member has referred, and in any consideration of the matter full weight will be given to the expressions of opinion that have been given on the floor of this House

Mr. S. Satyamurti: May I ask for some elucidation? My Honourable friend stated that Government's policy now is to treat each case on its merits as it arises But may I know whether Government have rejected the recommendation of this House that in the case of all these contracts, when they terminate, the Company management should also be taken over by the State management? May I also know why Government have rejected the recommendation and want to consider each case on its merits?

The Honourable Sir Thomas Stewart: For the simple reason that different cases may have different merits

Mr. S. Satyamurti: Have not Government got a regular policy in the matter considering that the bulk of the Railways are now State-managed and State-owned, including the so-called Company-managed Railways? May

I know why Government have not laid down a general policy in accordance with the wishes of this House, that all these railways are to be acquired and managed by the State as and when opportunity arises?

The Honourable Sir Thomas Stewart: The Honourable Member assumes that only two courses are open to Government—either not to take over any Railways or, else, to take over all of them. Government consider that there may be an intermediate course.

INSTALLATION OF FANS IN THIRD CLASS COMPARTMENTS

1569. *Mr S Satyamurti: Will the Honourable Member for Railways be pleased to state

(a) whether his attention has been drawn to the experiment proposed to be started by the Mysore State Railways for installing electric fans in some third class compartments in their railway;

(b) whether Government proposed to make a beginning with installing electric fans in third class compartments in long distance trains;

(c) whether Government have considered levying a small extra charge for such compartments; and

(d) whether Government propose to move in this matter at all; if not, why not?

The Honourable Sir Thomas Stewart: (a) I have seen Press reports to that effect.

(b) (c) and (d) Government regret they are unable to contemplate the provision of electric fans in lower class stock in view of its very substantial financial implications both initial and recurring.

Mr S Satyamurti: With reference to the answer to clause (a) of the question may I know if the Railway Board made any attempt to get in touch with the Mysore State Railways to find out what exactly they propose to do what is the cost of it and how it will work?

The Honourable Sir Thomas Stewart: I am afraid I cannot answer that question.

Mr. S. Satyamurti: I have said in clause (a) of my question whether the Honourable Member's attention has been drawn to the experiment proposed to be started by the Mysore State Railways for installing electric fans in some third class compartments in their railway. May I know why the Government did not make any inquiries to find out what the sister State is doing?

The Honourable Sir Thomas Stewart: The Government have gone very fully into this question in the past and they know what the implications of it are as far as they themselves are concerned.

Mr. S. Satyamurti: May I ask, then, in view of my Honourable friend's categorical and emphatic last answer, whether he can give the House some idea of the initial cost of installing electric fans in third class compartments in long distance trains, trains which run, say about 12 hours a day?

The Honourable Sir Thomas Stewart: I am afraid I could not give figures on such an indefinite question as that

Qazi Muhammad Ahmad Kazmi: Has the Honourable Member got any idea of the percentage of the increase in cost which may be realised from the travelling public in case of long distance journeys if electric fans are fitted in long journey trains?

The Honourable Sir Thomas Stewart: One estimate of the cost was that in order to instal fans in third class compartments, an initial cost of something like up to 2 crores would have to be incurred and that would involve a recurring expenditure of 30 lakhs These figures, I think, suggest fairly clearly that it is not an economic proposition unless there is levied a surcharge on the third class passenger which he is very unlikely to pay

Prof. N. G. Ranga: Is not that an estimate for all trains of all railways?

The Honourable Sir Thomas Stewart: That is for putting fans into all third class compartments

Mr. K. Santhanam: May I ask whether the expenditure of 30 lakhs will be necessary for running the fans all the year or only for part of the year?

The Honourable Sir Thomas Stewart: I cannot answer that question

Mr. S. Satyamurti: In view of the fact that we are pressing it again and again, whether Government have examined or find some time to examine the cost of fitting these electric fans only to certain third class compartments running in certain long distance trains and the recurring cost of working them only during the hottest months of the year, may I know whether Government will look into it and also clause (c) of the question, and will they consult the Advisory Committee or the House with a view to seeing if it is feasible at all?

The Honourable Sir Thomas Stewart: If the Honourable Member will put a detailed question down, I shall endeavour to give him detailed estimates

Mr. S. Satyamurti: Sir, I have put down this question six times on the floor of this House and also by means of supplementary questions I have asked again and again what would be the cost in fitting these fans in third class compartments in long distance trains

Mr. President (The Honourable Sir Abdur Rahim) As the Honourable Member wants information on a definite question, the Government Member wants notice The Honourable Member evidently wants notice to know what his idea is.

Mr. S. Satyamurti: The Honourable Member very well knows my idea.

Mr. T. S. Avinashilingam Chettiar: In view of the fact that the Mysore Government have thought fit to introduce fans in third class compartments, will the Government of India obtain information from them as to whether it is an economical proposition or not?

The Honourable Sir Thomas Stewart: I see no suggestion that the installation of fans by Mysore Railways will be economical.

Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member enquire into the matter and get the information?

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

REPORTED POSTPONEMENT OF THE OPENING OF NEW BROADCASTING STATIONS.

1570. *Mr. S. Satyamurti: Will the Honourable Member for Communications please state:

(a) whether his attention has been drawn to the article in the *Sunday Statesman* of 13th November entitled "All-India Radio postpone new station schemes",

(b) whether the attention of Government has been drawn specially to the following statement

"This latest move of officialdom gives ample proof—if any is needed—that as long as broadcasting in India is subjected to every wind which blows from the Treasury, so long must it remain a relative failure when compared with the services enjoyed by other countries",

(c) whether the attention of Government has been specially drawn to the following sentence in that article:

"It is difficult to appreciate the mentality of a Government which, having expended quite a considerable sum of money on an extensive scheme of new stations, suddenly decides to withhold the wherewithal for their efficient operation before the scheme itself is even completed", and

(d) whether Government propose to consider the other statements in the article and decide to open stations at Trichinopoly and Dacca immediately, if not, why not?

The Honourable Sir Thomas Stewart: (a), (b) and (c) Yes

(d) The Trichinopoly and Dacca Stations are not expected to be ready before the end of the current financial year and the question of opening them immediately does not arise All aspects of the question will be taken into consideration before any decision is taken as to whether these Stations should be opened or not when they are ready

Mr. S Satyamurti: May I know whether in the case of Trichinopoly machinery which has been already ordered and received at the station is now being sent back to Madras?

The Honourable Sir Thomas Stewart: I am not aware that it is being sent back to Madras.

Mr. S. Satyamurti: May I know whether Government have calculated the depreciation in the machinery if it is not used?

The Honourable Sir Thomas Stewart: I have already informed the Honourable Member that this consideration will be borne in mind before a final decision is taken regarding the opening of the station

Mr. S. Satyamurti: How long will Government take to come to a decision? May I be assured that Government will not take longer than will ensure the preparation of the machinery for coming to a decision for the opening of the station?

The Honourable Sir Thomas Stewart: I hope that the decision regarding this station will be taken at a very early date

Mr. S. Satyamurti: With reference to parts (b) and (c), may I know whether Government have examined the allegation in part (b), and may I know whether Government have any proposals to make the Broadcasting Department, because it is a revenue earning department, which will gradually earn more, not subject to every wind which blows from the Treasury?

The Honourable Sir Thomas Stewart: I find it very difficult to make any comments on the journalism of the passage

Mr. S. Satyamurti: I put these words merely because they were compendious and accurate in my judgment In view of the fact that Broadcasting is a department whose future is hopeful, may I know if Government will make it more or less independent of the whims and caprices of the Administrators or permanent occupants of the Treasury Benches?

The Honourable Sir Thomas Stewart: I cannot admit the existence of caprice to which reference has been made

Mr. S. Satyamurti: Is not my Honourable friend aware that the Trichinopoly station was decided to be opened, the staff was appointed, the machinery was ordered and one fine morning the whole thing is stopped? Is that not caprice?

The Honourable Sir Thomas Stewart: No, Sir, that is a measure of emergency

ACQUISITION OF IMPERIAL AND BRITISH AIRWAYS BY A PUBLIC CORPORATION.

1571. *Mr. S. Satyamurti: Will the Honourable Member for Communications be pleased to state

(a) whether his attention has been drawn to the statement of Sir Kingsley Wood in the House of Commons that Government proposed to bring in legislation at an early date to set up a public corporation to acquire the existing undertakings of Imperial and British airways,

(b) what the interest of the Government of India is in the Imperial airways,

(c) whether that is also going to be acquired by the public corporation mentioned by the Air Minister, and

(d) whether the Government of India are being consulted in the matter; if so, what their position is going to be in the matter?

The Honourable Sir Thomas Stewart: (a) I have seen a report in the Press to that effect

(b) The Government of India have no financial interest in Imperial Airways

(c) and (d). Do not arise.

LABOUR CONTRACT OF THE CALCUTTA PORT TRUST.

1572. *Mr. Manu Subedar: (a) Will the Honourable Member for Communications please state what steps Government have taken with regard to the labour contract with Messrs Bird and Co, which was renewed for a long period without tenders or alternative quotations being called against the unanimous opinion of the Indian Trustees of the Calcutta Port Trust?

(b) What provision is proposed to be made by (i) executive instructions and (ii) a change in the Port Trust Act, to prevent a repetition?

(c) Have Government considered the desirability of consolidating the general provisions of the Port Trust Acts for all the major ports in India, particularly those provisions which involve control and supervision of the Government of India on large contracts, either for goods or for services?

(d) Have Government asked for the views of (i) the Port Trust Boards and (ii) Chambers of Commerce, on the subject of a consolidation in such law?

(e) Are any steps of any kind taken, or proposed to be taken by Government, by which Indian firms would have a full, fair and equal opportunity to secure contracts for supplying goods and labour to Port Trusts?

(f) Has the question of the elimination of labour contractors altogether been examined? If so, are Government in a position to say, as the result of such examination, the financial grounds for continuing the present system?

The Honourable Sir Thomas Stewart: (a) and (e) The Honourable Member's attention is invited to the reply given on the 13th September, 1938, to his starred question No 985 and its supplementaries and to part (f) of Mr Satyamurti's starred question No 954

(b) None

(c) and (d) No

(f) I am unable to say whether all Port Trusts have considered the matter but recently the Madras Port Trust considered it and decided unanimously that the labour required for the Trust's traffic department should be obtained by contract instead of departmentally The reply to the second part of the question is in the negative

Mr. Manu Subedar: With reference to part (b) may I enquire whether Government have written at all to the Calcutta Port Trust, approving or disapproving or otherwise making suggestions in connection with this contract?

The Honourable Sir Thomas Stewart: No, Sir

Mr. Manu Subedar: May I enquire whether it is a fact that the provisions of the Acts governing the major Ports of Calcutta and Madras are widely divergent, in the one case the Government have the power and in the other case Government have no power to interfere with any contract of this kind?

The Honourable Sir Thomas Stewart: There are differences in the various Port Trust Acts.

Mr. Manu Subedar: May I know whether in view of the differences Government propose to consolidate the law relating to this subject for the major ports?

The Honourable Sir Thomas Stewart: No

Mr. Manu Subedar: With reference to parts (b) and (c) may I know what steps Government have taken in order to ensure that Indian firms may not be kept aloof from these contracts and so that there may be no repetition of the sort of thing which has taken place in connection with Bird & Company's contract?

The Honourable Sir Thomas Stewart: The Honourable Member assumes. I do not admit that there is anything wrong about the contract

Mr. President (The Honourable Sir Abdur Rahim) This has been fully canvassed more than once

Mr. Manu Subedar: Can the Honourable Member assure us that he will watch out and that he will see that adequate and fair chance is given to Indian firms to tender for contracts of this kind for major port trusts?

The Honourable Sir Thomas Stewart: I see no reason why special action should be taken in the matter

USE OF SLEEPERS ON STATE RAILWAYS.

1573. *Mr. Manu Subedar: (a) Will the Honourable Member for Railways please state if the Railway Board have collected the results of observation and calculation as to the relative merits of railway sleepers from (i) Canadian pine (treated), (ii) Indian wood, (iii) steel, and (iv) cast iron?

(b) How do these compare in respect of durability and what is their relative position in respect of prices on the present basis?

(c) Which of these have the Railway Board finally recommended to the State Railways for use, and why?

(d) What percentage of the purchase during the last five years did each of these occupy, so far as the State Railways are concerned?

The Honourable Sir Thomas Stewart: (a) Yes, except in respect to Canadian pine

(b) On a basis of durability the order is cast iron, steel, Indian wood treated and Indian wood On a basis of price the order today is Indian wood, Indian wood treated, cast iron and steel

(c) The Railway Board has not recommended to State Railways the use of any particular class of sleeper. Due to such considerations as freight, unsuitability of soil for use of metal sleepers, etc., the class of sleeper that can be most economically employed varies between railways and between different sections of the same railway.

(d) The information is being collected and will be laid on the table in due course.

Mr Manu Subedar May I know if the Railway Board are watching the system of purchase of sleepers by the railway administrations to see that they do so most economically?

The Honourable Sir Thomas Stewart Yes Sir It is the concern of the Railway Board to watch that the railway administrations are working as economically as possible

Mr K Santhanam May I know whether so far as the railway sleepers are concerned there are any orders placed abroad?

The Honourable Sir Thomas Stewart I cannot speak with any assurance but my recollection is that most of the orders if not all are placed in India

Mr Manu Subedar May I know whether in view of the recent fall of steel prices the order of preference mentioned by the Honourable Member is altered?

The Honourable Sir Thomas Stewart I said that the order was based on the prices of today

Prof N G Ranga Has any examination been made to satisfy Government that the present system of purchasing these various kinds of sleepers is the most economical?

The Honourable Sir Thomas Stewart Yes Sir The system of purchase is that followed in regard to other purchases

Prof N G Ranga When was this particular thing examined? Was it examined by any body of experts recruited from India alone?

The Honourable Sir Thomas Stewart Does the Honourable Member wish to know whether there has been any Committee appointed to enquire into the question of sleeper purchase?

Prof N G Ranga Was there any expert enquiry committee recruited from among the people employed on the railways in India?

The Honourable Sir Thomas Stewart I am aware that the question of suitability of various types of sleepers has been the subject of examination by experts

Prof N G Ranga Experts of the Railway Board or experts specially appointed for this particular purpose?

The Honourable Sir Thomas Stewart Experts from the Railways

Mr K Santhanam May I know if the purchases are made through the Indian Stores Department or directly by the railways concerned?

The Honourable Sir Thomas Stewart They are made in accordance with the stores purchase policy of the Government of India I cannot say without notice whether the Controller of Stores is actually employed for the purpose

OVERCROWDING OF TRAINS AT SEALDAH RAILWAY STATION.

1574. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state

(a) the number of Railway tickets collected at Sealdah station on each of the three days, *viz*, the 5th, the 6th and the 7th November, 1938,

(b) the total accommodation of all the passenger trains which reached Sealdah on each of the three days,

(c) whether it is a fact that a comparison of figures for (a) and (b) disclose overcrowding,

(d) the reasons why station staffs are allowed to sell tickets in excess of accommodation,

(e) whether it is a fact that ordinary trains and even mails were overcrowded in those days and station staff were unwilling or powerless to prevent overcrowding,

(f) how many special trains were run in the three days,

(g) what concessions, if any, in fares were granted,

(h) whether Government are prepared to consider the undesirability of announcing concessions, unless the administration is absolutely sure to be able to cope with the increased traffic;

(i) whether there is any written record of the increased traffic estimated beforehand, and

(j) if so, the figure for Sealdah arrivals on those three days (estimates, not actuals)?

The Honourable Sir Thomas Stewart: (a) to (f) The information has been called for and a reply will be laid on the table of the House when it is received

(g) No special concession was allowed, but the period of issue and availability of week-end tickets was extended between all stations on the Eastern Bengal Railway system and Calcutta, Santipur, Nabadwip Ghat and Manihari Ghat

(h) Railway Administrations do not notify the grant of concessions unless they have reason to believe that the increased number of passengers that are likely to travel can be conveniently dealt with

(i) and (j) I understand that at the time the extension of the period of availability of week-end tickets was notified, it was not expected that the traffic offering would be in excess of that which could be carried by the trains which were arranged to run Later information, however, showed that a far greater number of passengers were likely to travel, and all available stock was mobilised to cope with this number which, at that stage, was estimated to be about 75,000

Mr. Brojendra Narayan Chaudhury: I want to know whether as a matter of fact there was overcrowding or not and the actual traffic went far beyond the estimated traffic

The Honourable Sir Thomas Stewart: I have asked for specific information in regard to the overcrowding But it might be deduced from the replies I have made to the latter parts of the question that there were more passengers than were expected

ALLEGED INCIVILITY OF A TICKET COLLECTOR TOWARDS A LADY AT SEALDAH RAILWAY STATION

1575. *Mr. Brojendra Narayan Chaudhury Will the Honourable the Railway Member please state

(a) whether his attention has been drawn to the following incident at Sealdah station on the 27th October, 1938, at 1-30 P.M. at the gate of platform No 5 reported by Mr F C Ghose in the *Anandabazar* of 28rd Kartik

"A lady was coming to Calcutta from Jessore to see her dying husband lying at the Campbell Hospital Owing to excessive rush of Choramoni Joga passengers, she was obliged to board a second class compartment though holding a lower class ticket She had a male guardian with her When they reached Sealdah, a crewman Travelling Ticket Collector detained the lady and prevented her from seeing her dying husband although the male guardian protested that he was responsible and was willing to be taken to police station or anywhere to be prosecuted against, as the money with him did not cover the excess fare charged for the lady and her children,"

(b) whether it is permissible under the rules to detain a *purdah* lady when accompanied by a male escort, if so, whether Government propose to consider alteration of the rules, and

(c) whether Government intend to censure the official concerned for incivility?

The Honourable Sir Thomas Stewart: (a) Yes

(b) The procedure for dealing with a passenger found travelling without a proper ticket is laid down in the Indian Railways Act, and I would refer the Honourable Member to sections 113 and 132 of that Act

(c) I understand the Railway Administration are making an enquiry in connection with the allegations made

Mr. Brojendra Narayan Chaudhury: Do I understand that it is not allowed by the rules to detain a *purdah* lady who has a male escort?

The Honourable Sir Thomas Stewart: If the Honourable Member will refer to the sections of the Railway Act which I have quoted, he will find what the procedure is

Mr. Brojendra Narayan Chaudhury: My question is, is the detention permissible under the rules?

The Honourable Sir Thomas Stewart: Certainly; the provisions of the Act are perfectly clear in that respect.

GUARDS ON THE NORTH WESTERN RAILWAY.

†1576. *Sardar Sant Singh: (a) Will the Honourable Member for Railways please state if it is a fact that on the North Western Railway, the guards of grade II are required to officiate as guards of grade III? If so, does the administration pay any officiating allowance to such guards during the period for which such guards officiate? If not, why not?

(b) Is it a fact that according to the conditions of service in force at the time of their recruitment the salaries of each grade were fixed? If so, what changes have been made? What are the grades at present, duties of each grade and the salaries fixed for each grade?

(c) Is it a fact that Indian guards on this Railway have not been given any increment in some cases for over twelve years and that the promotion of such guards stands blocked for long periods? If so, why?

(d) Is it a fact that in letter No 757E/1/4, dated the 8th November, 1936, the North Western Railway declared its policy not to keep vacant posts of grade III and also to increase the number of posts of grade III in order to compensate them for abolishing grade IV? If so, what was the total strength of guards in grade III and IV on the above date and what is the corresponding increase made after this letter in the effective grade III?

The Honourable Sir Thomas Stewart: (a)—(d) The Honourable Member has asked for very detailed information which has necessitated a reference to the Railway Administration concerned I will lay a reply on the table of the House in due course

LOW PERCENTAGE OF MUSLIMS ON THE EASTERN BENGAL RAILWAY.

†1577. *Shaikh Rafiuddin Ahmad Siddiques: (a) Will the Honourable Member for Railways be pleased to state the total number of Muslims employed on the Eastern Bengal Railway on the closing list of the year 1933 and the number of Muslims employed on the closing list of the year 1937?

(b) Are Government aware that the percentage of Muslims employed on the Eastern Bengal Railway is said to be about five per cent of the total, in spite of the Government of India Resolution of 1934?

(c) What efforts Government have made to make up Muslim quotas of 45 per cent as required on the Eastern Bengal Railway?

The Honourable Sir Thomas Stewart: (a) I would refer the Honourable Member to the statements given as Appendix C in Volume II of the Report by the Railway Board on Indian Railways for the years 1933-34 and 1936-37, copies of which are in the Library of the House

(b) No The percentage of Muslims to total number of employees on the Eastern Bengal Railway at the end of 1936-37 was 29 2

(c) The communal percentages fixed under the Government of India Resolution referred to by the Honourable Member in part (b) of the question apply only to direct recruitment, and Government are satisfied from the annual returns submitted by the Eastern Bengal Railway that these orders are being observed.

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

LOW PERCENTAGE OF MUSLIMS ON THE EASTERN BENGAL RAILWAY.

†1578. ***Shaikh Rafiuddin Ahmad Siddiquee:** Will the Honourable Member for Railways be pleased to state·

(a) the number of Muslims and Hindus discharged on the Eastern Bengal Railway after the Resolution of 1934, and

(b) the percentage of improvement of Muslims employed since 1934, and place on the table a comparative statement of percentage in 1934, 1935, 1936 and 1937 on the whole Eastern Bengal Railway Administration?

The Honourable Sir Thomas Stewart: (a) Statistics of the nature referred to by the Honourable Member are not maintained Government are informed that Muslim employees are treated in the same way as other employees in the matter of discharge

(b) Presumably the Honourable Member requires information regarding the percentage of Muslims actually employed on the Eastern Bengal Railway for the years 1934, 1935, 1936 and 1937 If so, the improvement between 1934 and 1937 in the percentage was 2·19 I lay on the table a statement showing the percentages during the years mentioned above

Statement showing the percentage of Muslims actually employed on the Eastern Bengal Railway for the years 1934, 1935, 1936 and 1937

	Per cent
1934	27
1935	27
1936	28 4
1937	29 19

FACILITIES FOR SPECIAL TRAINING TO MUSLIMS ON THE EASTERN BENGAL RAILWAY.

†1579. ***Shaikh Rafiuddin Ahmad Siddiquee:** (a) Will the Honourable Member for Railways please state if Government are aware that no facilities for expert training in India and in foreign countries are offered to even deserving Muslims on the Eastern Bengal Railway?

(b) Will Government state the number and names of Eastern Bengal Railway employees who were offered facilities for special trainings during 1988—1988?

The Honourable Sir Thomas Stewart: (a) In all matters Muslim employees are treated in exactly the same way as employees of any other community. Government are informed that no discrimination has been made on the Eastern Bengal Railway in the matter of granting facilities for training in India or abroad to its employees.

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

(b) Presumably the Honourable Member is referring to the non-gazetted staff If so, I lay a statement on the table giving the required information

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Statement showing the names of subordinates during the years 1933 to 1938 (so far as can be ascertained) who have been granted facilities for training in India and abroad

1	Mr N. R Roy	Journeyman, Kanchrapara Shops, was sent on deputation to the East Indian Railway Shops, Jamalpur, for training in "Heat Treatment"
	(There were no Muslim Journeymen in service at that time.)	
2	Mr R Bhattacharjee	Assistant Draftsman, Electrical Department, was granted leave without pay for six months at his own request to take a training at the Ruston works He had recently joined, had little leave due and his post was kept open for him

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DISCHARGE AND HARASSMENT OF MUSLIMS BY THE SUPERINTENDENT, WATCH AND WARD, EASTERN BENGAL RAILWAY

†1580. ***Shaikh Raffuddin Ahmad Siddiquee:** (a) Will the Honourable Member for Railways please state if Government are aware of the fact that the Superintendent, Watch and Ward, Eastern Bengal Railway, has been indiscriminately discharging Muslim employees and harassing them in all possible directions?

(b) Will the Honourable Member inform the House of the action he has taken in this particular matter on the memorandum presented to him in Simla by Members of the Central Assembly?

The Honourable Sir Thomas Stewart. I am obtaining information and will a lay a reply on the table of the House in due course

SELECTION FOR THE POSTS OF PASSENGER SUPERINTENDENT AND ASSISTANT CLAIMS INSPECTOR AT HOWRAH

†1581. ***Shaikh Raffuddin Ahmad Siddiquee:** (a) Will the Honourable Member for Railways be pleased to state how many Muslims were examined for the post of a Passenger Superintendent, Howrah Station, East Indian Railway, and Assistant Claims Inspector, Howrah Division?

(b) Were these posts advertised or made public before they were actually filled in or did the Administration set up any Selection Board to examine candidates for the said post?

(c) Will Government be pleased to state how the present incumbent of the post of Passenger Superintendent, Howrah, was selected to fill up the post permanently?

The Honourable Sir Thomas Stewart: (a) The cases of three Muslims were examined for the post of Passenger Superintendent when that post last fell vacant There are no posts of Assistant Claims Inspector, Howrah Division

(b) and (c). The post of Passenger Superintendent, which is a selection post, was not advertised, but was filled by the Divisional Superintendent, Howrah, from among the staff already in service on the recommendation of a Committee of three senior scale officers who considered the claims of suitable candidates

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

HOURS OF WORK FOR DRIVERS.

1582. †**Mr. K. Santhanam:** Will the Honourable Member for Railways please state:

(a) whether any hours of work have been prescribed for drivers of locomotives,

(b) whether they vary from railway to railway, and

(c) whether in many cases the drivers, especially of Goods trains, have to work for more than twelve hours at a stretch?

The Honourable Sir Thomas Stewart. (a) I would refer the Honourable Member to the latter part of the reply given to part (a) of unstarred question No 194 asked by Mr Mohan Lal Saksena on the 2nd October, 1937, in this House

(b) and (c) I would refer the Honourable Member to page 109 of the Memorandum by the Railway Board for the Royal Commission on Labour, which gives the information available with Government A copy of this publication is in the Library of the House

Prof. N. G. Ranga: Are we to understand that the position has not changed at all since that Memorandum was submitted to the Royal Commission on Labour?

The Honourable Sir Thomas Stewart: Not so far as I am aware

Mr. T. S. Avinashilingam Chettiar: In view of the fact, as I understand, that there is a difference in the number of hours necessary for railway drivers to work, will some steps be taken to arrive at a uniform practice?

The Honourable Sir Thomas Stewart: Steps have been taken as far as possible All railway administrations have been asked to work as far as possible within the sixty-hour week

Prof. N. G. Ranga: Is there no definite unalterable maximum number of hours fixed for the working of these men so that they can be assured of sufficient rest and the travellers also may be assured of sufficient safety?

The Honourable Sir Thomas Stewart: So far as I am aware, there is no prescribed maximum

Mr. K. Santhanam: May I know if there are not cases where drivers have to work for 12 hours at a stretch? I understand there are such cases on the South Indian Railway

The Honourable Sir Thomas Stewart: These, Sir, are exceptional

Prof. N. G. Ranga: In view of the fact that the maximum number of hours was fixed in the case of motor drivers, will Government consider the advisability of taking early steps to fix similar periods for these drivers also?

The Honourable Sir Thomas Stewart: It is not possible to do so.

Mr. Manu Subedar: Does the Honourable Member suggest that a man can drive a train for 12 hours without there being an accident?

Mr. President (The Honourable Sir Abdur Rahim) That is a matter of argument

RETRENCHMENT IN THE BROADCASTING DEPARTMENT.

1583. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member for Communications state

(a) whether there are proposals of retrenchment in the Broadcasting Section,

(b) if so, what are the proposals of retrenchment which Government have decided upon,

(c) what are the proposals of retrenchment in contemplation, and

(d) what will be the net amounts of saving in either case?

The Honourable Sir Thomas Stewart. (a) Yes

(b)—(d) A statement giving the required information is laid on the table of the House

Statement showing the proposals of retrenchment in All-India Radio and the anticipated savings on account thereof

Details of proposal	Savings anticipated 1939-40.
	Rs
Proposals decided upon.	
(1) Conversion of the Peshawar Station into a relay station	64,000
(2) Keeping vacant the posts of Director of Programme Planning and Director of Publicity	12,000
Proposals under contemplation	
(1) Postponement of the opening of the Trichinopoly and Dacca Stations or opening them as relay stations only	No final decision has been reached. If the opening of the stations is postponed there will be a saving of about 2½ lakhs. If they are run as relay centres there should be a saving of at least a lakh.
(2) Keeping vacant the post of Assistant Chief Engineer	Rs. 9,000

Mr. T. S. Avinashilingam Chettiar: Apart from Trichinopoly and Dacca, are there any other contemplated stations which are not going to be opened according to the original programme?

The Honourable Sir Thomas Stewart: I am afraid I do not understand what the Honourable Member means by "contemplated". If he means stations in respect of which definite plans and estimates had been drawn up and decisions had been taken, then the answer is, no

Prof. N. G. Ranga: Is the retrenchment policy of the Government of India in regard to this broadcasting section completely independent of any considerations of the capacity of any particular station to pay or not to pay its own way?

The Honourable Sir Thomas Stewart: No, Sir, I should be very reluctant to say that the policy of Government was independent of the financial considerations involved

Mr. T. S. Avinashilingam Chettiar: May I have the figures asked for in clause (d)?

The Honourable Sir Thomas Stewart: In each case it is given in the statement I have laid on the table

Mr. T. S. Avinashilingam Chettiar: May I have the total?

The Honourable Sir Thomas Stewart: I am afraid I cannot give the total

CLOSING OF A RAILWAY SIDING IN MEERUT DISTRICT.

1594. *Mr. Sham Lal (on behalf of Mr Sri Prakasa) Will the Honourable Member for Railways state

(a) if there was a railway siding of the North Western Railway at Qaiserganj in the Meerut district, working for the last year and a half or so, to supply the needs of the merchants of the locality,

(b) if, on the Municipality charging an octroi on goods brought in Qaiserganj, which were formerly exempt from the same, the merchants moved off to another centre called Sabun, where also there was a railway siding called Tataganj,

(c) if the Commissioner of Meerut wrote to the Divisional Superintendent, Delhi, to close the Tataganj railway siding,

(d) if the Divisional Superintendent did so,

(e) if the Divisional Superintendent consulted his higher authorities before taking action in this behalf;

(f) if the Commissioners of Provincial Governments have any authority over the Railway Administration;

(g) the considerations that led the Divisional Superintendent of Delhi to comply with the wishes of the Commissioner, Meerut, and

(h) what is the usual procedure adopted in such cases?

The Honourable Sir Thomas Stewart: (a) to (d) Yes

(e) The matter is within the competence of the Divisional Superintendent

(f) No

(g) and (h) The siding had been opened as a temporary measure and was closed as it was not economical to continue dealing with goods traffic, both in this temporary siding and at the Kaiserganj Mandi The handling of goods at both places resulted in the duplication of staff, additional wagons being used, and involved more shunting. The usual procedure in

the provision and withdrawal of facilities of this kind is to consult the local civil authorities

ILLITERATE DRIVERS, SHUNTERS AND FIREMEN ON THE NORTH WESTERN RAILWAY.

1585. *Mr. Sham Lal: Will the Honourable the Railway Member be pleased to state

(a) if there are illiterate drivers, shunters and firemen and if he is aware that on account of this lack of education, there is great danger to public safety,

(b) if the answer to part (a) above be in affirmative, what procedure is adopted on the North Western Railway to keep the illiterate drivers, shunters and firemen in touch with train working rules, circulars and letters issued by the departmental heads in connection with the train and locomotive working in the interest of public safety,

(c) if it is a fact that many illiterate drivers run through the stations where the trains are booked to stop and thus harassing the public, and

(d) if it is so, why the North Western Railway Administration does not reserve the post of the driver for literate men only like other Indian Railways while many literate men are available now-a-days?

The Honourable Sir Thomas Stewart: (a) and (b). There are illiterate drivers, shunters and firemen The qualifications and competency of men for posts of drivers and shunters are tested by a superior officer before appointments to any of these posts are made The departmental arrangements for keeping such staff advised of instructions issued from time to time in connection with the working of trains are such as to ensure that public safety is not endangered.

(c) The illiteracy of a driver has, so far as Government are aware, never been a contributory factor to a train running through a station at which it is required to stop

(d) Does not arise

Prof. N. G. Ranga: Is any effort being made by the railways to teach these people how to read and write in their spare time?

The Honourable Sir Thomas Stewart: No, Sir; I am not aware that any adult literacy campaign is being carried on by the railway administrations

Prof. N. G. Ranga: Will Government consider the advisability of appealing to the teachers employed in their own railway schools to conduct these adult education classes for these people so that they may be helped to learn to read and write?

The Honourable Sir Thomas Stewart: No, Sir; I do not think the Honourable Member's suggestion is practicable.

PROMOTION OF LITERATE MEN AS DRIVERS ON THE NORTH WESTERN RAILWAY.

1586. *Mr. Sham Lal: Will the Honourable the Railway Member be pleased to state

(a) if it is a fact that North Western Railway have selected some literate men to promote them as drivers,

(b) if the answer to part (a) above be in the affirmative, in how many grades they have been appointed,

(c) on what grounds they were employed in different grades and different rates of wages,

(d) if it is a fact that there are four grades and there are four kinds of trains, mail, express, passenger and goods, and

(e) how many drivers of grade II are employed on passenger trains?

The Honourable Sir Thomas Stewart: (a) The appointment of literate men as firemen with a view to their eventually becoming drivers when so qualified is a long-established practice

(b) and (c) If the Honourable Member will specify the period for which the information is required, I will endeavour to obtain it

(d) Yes

(e) The information is not readily available

PROMOTIONS OF CLEANERS, FIREMEN AND SHUNTERS ON THE NORTH WESTERN RAILWAY.

1587. *Mr. Sham Lal: With reference to his reply to my starred question No 158, clause (d) asked in this House on the 12th August, 1938, that orders contained in the Agent, North Western Railway, letter No 522/179, dated the 20th November, 1933, were cancelled for administrative reasons, will the Honourable the Railway Member be pleased to state

(a) whether it is a fact that in reply to the memorial of literate men, the staff were informed in February, 1935, that the total length of service of cleaners in grades I and II on their combined list will be taken in determining their seniority for the promotion to the post of firemen,

(b) whether it is a fact that these orders concerned the cleaners only, or firemen and shunters were also affected by these orders,

(c) whether it is a fact that grade IV is preferred to grade III, similarly grade III to II, if so, whether the grade II is not given this preference over grade I; and

(d) whether the administration is prepared to promote literate men as drivers in the interest of safe working and public safety, if so, when, if not, why not?

The Honourable Sir Thomas Stewart: (a) Yes

(b) The orders were applicable to cleaners only.

(c) As grades I and II are combined, no question of preference as between men in the combined grade arises

(d) I would refer the Honourable Member to the reply I have just given to his question No 1585.

(ŏ) WRITTEN ANSWERS.

NON-STOPPAGE OF CERTAIN TRAINS AT NATHNAGAR ON THE EAST INDIAN RAILWAY.

1588. *Babu Kailash Behari Lal: Will the Honourable the Railway Member be pleased to state

(a) if it is a fact that the Railway authorities received representation from the local public of Nathnagar for the stoppage of 23-Up and 24-Down trains at Nathnagar railway station on the Sahibganj loop line of the East Indian Railway,

(b) if it is a fact that on account of lowering of speed from 25 miles to 10 miles per hour between some of the stations due to the standard of interlocking at these stations, the railway authorities showed their inability to accede to the request of the public for the stoppage of the said trains at Nathnagar, and

(c) if it is a fact that the railway authorities have proposed to reconsider the question of stoppage of the said trains at Nathnagar as soon as the position in respect of the speed restriction on the Sahibganj loop improves?

The Honourable Sir Thomas Stewart: (a), (b) and (c) Yes

BREACH BETWEEN BADLA GHAT AND DHAMHARA GHAT ON THE BENGAL AND NORTH WESTERN RAILWAY

1589. *Babu Kailash Behari Lal: (a) Will the Honourable Member for Railways be pleased to state when did the breach occur between Badla Ghat and Dhamhara Ghat in Bengal and North Western Railway?

(b) For how many days the traffic was closed and when it was resumed?

(c) What is the arrangement for transhipment in the breach?

(d) If Government propose to run through train between Badla Ghat and Dhamhara Ghat by making diversion line over some temporary bridge?

The Honourable Sir Thomas Stewart: (a) 21st August, 1938

(b) 28 days The traffic was resumed on the 18th September

(c) Transhipment is over a pontoon bridge

(d) Trains will run through as soon as the diversion now under construction has been completed.

REPRESENTATION OF BIHAR IN THE ADVISORY COMMITTEE OF THE EASTERN BENGAL RAILWAY.

1590. *Babu Kailash Behari Lal: Will the Honourable Member for Railways be pleased to state:

(a) the total mileage of Eastern Bengal Railway and how many miles of it run through Bihar; and

(b) whether there is any Advisory Board for Eastern Bengal Railway and whether there is any representation of Bihar in the said Board?

The Honourable Sir Thomas Stewart: (a) 2,010, of which 222 are in Bihar

(b) The reply to the first part is in the affirmative and to the second in the negative.

LOSS OF A BAG OF THE DELHI RAILWAY MAIL SERVICE CONTAINING REGISTERED ARTICLES

1591. *Bhai Parma Nand: (a) Will the Honourable Member for Communications be pleased to state if it is a fact that the registered bag of Delhi Railway Mail Service, dated the 10th April, 1927, was substituted with an empty bag and was received in the Delhi General Post Office?

(b) Is it a fact that the Postmaster, Delhi, failed to take any action till after the expiry of more than two weeks?

(c) Is it a fact that the mail agents and mail clerk, Delhi, were suspected and handed over to the police?

(d) Is it a fact that after a searching enquiry, the police found them not guilty and let them off?

(e) Is it a fact that a portion of the loss was recovered from these persons?

(f) Is it a fact that the registered parcels bags received before 6 A.M. by the mail clerk from the railway station were kept unsecured on the floor of the respective branches without a box big enough to secure them, as required by rule 65 (4) of the Manual, Volume IV?

(g) Is it a fact that the Postmaster, Delhi, who did not act according to the rules, escaped all responsibility for the loss?

The Honourable Sir Thomas Stewart: (a) I understand that the fact is as stated

(b) to (g) I have no information on these points The matter has been dealt with by the Postmaster-General, Punjab and North-West Frontier Circle, within whose competence it is and a copy of the question is being sent to him

DISREGARD OF COMMUNAL PROPORTION BY THE SUPERINTENDENT OF POST OFFICES, ETAWAH, IN MAKING APPOINTMENTS.

1592. *Bhai Parma Nand: (a) Will the Honourable Member for Communications be pleased to state if it is a fact that there is fixed a communal proportion for recruitment to the postal services for the United Provinces?

(b) Is it a fact that the Superintendent of Post Offices in Etawah subdivision is completely disregarding that ratio in making superior and inferior appointments?

The Honourable Sir Thomas Stewart: (a) Yes

(b) Government have no information to that effect The Postmaster-General is competent to deal with the matter and a copy of the question has been sent to him for such action as he may consider necessary.

SUB-LETTING OF A CONTRACT AT THE DELHI RAILWAY STATION.

1593. *Mr. D. K. Lahiri Chaudhury: Will the Honourable Member for Railways please inquire and state

(a) whether to sub-let a contract on the North Western Railway is a breach of contract, and

(b) whether the contractor of miscellaneous eatables sold at Delhi main station has sub-let the contract to one Ram Kanwar of Katra Lachhu Singh, Kauria Pul, Delhi?

The Honourable Sir Thomas Stewart: (a) Yes

(b) The General Manager, North Western Railway, states that he has no reason for believing that the contract has been sub-let

CONTRACTS FOR LOADING AND UNLOADING OF GOODS IN DELHI AND ALLAHABAD DIVISIONS

1594. *Mr. D. K. Lahiri Chaudhury: Will the Honourable Member for Railways please state

(a) whether the contractor of loading and unloading of goods in Delhi Division, North Western Railway, has sub-let his contract to a resident of Delhi,

(b) whether the said contractor has been given contracts in Allahabad Division, East Indian Railway,

(c) whether the tenders for the contracts given to the said contractor were invited by the East Indian Railway Administration,

(d) the newspapers and the date in which the advertisement for these tenders were published, and

(e) the professional qualifications of the said contractor?

The Honourable Sir Thomas Stewart: (a) The General Manager, North Western Railway, has no reason to believe that the contract has been sub-let.

(b) Yes

(c) No

(d) Does not arise

(e) The contractor has considerable experience in dealing with contracts for the handling of goods and for licensing coolies He has held the Delhi Division contract since 1931 and has the requisite capital and experience of the labour market to successfully discharge his obligations under the contract

NOMINATION SYSTEM ON THE BENGAL NAGPUR RAILWAY.

1595. *Mr. K. S. Gupta: (a) Is the Honourable the Railway Member aware that nominations in service exist on the Bengal Nagpur Railway?

(b) Is it a fact that the officers on the Bengal Nagpur Railway suddenly nominate juniors to superior posts over and above the heads of qualified seniors?

(c) Is the Honourable Member aware that the seniors are prevented from making any complaint on pain of dismissal?

(d) Is the practice of nomination prevalent in other Railways?

(c) Is the Honourable Member prepared to draw the attention of the authorities of the Bengal Nagpur Railway that such injustice is put an end to?

The Honourable Sir Thomas Stewart: (a) to (c) and (e) Government have no information. The staff referred to are not Government servants, but are the servants of the Bengal Nagpur Railway, which is Company-managed I am, however, sending a copy of this question to the Agent and General Manager of that Railway for such action as he may consider necessary

(d) I presume the Honourable member is referring to promotion of non-gazetted staff If so, so far as the State-managed Railways are concerned, up to certain grades promotion is governed by seniority and above those grades by selection in accordance with the rules for the recruitment and training of non-gazetted staff on the State-managed Railways, a copy of which is in the Library of the House.

Denial of Privilege and Casual Leave to Employees on the Bengal Nagpur Railway.

1596. *Mr. K. S. Gupta: (a) Is the Honourable the Railway Member aware that for privilege and casual leave the employees on the Bengal Nagpur Railway have to wait for turns for years in the first case and months in the other?

(b) Is it a fact that privilege leave often lapses in the case of several employees of the Bengal Nagpur Railway for want of turns? If so, what is the action to be taken by Government to see that privilege and casual leave is not denied on the Bengal Nagpur Railway?

The Honourable Sir Thomas Stewart: (a) and (b) Government have no information The staff employed on the Bengal Nagpur Railway are not Government servants I am, however, sending a copy of this question to the Agent and General Manager of that Railway for such action as he may consider necessary.

Construction of a Combined Booking and Parcel Office at Vizianagram on the Bengal Nagpur Railway.

1597. *Mr. K. S. Gupta: (a) Is the Honourable the Railway Member aware that the combined booking and parcel office at Vizianagram, Bengal Nagpur Railway, was recently built?

(b) Is there any excess amount spent than the estimated cost for the building? If so, what is the excess? Is the excess due to modifications in the type-drawing?

(c) Is the sanction for modifications obtained from the superior authority by the officer concerned? If not, who is responsible for the modifications and the excess cost?

(d) Is there any type-drawing and estimate for the parking place at Vizianagram station? If so, is there any provision made for a trough to hold drinking water for horses and bulls?

The Honourable Sir Thomas Stewart: Enquiries are being made from the Railway Administration and a reply will be laid on the table in due

LEVEL OF THE ASHPIT AT DUSI AND HEIGHT OF MASONRY PILLARS OF WATER TANKS AT WALTAIR

1598. *Mr. K. S. Gupta: (a) Is the Honourable the Railway Member aware that the level of Dusi (Bengal Nagpur Railway) ashpit, newly constructed, has been two inches below the engine height?

(b) Were there any complaints from the engine-drivers with regard to the level of the ashpit?

(c) Has the height subsequently been raised? If so, who is responsible for the double expenditure?

(d) Is the Honourable Member aware that the height of masonry pillars of water tanks at Waltair had to be raised for a free flow of water? Is it due to the wrong levels taken at the time of construction of the overhead watering arrangements at Waltair? If so, who is responsible for this bad work and excess cost?

The Honourable Sir Thomas Stewart: Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course

DERAILMENT OF A GOODS TRAIN ON SOLWA BRIDGE BETWEEN JIMMIDIPETA AND GUMDA

1599. *Mr. K. S. Gupta: (a) Will the Honourable the Railway Member please state if it is a fact that there was a derailment of 518 goods train on Solwa Bridge between Jimmidipeta and Gumda at mid-night on the 13th July, 1937? If so, what was the cause of the derailment?

(b) Who was the Sub-Divisional Officer in charge of the section?

The Honourable Sir Thomas Stewart: (a) Yes, the accident occurred between Jimmidipeta and Gumda It was due to the track being defective after heavy rain

(b) This information is not available

RAILWAY OFFICIALS RECEIVING FAREWELL ADDRESSES, ETC

1600. *Mr. K. S. Gupta: Will the Honourable the Railway Member please state the policy of Government with regard to the railway officials receiving farewell addresses and valuable presents from their staff and their contractors at the time of transfer or retirement?

The Honourable Sir Thomas Stewart: The policy of Government in this matter is that the acceptance of farewell entertainments and addresses is prohibited except such as are of a substantially private and informal character Railway servants are also prohibited from accepting presents unless they are of trifling value and the instructions are that they should use their best endeavours to discourage the tender of such gifts

PAYMENTS FOR THE HAULAGE OF SALOONS.

1601. *Dr. Sir Ziauddin Ahmad: (a) Will the Honourable the Railway Member please state whether the Provincial Governments and the Government of India pay for the haulage of saloons reserved for Ministers, Members, and other officials? If so, at what rate?

(b) Does the railway administration charge for the haulage of the saloons of railway officers? If not, is the railway administration prepared to charge for the haulage in future and debit the amount under the heading of travelling allowances?

The Honourable Sir Thomas Stewart: (a) Yes The rates charged are given in rule 104, page 124 of the Indian Railway Conference Association's Coaching Tariff, No 11, a copy of which is in the Library of the House

(b) The reply to both parts is in the negative

GRANT OF FREE PASSES TO REFRESHMENT ROOM CONTRACTORS, ETC.

1602. *Dr. Sir Ziauddin Ahmad: (a) Will the Honourable the Railway Member please state whether the Railway administration give free passes to contractors engaged in construction, refreshment rooms, and otherwise?

(b) If the answer to part (a) be in the affirmative, do Government propose to determine the monetary value of these passes and debit the amount under the heading concerned?

The Honourable Sir Thomas Stewart: (a) Yes, in cases in which the terms of the agreements entered into with the contractors provide for passes being issued.

(b) No

DELAY IN THE DELIVERY OF *DAK* FROM PURULIA AT PATNA

1603. *Mr. Ram Narayan Singh: (a) Is the Honourable Member for Communications aware that formerly *dak* from Purulia was delivered to the addressees at Patna on the next day, but that it is now so done on the third day?

(b) If the answer to part (a) be in the affirmative, is he prepared to enquire into the grievances of the people mentioned in part (a) above and to state whether these grievances will be removed?

The Honourable Sir Thomas Stewart: (a) The position is as stated by the Honourable Member except that unmasured articles of the letter mail meant for delivery from Patna Head Post Office are delivered at the window of the office at 10-30 hours on the second day of posting

(b) The delay in delivery is due to the 52 Up Puri Asansol Fast Passenger which takes the Purulia mails at Adra Junction not connecting with the 5 Up Punjab Mail at Asansol I understand that the Bengal Nagpur and the East Indian Railway Administrations have examined this point and the conclusion arrived at is that the connection is not at present practicable

ABSENCE OF A POSTS AND TELEGRAPHS OFFICE AT CHAKULYA IN SINGHBHUM DISTRICT.

1604. *Mr. Ram Narayan Singh: Is the Honourable Member for Communications aware of the fact that Chakulya in the Singhbhum district is an important railway station for the Bengal Nagpur Railway and

also an important centre of trade in the district, but that there is no Posts and Telegraphs Office there, and if so, is he prepared to enquire into the desirability of having a Posts and Telegraphs Office there?

The Honourable Sir Thomas Stewart: I have no information The matter is within the competence of the Postmaster-General, Bihar and Orissa Circle, to whom a copy is being sent for such action as he considers desirable.

INTERFERENCE WITH CONGRESS ACTIVITIES BY CERTAIN RAILWAY OFFICIALS AT GIRIDIH AND BERMO.

1605. *Mr. Ram Narayan Singh: Is the Honourable Member for Railways aware of the fact that Railway Colliery Superintendent of Giridih and the Manager of the Joint Railway Colliery, Bermo, are interfering with Congress activities of the local Congress workers among the labourers of the railway collieries there, and if so, is it his intention to enquire into the reasons for this interference?

The Honourable Sir Thomas Stewart: The reply to the first part is in negative The second part does not arise

SALE OF TICKETS AT GAYA RAILWAY STATION.

1606. *Mr. Ram Narayan Singh: Is the Honourable Member for Railways aware that at Gaya railway station there are sign-boards hung up here and there to show that tickets are available all twenty-four hours, but tickets are really sold to intending passengers only about an hour before the train leaves the station? If so, what are the orders of the authority and the practice actually prevailing on this point in the locality there?

The Honourable Sir Thomas Stewart: The General Manager East Indian Railway, states that tickets can be obtained at all hours at Gaya railway station and that the Station Master, Gaya has not received any complaint that tickets are sold only about an hour before the train leaves the station

RAILWAY FACILITIES FOR THE INDIAN NATIONAL CONGRESS SESSION TO BE HELD AT TRIPURA

1607. *Mr. Ram Narayan Singh: Will the Honourable Member for Railways be pleased to make a full statement as to the steps the railway authorities are going to take to give facilities to the coming sessions of the Indian National Congress going to be held at Tripura in the Central Provinces in the month of February next?

The Honourable Sir Thomas Stewart: (i) Adhartal station will be re-opened temporarily to facilitate train operations

(ii) Return tickets for all classes of passengers at a fare and a half will be issued from all Great Indian Peninsula Railway stations, excluding those on feeder lines, to Madan Mahal.

(iii) The number of carriages on the ordinary trains running on this section will be increased Special trains will be arranged and shuttle services run as may be found necessary.

(iv) The following temporary facilities will be provided at Madan Mahal station

Waiting accommodation for upper class passengers in tents

Waiting accommodation for third class male and female passengers, (bamboo matting construction) including bathing places, urinals and latrines

Seventeen units temporary detachable service huts for various uses such as booking offices, police chowkies, food stalls, segregation hut and first-aid hut, etc

Five units temporary detachable huts for staff

Levelling ground and improvement of road

Rail level passenger platform

Extension of siding for stabling accommodation

Unclimbable fencing and gates

Lighting arrangements with high power lamps

Water supply and drainage

Temporary foot overbridge

DRAFTSMEN CLERKS OF THE TELEGRAPH ENGINEERING DEPARTMENT.

1608. *Mr. Amarendra Nath Chattopadhyaya: Will the Honourable Member for Communications be pleased to state

(a) whether it is a fact that the draftsmen clerks of the Telegraph Engineering Department are required to do works which are mostly technical in nature;

(b) whether it is a fact that drastic reduction has been made in the pay of the draftsmen clerks under the revised scales of pay;

(c) whether it is a fact that the draftsmen clerks of the old scales of pay were in receipt of about six or seven advance increments for their additional technical qualification,

(d) whether it is a fact that the second grade draftsmen clerks in the revised scales of pay are required to undergo a test in an additional paper in drawing, and

(e) whether Government are prepared to grant advance increments to the lower grade draftsmen clerks for their additional technical qualification; if not, why not?

The Honourable Sir Thomas Stewart: (a) and (b) No

(c) The orders of Government were to create these posts on the ordinary time-scale of pay for clerks but the Director-General was authorised to fix the initial pay of a draftsman clerk at any stage of the time-scale not exceeding the stage of Rs. 90 as it was thought that it might not be possible to obtain them on the minimum pay of the time-scale I understand that they were recruited on a higher initial pay in the old time-scale.

(d) No test is formally laid down

(e) No.

SUPPLY OF WATERPROOFS TO TELEGRAPH LINEMEN ON PETROL DUTY.

1609. *Mr. Amarendra Nath Chattopadhyaya: Will the Honourable Member for Communications be pleased to state

(a) whether it is a fact that telegraph linemen on patrol duty have to carry a bag of tools, etc , on the head while walking and watching wires overhead,

(b) whether it is a fact that these linemen on patrol and interruption duties have occasionally to climb up trees and telegraph posts,

(c) whether he is aware that it is not convenient for the linemen to do their duties with waterproofs on in rainy season instead of using umbrellas; and

(d) if the replies to parts (a), (b) and (c) above be in the affirmative, whether Government are prepared to sanction waterproofs to linemen, if not why not?

The Honourable Sir Thomas Stewart: (a) Yes, but not necessarily on the head

(b) Yes

(c) No

(d) The existing rules already authorise the supply of waterproof caps and capes to telegraph line staff employed in localities where the rainfall is exceedingly heavy and they are sanctioned as and when considered necessary

INCOME AND EXPENDITURE OF THE VIZAGAPATAM HARBOUR.

1610. *Seth Govind Das: Will the Honourable Member for Communications please state

(a) whether the receipts of revenue of the Vizagapatam Harbour in 1937-38 exceeded the working expenditure, including the interest charges on capital,

(b) the difference, if any, in the event of the revenue exceeding the working expenditure, including interest charges, or the deficit amount if the revenue receipts are less than the working expenses *plus* interest,

(c) whether it is contemplated by Government either to close the port, or hand it over to the Bengal Nagpur Railway,

(d) the part of the total interest on the capital invested on the port which has been paid by the harbour from the beginning till this year,

(e) the total amount of interest on the invested capital due from the harbour,

(f) whether Government hope to recover the total interest charges on the capital invested from the port; and

(g) whether Government propose the re-organisation of the harbour so as to place its revenues on a remunerative basis?

The Honourable Sir Thomas Stewart: (a) No

(b) There was a surplus of Rs 31,671 in the year 1937-38 excluding the interest charges on capital These latter amounted approximately to Rs 18 lakhs during the year

(c) and (g) Government do not contemplate closing the Port, but they are exploring all avenues for improving its financial position.

(d) No part

(e) and (f) The interest charges during the period of construction amounted to Rs. 89 lakhs, and since 1934-35 the annual interest charges have varied between 18 and 19 lakhs per annum I am afraid I am quite unable to say whether this will be recovered or not There cannot be any hope of recovering it of course if the Port is closed down

EMPLOYMENT OF PASSED CANDIDATES AS POSTAL CLERKS IN BIHAR AND ORISSA.

1611. *Seth Govind Das: Will the Honourable Member for Communications please state

(a) with reference to my starred question No 728 of the 5th September, 1938, whether arrangements have been made to entertain the services of those postal clerks that have passed the February examinations held at Ranchi,

(b) whether the result of the Ranchi examination was published;

(c) the reason for holding other examinations for clerks before absorbing them in permanent services,

(d) whether their services rendered during the last nine months have been satisfactory enough, and

(e) whether he is prepared to consider the desirability of absorbing them in permanent service and suspend holding of further examinations for fresh appointments until there are sufficient vacancies for another contingent of clerks for service?

The Honourable Sir Thomas Stewart: (a) Sixteen of the candidates who passed the examination held at Ranchi in February, 1937, and were approved by the Postmaster-General have been permanently employed

(b) No

(c) The introduction of a new system of recruitment by open competitive examination Those who appeared at the February examination referred to were only eligible for vacancies which occurred before the announcement of the competitive examination.

(d) Government have no information.

(e) I would refer the Honourable Member to the reply given to part (d) of his starred question No. 728 on the 5th September, 1938.

ORIYAS IN THE SUBORDINATE POSTAL SERVICE IN ORISSA.

1612. *Seth Govind Das: Will the Honourable Member for Communications please state:

(a) the percentage of Oriyas in the subordinate service of the Postal Department in Orissa as against Bengalis and Biharis;

(b) the number of Postal Inspectors engaged in the entire province of Orissa and the number of Oriyas among them;

(c) the number of Oriya Inspectors engaged in the Postal Department of the Sambalpur Division;

(d) the number of Oriyas in the Province of Orissa working now as Postmasters and Telegraph Masters, as against Bengalis, Biharis and others;

(e) whether the appointment of Oriyas in their Province has been given preference against candidates that are non-Oriyas; and

(f) whether Government propose taking special care to give preference to the people of the Provinces they belong over outsiders notwithstanding their claim of domicile?

The Honourable Sir Thomas Stewart: (a) to (d) The information asked for is not available and cannot be collected without undue expenditure of time and labour

(e) Candidates joining the subordinate services in the various branches of the Posts and Telegraphs Department must as a general rule belong to (*i.e.*, be natives of or be domiciled in) the revenue division in which they enlist So far as these services are concerned the people of Orissa do get a preference over candidates from outside the province

(f) No

LEVY OF POLL-TAX ON FOREIGNERS RESIDING IN FRENCH INDIA.

1612A. *Mr. K. Santhanam: Will the Secretary for External Affairs please state.

(a) whether the attention of Government has been drawn to the news published on page 5 of the *Madras Mail* of the 10th November, 1988, relating to the proposed levy of poll-tax on foreigners residing in French India;

(b) whether the news is correct, and, if so, whether the tax will be levied on British Indians in French India; and

(c) what steps Government have taken or propose to take in the matter?

Sir Aubrey Metcalfe: (a) Yes.

(b) The Government of India are informed that the Government of the French Settlements in India propose to levy such a poll-tax upon all foreigners resident in those Settlements without discrimination and, since British Indians rank as foreigners, they will also have to pay the tax, if it is imposed by law

(c) The matter is one which concerns the internal administration of a Foreign Settlement, so that no direct action by the Government of India is possible. Government are, however, considering the matter with particular reference to the question whether the interests of British Indian subjects will be adversely affected It would not be in the public interest to explain at present what course they propose to adopt in the matter.

†97-104.

‡105.

POSTS WITH SALARIES CREATED IN THE RAILWAY DEPARTMENT AND ON STATE RAILWAYS.

106. Mr. Satya Narayan Sinha: (a) Will the Honourable Member for Railways please lay on the table a list of gazetted and non-gazetted posts and the salaries attached to them created in the Railway Department, Railway Board, Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railways separately since the inauguration of the Montague-Chelmsford Reforms and the total increase in 1938, over the expenditure in 1919?

(b) Has any retrenchment been effected in the salary of those posts after 1930? If so, to what extent and in which posts, and if not, why not?

The Honourable Sir Thomas Stewart: (a) The information is not readily available and Government are not prepared to compile it as they consider that the amount of time and labour involved in its compilation will not be justified by the results likely to be obtained

(b) I would refer the Honourable Member to rules 156—159 and Appendix XVII of the State Railway Establishment Code corrected up to 30th June, 1937, which gives the old and the revised scales of pay for the gazetted staff of State-managed Railways A copy of this publication is in the Library of the House

As regards non-gazetted staff, I would refer the Honourable Member to the statements showing the revised scales of pay for non-gazetted staff on State-managed Railway which are in the Library of the House These contain the information available with Government

CONFIDENTIAL REPORTS OF STAFF ON STATE RAILWAYS.

107. Mr. Satya Narayan Sinha: Will the Honourable Member for Railways please refer to the replies given to

(i) part (f) of starred question No 113, asked on 3rd February, 1938;

(ii) question No 189, asked on 14th November, 1932,

(iii) starred question No 1464, asked on 28th November, 1932, and

(iv) starred question No 1250, asked on 15th October, 1936,

and state

(a) the category of staff (non-gazetted) and salaries attached to them for which confidential reports are required on Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railways, and

(b) whether the staff are shown or communicated the contents of their confidential reports, or whether the confidential reports are not meant for the person concerned or affected?

The Honourable Sir Thomas Stewart: (a) and (b) The powers to frame detailed rules for the preparation, submission and disposal of confidential

†These questions, which were on the Order Paper, for the 25th November, 1938, have lapsed, the meeting fixed for that day having been cancelled

‡This question, which was on the Order Paper for the 28th November, 1938, has lapsed, the House having adjourned in memory of the late Maulana Shaukat Ali, M. L. A.

reports on non-gazetted railway servants have been delegated to the General Managers of State-managed Railways In this connection I would refer the Honourable Member to paragraph 668 on page 190 of the State Railway Establishment Code corrected up to 30th June, 1937, a copy of which is in the Library of the House

RUNNING OF TRAINS ACCORDING TO TIMINGS ON THE EAST INDIAN RAILWAY.

168. **Mr. Satya Narayan Sinha:** Will the Honourable Member for Railways please refer to the replies given to starred question No 116, asked on the 3rd February, 1938, and state whether the trains on the East Indian Railways run according to the timings indicated in the time table then in force?

The Honourable Sir Thomas Stewart: Every endeavour is made by the Administration to adhere to the timings shown in the time-table, but the more important trains were running late during the greater part of last year when the Administration decided to transfer XB class engines to the Lucknow and Moradabad Divisions where the only continuous length of 90 lb track on the East Indian Railway exists On these sections, a speed restriction of 45 miles per hour was imposed on these engines as an additional precautionary measure The result was that trains had to run to a time-table worked out on the basis of a maximum speed limit of 60 miles per hour with the general restriction of 45 miles per hour in force operating over a considerable length of the run The complete alteration of the time-table was considered, but rejected as impracticable, as all arrangements at junctions with other railways and with the Postal Department would have been completely upset

GRIEVANCES OF THE EAST INDIAN RAILWAY STAFF SERVING IN THE DELHI DIVISION.

169. **Mr. Satya Narayan Sinha:** Will the Honourable Member for Railways please state

(a) whether the North Western Railway Administration on 14th December, 1937, assured the staff taken over from the East Indian Railway Administration on transfer of Ghaziabad-Delhi-Kalka Section that their further advancement depended upon vacancies, their seniority and satisfactory work,

(b) whether the said assurance has been retracted by the Divisional Superintendent, Delhi, in his letters Nos 729-E /26/511, dated 5th March, 1938, 11th June, 1938 and 15th July, 1938, and

(c) the number and category of East Indian Railway staff, serving in Delhi Division, who have not received advancements after that assurance and the reasons therefor?

The Honourable Sir Thomas Stewart: I am obtaining information and will lay a reply on the table of the House in due course

PROMOTIONS TO THE ASSISTANT STATION MASTERS' POSTS ON THE NORTH WESTERN RAILWAY.

110. **Mr. Satya Narayan Sinha:** Will the Honourable Member for Railways please refer to the information given on 15th February, 1938, to

parts (e) and (f) of starred question No 24, asked on 31st January, 1938, and state.

(a) the pay in scale excluding running, mileage or other allowances of the staff before and on promotion, and

(b) the community of the staff promoted?

The Honourable Sir Thomas Stewart: (a) and (b) I lay on the table two statements giving the information required by the Honourable Member.

Statement showing categories of staff to which Assistant Station Masters or Station Masters were promoted from 1st January, 1935 to 31st December, 1937.

Category of staff	Community	Scale of pay before promotion	Pay before promotion	Scale of pay after promotion	Pay after promotion	Remarks
Station Masters, Grade III.	1 Hindu	150—10—190	160	250 fixed	250	Promoted as Chief Cash Witness
	1 Muslim	150—10—190	190	250 fixed	250	
Station Master, Grade I	1 Muslim	78—4—90—5—95	95	320—15—380—20—500	350	Had put in 2 years officiating service. Promoted as Traffic Inspector
Assistant Station Master, ordinary	1 Sikh 1 Muslim	45—5—60—3—75	66	100—5—140	100	Promoted as Assistant Sales Inspector.

Statement showing categories of staff promoted to the post of Assistant Station Masters, Grade V.

Category of Staff	Community	Scale of pay before promotion	Pay before promotion	Pay after promotion	Pay allowed after promotion	Remarks
Guards, Grade III	1 Hindu	75—5—105—115	115	260—10—300	260	
	1 Sikh	Do	115	Do	260	
	1 Anglo-Indian	Do.	115	Do	270	Had one year's officiating service at their credit.
	1 Hindu	Do	115	Do	270	
	2 Sikhs	Do	115	Do	270	
	1 Parsee	Do.	115	Do	270	
	1 European	Do	115	Do	270	
	1 Hindu 1 European	Do	105	Do	280	Had 2 years officiating service at their credit
	1 Anglo-Indian 1 Muslim	Do.	115	Do	280	Had 2 years officiating service at their credit.
	1 Muslim	Do.	105	Do	270	Had one year's officiating service at his credit
	1 Hindu	Do.	105	Do.	270	Had one year's officiating service at his credit
Guards, Grade IV	1 Hindu	125—10—185—200—210	185	260—10—300	260	
	1 Sikh	Do				
	1 Anglo-Indian	Do.				
	1 European.	Do.	185	Do.	270	
Station Masters, Grade I	1 Sikh	78—4—90—5—95	95	Do.	280	Had 2 years officiating service
	1 Sikh	Do	95	Do	280	Had 2 years officiating service.
Enquiry Clerk	1 Hindu	105—5—140	140	Do.	280	Had 2 years officiating service.

STANDARDISATION OF CONDITIONS OF SERVICE ON STATE RAILWAYS.

111. Mr. Satya Narayan Sinha: Will the Honourable Member for Railways please state whether he has considered the question of standardising conditions of services of non-gazetted staff on Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railways? If not, is he now prepared to take into consideration that question?

The Honourable Sir Thomas Stewart: I would refer the Honourable Member to the reply given to starred question No 275 asked by Mr N M. Joshi on the 17th August, 1938, in this House and to the supplementaries asked in connection with that question

STAFF FAILING IN VISION TEST ON STATE RAILWAYS.

112. Mr. Satya Narayan Sinha: Will the Honourable Member for Railways please lay a statement on the table of staff who failed in periodical vision test during preceding three years, or as near as available, on Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railways showing

(a) category of staff with scales of pay performing continuous duty for eight or over eight hours; and

(b) category of staff, with scale of pay, performing intermittent duty?

The Honourable Sir Thomas Stewart: Government cannot undertake to secure the information asked for as statistical records are not maintained in respect of matters of this kind

CONTRACTS TO VEND FOOD AND DRINKS, ETC, ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY

113. Mr. Satya Narayan Sinha: Will the Honourable Member for Railways please state

(a) the terms and conditions on which contracts to vend food, drinks, etc, in running trains and at stations on Shahdara-Saharanpur Light Railway were given during the preceding three years with the name of the contractor,

(b) the prices fixed by the administration for sale of those articles to travelling public by the contractor; and

(c) the actual prices on which those articles were sold in running train between Shahdara, Bhagpat Road, Basant, Kandhra, Shamb, Thana Bhawan Town, Rampur and Saharanpur?

The Honourable Sir Thomas Stewart: (a) The contractors were

Year	Name of contractor	Licence fee paid per mensem
		Rs.
1936 and 1937	Tayla Brothers	320
January to June 1938	Lala Hardon Singh	331
Since July 1938	General Trading Company	300

A copy of the agreement with the present contractor is being placed in the Library of the House.

(b) A copy of the tariff of charges in force up to June, 1938, and that now applicable is being placed in the Library of the House.

(c) I understand the prices actually charged prior to June, 1938, were lower than those shown in the tariff, as the latter was framed in the hope that only the best quality materials would be used. Current prices are based on the bazar quality and price

RENT RECEIVED FROM THE ÆRATED WATER FACTORY AT THE DELHI RAILWAY STATION

114. Mr. Satya Narayan Sinha: Will the Honourable Member for Railways please state the rent rate received from the Aerated Water Factory at Delhi main station on North Western Railway?

The Honourable Sir Thomas Stewart: The rent received for the land and shed occupied by the factory in 1937-38 was Rs 43-14

LICENCE FEES REALISED FROM STALL VENDORS AND RENT OF REFRESHMENT ROOMS ON THE NORTH WESTERN RAILWAY.

115. Mr. Satya Narayan Sinha: Will the Honourable Member for Railways please state

(a) what licence fees have been realised from stall vendors, and

(b) what room rent has been realised from refreshment rooms on North Western Railway during 1937-38 and up to date?

The Honourable Sir Thomas Stewart: On the understanding that both parts of the Honourable Member s question refer to the North Western Railway, the reply is

(a) no license fee is being recovered from stall vendors, except at Delhi, the position in respect to which I am explaining in my reply today to Pandit Sri Krishna Dutta Paliwal's unstarred question No 123

(b) no rent is being charged for rooms utilised as refreshment rooms

STAFF OF THE RAILWAY CLEARING ACCOUNTS OFFICE.

116. Mr. Satya Narayan Sinha: Will the Honourable Member for Railways please lay on the table a list of the staff of Railway Clearing Accounts Office on 1st April, 1938, showing

(a) the number in each category or class;

(b) the Railway Administrations from where they are on deputation;

(c) the minimum and maximum period of service; and

(d) the amount contributed by individual Railway?

The Honourable Sir Thomas Stewart: The list of staff of the Railway Clearing Accounts Office on the 1st April, 1938, is being printed and will be placed on the table when available On the particular points mentioned by the Honourable Member, the following information is however furnished

(a) A statement is attached herewith

(b) All the staff transferred from various railways have been permanently absorbed in this office. None are on deputation.

	Y.	M.	D.
(c) Maximum service	36	11	0
Minimum service	1	0	29

(d) The amounts contributed by the several railways for the year 1937-38 are given below:

	Voted.	Non-voted
North Western Railway	4,56,704	18,434
East Indian Railway	4,58,193	18,434
Great Indian Peninsula Railway	3,55,729	13,826
Eastern Bengal Railway	1,77,093	6,913
Bombay, Baroda and Central India Railway	2,81,182	
Total	17,28,901	57,607

Statement showing the number in each class of staff in the Railway Clearing Accounts Office on the 1st April, 1938

Serial No.	Class	Number.
1	Director	1
2	Deputy Director	1
3	Senior Accounts Officer	1
4	Junior Accounts Officer	1
5	Assistant Accounts Officers	3
6	Senior Accountants	6
7	Junior Accountants	11
8	Stenographer	1
9	Subheads	69
10	Clerks Class I	177
11	Clerks Class II	861
12	Routine Clerks	113
13	Mistry	1
14	Assistant Mistry	1
15	Caretaker	1
16	Assistant Caretaker	1
17	Head Daftry	1
18	Daftries	14
19	Jamadar	1
20	Assistant Jamadars	5
21	Peons	51
22	Record Lifters	6
23	Chowkidars	8
24	Watermen	5
25	Sweepers	8
	Total	1,348

APPLICABILITY OF GOVERNMENT SERVANTS' CONDUCT RULES TO STAFF ON STATE RAILWAYS.

117. Mr. Satya Narayan Sinha: Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 165, asked on the 6th April, 1938, and state the decision arrived at as a result of their consideration?

The Honourable Sir Thomas Stewart: It has been decided to issue a separate set of rules applicable to State Railway servants The drafting of the rules is in hand and these will issue in due course

PAY AND ALLOWANCES OF TICKET EXAMINERS ON CERTAIN STATE RAILWAYS.

118. Mr. Satya Narayan Sinha: Will the Honourable Member for Railways please refer to the reply given to starred question No 749 asked on the 8th March, 1935, regarding the pay and allowances of Ticket Examiners on certain State Railways, and state the result of their examination of the letter from the National Federation of Railwaymen?

The Honourable Sir Thomas Stewart: I would refer the Honourable Member to the reply given to Qazi Muhammad Ahmad Kazmi's starred question No. 882 asked on the 26th February, 1936, in this House Government have nothing further to add to that reply

SUB-LETTING OF ICE CONTRACT IN THE DELHI DIVISION, NORTH WESTERN RAILWAY

119. Mr. Satya Narayan Sinha: Will the Honourable Member for Railways please refer to the reply given to starred question No. 587, asked on 2nd March, 1938, and state whether it is a fact that the ice contract has been sublet during 1937 and 1938 in Delhi Division?

The Honourable Sir Thomas Stewart: The General Manager, North Western Railway, states that there is no reason to believe that the contract referred to was sub-let

COMPLAINTS AGAINST THE CONTRACTOR FOR ÆRATED WATER AND ICE IN THE DELHI DIVISION, NORTH WESTERN RAILWAY.

120. Mr. Satya Narayan Sinha: Will the Honourable Member for Railways please refer to the reply given to starred question No 88, asked on the 28th August, 1938, and state·

(a) the professional qualifications of the contractor for ærated water and ice in Delhi Division, North Western Railway, during 1937 and 1938;

(b) what are the other contracts he has been holding during 1937 and 1938 and what are his professional qualifications in respect of each contract;

(c) the nature and number of complaints received against him; and

(d) the contracts he has sub-let?

The Honourable Sir Thomas Stewart: (a) and (b) He is a businessman of long standing with eleven years vending experience on the North Western Railway. He has been manufacturing and dealing in ærated

waters long before the ice and aerated water contract was given to him. The other contracts he has at Delhi are for vending fruits, betels, *chabina*, *punkhas* and *surahis*

(c) Such complaints as have been made were found on enquiry to be either frivolous or not substantiated In the register for complaints that is maintained, there is, therefore, no entry recorded against him

(d) The Administration is not aware of any proved case of sub-letting

ACTIVITIES OF THE CONCILIATION OFFICER AT CALCUTTA.

121. Mr. Satya Narayan Sinha: Will the Honourable Member for Railways please state the activities of the Conciliation Officer at Calcutta for the period of its assumption of duties to date, together with the total expenditure incurred during that period?

The Honourable Sir Thomas Stewart: This question should have been addressed to my colleague, the Honourable Member for Commerce and Labour Departments

REVENUE DERIVED FROM RENTS AND LICENCE FEES, ETC., ON STATE RAILWAYS

122. Pandit Sri Krishna Dutta Paliwal: Will the Honourable Member for Railways please refer to paragraph 11 on page 5 of the Report by the Railway Board on Indian Railways for 1936-37, Volume I, and lay on the table a statement showing the revenue derived from (i) rent for refreshment rooms, (ii) rent for other premises, (iii) auction of salesman's contracts, and (iv) licence fees charged from stall-holders, from 1st November, 1936, to 31st October, 1938, by the Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railways, respectively, and, if no revenue has been derived, to state the reasons therefor?

The Honourable Sir Thomas Stewart: I am calling for the information required and will place a reply on the table of the House when it is received

REVENUE DERIVED FROM RENTS AND LICENCE FEES AT CERTAIN STATIONS ON THE NORTH WESTERN RAILWAY

123. Pandit Sri Krishna Dutta Paliwal: Will the Honourable Member for Railways please refer to paragraph 11 on page 5 of the Report by the Railway Board on Indian Railways for 1936-37, Volume I, and lay on the table a statement showing the revenue derived from 1st November, 1936, to 31st October, 1938, on account of

(a) the rent for each refreshment room at Delhi, Saharanpur, Ambala, Ludhiana, Amritsar and Lahore, and if no rent is charged from those refreshment rooms, the reasons therefor;

(b) the rent for the premises given to Ice and Aerated Water Contractors at Delhi, Ghaziabad, Kalka, Meerut, Saharanpur, Ambala, Ludhiana, Jullundur, Amritsar, Lahore, Ferozepore, Bhatinda, Jind, Rohtak, both for factory and stalls respectively and, if no rent has been charged, to state the reasons therefor; and

(c) the licence fees charged from stall-holders at Delhi, Ghaziabad, Saharanpur, Ambala, Ludhiana, Jullundur, Amritsar, Lahore, Ferozepore, Bhatinda, Jind and Rohtak, and, if no licence fee has been charged, the reasons therefor?

The Honourable Sir Thomas Stewart: (a) No rent is charged for refreshment rooms, as it is not the policy of the North Western Railway Administration to make a charge for such rooms

(b) Land for a factory has been given only at Delhi, the rent charged being Rs 88-6-0

The rent charged for stalls has been as follows

	Rs	A		Rs
Delhi	279	4	Ambala Cantt	29
Ghaziabad	30	2	Ferozepore	1
Kalka	36	10	p m. per stall.	
Meerut Cantt	14	0	Bhatinda	42
Meerut City	4	0	Jind	31
Saharanpur	32	4	Rohtak	1

Particulars relating to the stalls at Ludhiana, Jullundur Cantt, Jullundur City, Amritsar and Lahore are not available at present

(c) I would refer the Honourable Member to the reply given today to Mr Satya Narayan Sinha's unstarred question No 115 It is not the policy of the Railway Administration to recover license fees from stall holders At Delhi, however, the contract for the Hindu refreshment room, the Hindu sweetmeats and tea stalls was put to tender and the amount accepted for the combined contract was Rs 7,025 per annum from the 15th February, 1937 No necessity has yet arisen for determining what proportion of this amount may be attributed to the license for stalls

PROFESSIONAL QUALIFICATIONS OF CONTRACTORS AT CERTAIN STATIONS ON THE NORTH WESTERN RAILWAY.

124. Pandit Sri Krishna Dutta Paliwal: Will the Honourable Member for Railways please refer to paragraph 11 on page 6 of the Report by the Railway Board on Indian Railways for 1936-37, Volume I, and state the professional qualifications of the contractors for vending and refreshment rooms and ice and aerated water supply at Delhi, Ghaziabad, Saharanpur, Amritsar and Lahore on North Western Railway and also state whether these contracts were advertised? If so, which are the papers which advertised them?

The Honourable Sir Thomas Stewart: The compilation of the particulars required relate to about fifty contractors, some of whom have been holding their contracts for periods varying from 10 to 23 years, and will involve a considerable amount of labour incommensurate with any use to which the information could be put.

STENOGRAPHERS ON THE EAST INDIAN RAILWAY.

125. Mr. D. K. Lahiri Chaudhury. Will the Honourable Member for Railways please state.

(a) the number of posts and scales of pay in each class of stenographers on the East Indian Railway,

(b) whether any special pay is attached to those posts, if so, what are its rates;

(c) how seniority is reckoned amongst them;

(d) the reasons for supersession by those appointed in 1938 over those senior to them; and

(e) whether he will lay on the table Deputy General Manager (Personnel) Circular No C/ES/257 B, dated the 3rd June 1937?

The Honourable Sir Thomas Stewart: (a) I lay on the table a statement giving the information required.

(b) A special pay of Rs. 20 per mensem is given to each of the stenographers working for the General Manager and principal heads of departments except to those drawing special (old) scales of pay

(c) Seniority in the lowest grade is reckoned from the date of confirmation and in the higher grades from the date of promotion

(d) If the Honourable Member will give particulars of the supersessions referred to by him, I shall look into the cases

(e) There is no such circular

Statement showing the number of posts and scales of pay of stenographers on the E. I Railway

Lower grade — Rs 90—5—150 (revised 1931). / Rs 100—10/2—120 (revised 1934).

Higher grade — Rs 180—10—220 (revised 1931). / Rs. 200, 180, 160 (revised 1934).

NOTE.—Individuals who were in service before 1931 and did not elect the revised grades issued in that year continue to draw pay on their old grades

The sanctioned posts of stenographers are —

	Higher grade.	Lower grade.
Head Quarter Offices . . .	14	27
Howrah Division	1	5
Asansol Division	1	7
Dinapore Division	1	3
Allahabad Division	1	3
Lucknow Division	1	2
Moradabad Division	1	2
Jamalpur Workshops		5
Lucknow Workshops		4
Lillooah Workshops	1	2
Tatanagar Workshops		1
Lucknow Electric Shops	.	1
Dhanbad Electric Shops		1
Lillooah Electric Shops		1
Howrah Stores Depot	.	1
Lillooah Stores Depot		2
Jamalpur Stores Depot	.	1
Lucknow Stores Depot . .		1

RECOGNITION OF THE ALL-INDIA RAILWAY MECHANICAL WORKERS' FEDERAL UNION.

126. Sardar Sant Singh (a) With reference to starred question No 1090 by Mr Satyamurti, replied on the 16th September, 1938, will the Honourable the Railway Member please state whether Government are aware that the name of the Union is not All-India Mechanical Workers' Federal Union, but All-India Railway Mechanical Workers' Federal Union?

(b) Are Government aware that this Union only caters for Railway Workshop employees and not outsiders?

(c) Are Government aware that this Union applied to the Railway Board and then to the General Manager, North Western Railway, for its recognition through its President, Mr Lalchand Navalrai?

(d) Are Government also aware that negotiations are still going on with the General Manager, North Western Railway?

(e) Does the Honourable Member propose to call upon the General Manager, North Western Railway to recognise this Union in the interest of the workers?

The Honourable Sir Thomas Stewart: With your permission, Sir, I propose to reply to unstarred questions Nos 126 and 127 together

I am obtaining information and will lay a reply on the table of the House in due course.

TOMBS AND MOSQUE, ETC., IN THE RESTRICTED RAILWAY AREA.

†**127. Sardar Sant Singh:** (a) Will the Honourable the Railway Member please state whether Government are aware that within the Restricted Railway Area there are old tombs and *masars* of Muslim Kings, which have also been fenced?

(b) Are Government aware that there is a mosque within this Restricted Area where Muslims offer prayers?

(c) Has the Railway any objection regarding the trade union leaders offering prayers in this mosque?

STATEMENT *RE* DRAFT CONVENTIONS AND RECOMMENDATIONS ADOPTED BY THE 21ST AND 22ND (MARITIME) SESSIONS OF THE INTERNATIONAL LABOUR CONFERENCE

12 NOON

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, I beg to lay on the table a copy of a statement regarding Draft Conventions and Recommendations adopted by the 21st and 22nd (Maritime) Sessions of the International Labour Conference

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The following statement supplements the information contained in the statement laid on the table of the Legislative Assembly/Council of State on the 1st/2nd October, 1937, in regard to the course which the Government propose to follow in respect of the Draft Conventions and Recommendations adopted by the 21st (Maritime) Session of the International Labour Conference —

I. *Draft Convention concerning the liability of the shipowner in case of sickness, injury or death of Seamen*

This Convention seeks to define the nature and extent of the liability of a shipowner to provide assistance to the seamen employed by him in case of sickness, injury, etc A close examination of the Convention has revealed that the Indian Merchant Shipping law already provides for the principal requirements of the Convention, except in the case of Articles 4 and 5 The main difference, so far as Article 4 is concerned, is that whilst laying down the general principle that a shipowner is liable to provide medical assistance until the sick or injured seaman is cured or until the sickness or incapacity is declared to be of a permanent character, the Convention limits the duration of the shipowner's liability to a period of not less than 16 weeks from the

†For answer to this question, *see* answer to question No 126

[Sir Muhammad Zafrullah Khan.]

date of commencement of the illness The Indian Merchant Shipping Act, on the other hand, makes no reference to any specific period, but makes the shipowner responsible for providing assistance as long as the seaman remains on board or is in a foreign country After careful consideration of the relative merits of the two sets of provisions the Government of India are of the opinion that, on the whole, the existing law affords better protection to the seaman than the limited assistance provided in the Convention for a period of 16 weeks at the end of which he may still find himself ill in a foreign country without any means of support Similarly in regard to the shipowner's liability to pay wages to sick or injured seamen, dealt with in Article 5 of the Convention there are important differences between the provisions of the Indian Merchant Shipping Act, which are based on those of the British Merchant Shipping Acts and the requirements of the Convention The Government of India are in sympathy with the principle laid down in the Article, but cannot ignore the consideration that, in view of the decision of His Majesty's Government in the United Kingdom not to amend the relevant provisions of the British Acts, a modification of the Indian Merchant Shipping Act would only benefit a limited number of Indian seamen, the majority of whom are employed on ships registered in the United Kingdom In these circumstances, the Government of India have come to the conclusion that the Convention cannot be ratified by India at present

II *Draft Convention concerning sickness insurance for seamen*

This Convention is designed to introduce an extensive system of compulsory insurance for seamen, providing for cash benefits as well as benefits in kind. After an examination of the terms of the Convention the Government of India are of the opinion that the institution of a compulsory system of insurance in India applicable to all classes of seamen covered by the Convention and providing for the grant of the different forms of benefits contemplated therein cannot be undertaken except as part of a comprehensive scheme catering for all classes of labourers Further, in view of the fact that a large number of Indian seamen are illiterate a compulsory system of insurance is not likely to receive general support, and the Government of India have accordingly come to the conclusion that the Convention cannot be ratified They are, however, in full sympathy with the object underlying the Convention, and they purpose to explore, in consultation with the interests concerned, the possibility of introducing, as an initial measure, a small scheme of health insurance providing for limited benefits to Indian seamen

III *Draft Convention concerning the minimum requirement of professional capacity for Masters and Officers on board merchant ships*

The most important provision in this Convention is Article 3, which requires that all officers, both executive and engineer, in charge of a watch on board a merchant ship shall be certificated officers The general principle underlying this Article is one which must command sympathy, but its practical application in India presents numerous difficulties As any extension of the hours of work of certificated officers on board ship must clearly be avoided, effect can be given to the provisions of the Article only by means of an amendment of the Indian Merchant Shipping Act providing for an increase in the number of certificated officers to be carried in merchant vessels Indian opinion, however, is opposed to any such increase, because of the scarcity of Indians in possession of certificates of competency Further, there is a large number of ships registered in the United Kingdom which trade in Indian waters and the Convention will not apply to such ships unless His Majesty's Government in the United Kingdom choose to ratify it The Government of India, however, understand that His Majesty's Government do not propose to ratify the Convention for the present, and in the circumstances, its adoption by India would result in setting up different conditions on board those ships and Indian registered ships operating in the same waters The Government of India do not, therefore, propose to ratify the Convention or to take any action on its provisions

IV *Recommendation concerning the promotion of seamen's welfare in ports.*

The Government of India are in agreement with the principles underlying the various provisions of the Recommendation, but the views expressed by the Maritime Provincial Governments, Port Authorities, shipping companies, etc., have led them to the conclusion that, in present circumstances, it is not practicable to give effect to all the suggestions contained in the Recommendation. They understand, however, that the requirements of paragraphs 3, 4, 5, 6, 8 and 10 (b) are already generally com-

plied with at Indian ports, and they consider that no immediate or specific action on their part is necessary in respect of paragraphs 2 and 13. As regards paragraphs 1 and 9, there are at present several institutions under the charge of local bodies performing useful work at all important ports, and these receive annual grants from the Sunday Fees Fund The Government of India are alive to the fact that these arrangements do not go far enough, but they are, for financial reasons, unable to take any further action in the direction indicated Paragraphs 7, 11 and 12 call for administrative action in regard to the furthering of propaganda among seamen, but the Government of India consider that the necessary publicity work is more appropriately undertaken by private bodies interested in seamen's welfare than by them As regards paragraph 10(a), they are satisfied that there is at present no real demand from Indian seamen for the provision of a system of seamen's money orders, and they do not propose to take any action on the suggestion for the present

Mr. N. M. Joshi (Nominated Non-Official) May I ask, Sir, whether the statement will be circulated to Members?

The Honourable Sir Mohammad Zafrullah Khan: It is laid on the table and is available to Members

Mr. President (The Honourable Sir Abdur Rahim) Any Honourable Member can refer to it if he wants

THE INDIAN INCOME-TAX (AMENDMENT) BILL—*contd*

Mr. President (The Honourable Sir Abdur Rahim) The House will now resume consideration of the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee The Bill will now be discussed clause by clause The Chair understands that it is the desire of Members generally that the discussion should begin with clause 4 Clause 2 is the definition clause, and, in a Bill of this character, perhaps that will be more convenient till the other clauses are disposed of Clause 3, the Chair understands, to some extent depends on the decision on clause 4 The House will now go on with clause 4 The question is

"That clause 4 stand part of the Bill"

Mr. B. Das (Orissa Division Non-Muhammadan) Sir, I beg to move.

"That clause 4 of the Bill be omitted"

Sir, circumstances have not changed since 1932, nor has the speech of the Honourable the Finance Member shown that there are any grounds for any new changes in the principles of the Income-tax Bill So the substance of clause 4 cannot be accepted by the House We take it, and as my Honourable friend, Sir Cowasji Jehangir, demonstrated by his speech of quotations, the system of taxation on an accrual basis will put a great handicap on Indian traders abroad The Honourable the Finance Member may tax us, but he should not suck the lemon dry, and if there is no lemon left, he will not be able to suck it any further, and I think that is what he is trying to do In one of his remarkable inspirations, the Finance Member said that the rich in India take advantage by sheltering themselves behind the poor That was a surprising statement The poor and rich are both Indians, and they have to live in this country together, but what about the Honourable the Finance Member himself taking shelter behind the Governor General? The Governor General has allowed him

[Mr B Das]

to introduce this clause 4 whereby certain discriminatory provision has been made, but when Honourable Members on this side of the House and also on the other side have tabled amendments to the clause, the Governor General in his discretion has ruled them out. So my Honourable friend is taking shelter behind the Governor General Those of us who are old Members of this Assembly never thought that the Governor General would use his discretion to such an extent as has been exercised now,—of course, that is done with the advice of the Honourable the Finance Member. That shows what kind of Federation is coming to this country and how Federation will work!

I do not desire to go into detail as to why we oppose taxation on accrual basis This has already been dealt with in detail by various speakers, and I hope that when Members rise to speak on this motion, particularly my Honourable friends of the European Group, they will bear in mind the speeches that their predecessors, great giants and friends of India and friends of Britain too. made I hope they will bear that in mind and that they will support the amendment which I have just moved

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved

"That clause 4 of the Bill be omitted"

Mr. A. Aikman (Bengal. European) Mr. President, during the general discussion on this Bill, we have all heard a great deal about the subject matter of the amendment now before the House, we have heard on the one hand vehement denunciations of the whole principle of the accrual basis embodying as it does the extension of the basis of taxation, and on the other hand we have heard a defence of the accrual basis by my Honourable friend, the Finance Member

Unfortunately I have not been able to listen to all that was said for and against this principle, but I have listened to a very great deal of what was said. Moreover, I have read with the greatest care the speech of my Honourable friend, the Leader of the Opposition, and I have also read equally carefully all the arguments available to me that have been advanced for and against the principle of the accrual basis and the arguments also that have been advanced for and against the proviso to clause 4(*a*) of the Bill

Now, Sir, my Honourable friend, the Finance Member, in the speech in which he wound up the general discussion repeated what we have heard from him before, namely, that he has heard of and read about a great deal of propaganda against this Bill Though it may not be strictly relevant to the amendment now before the House, I hope Honourable Members will bear with me if for a moment I restate the principles of the Bill with particular reference to the accrual basis—that is to say, the subject under discussion The Bill, as I understand it and as my colleagues understand it, sets out to do three things.

(a) It is designed to strengthen and improve the administration of the Income-tax Department so as to enable the Department the more effectively to deal with illegal evasion of

taxation—I have neither seen nor heard of any propaganda against this purpose of the Bill, moreover, I am firmly convinced after my experience in the Select Committee and after hearing the speeches that have been delivered in this House, that there is not a single Honourable Member present, to whatsoever Party he may belong, who does not share with Government the desire to improve and strengthen the administration of the Income-tax Department.

(b) The second purpose of this Bill is to close a number of loopholes or defects, as I should prefer to call them, in the existing law whereby many wealthy persons have been able so to arrange their affairs that they have avoided paying as much income-tax as it was intended or contemplated that they should pay—I have neither seen nor heard of any propaganda against this provision of this Bill. Moreover, here, again, I feel certain that I am voicing the opinion of all sections of this House that it is desirable that the Income-tax law of this country should be so amended now, under this very Bill, as to remedy this state of affairs.

(c) The third main provision of this Act relates to the clause now under discussion whereby the Government seek to extend the scope of taxation To this proposal exception has been taken by Members representative of the Congress Party, the Congress National Party and the Muslim League. This provision has also been opposed not only by what my Honourable friend, the Finance Member, calls "Indian big business", but by numerous smaller Indian businessmen as well Moreover, important constituents of members of my Group have likewise expressed the view that the existing remittance basis should remain So far as our constituents are concerned —and I have no doubt, so far as the constituents of other Honourable Members are concerned,—the views so expressed have been perfectly honest expressions of opinion which they are perfectly entitled to hold

As a member of the Select Committee who supported the Honourable the Finance Member in his proposal to extend the scope of Income-tax in the manner suggested, I must frankly say that I believe there are good reasons that they may be advanced in support of the accrual basis According to my Honourable friend, the Finance Member, these reasons are stronger than any reasons that may be advanced against this proposal According to other Honourable Members, the reverse is true Let us frankly recognise that there is room for a perfectly honest difference of opinion in this matter

So far as my Group is concerned, the position is complicated further by the fact that the second proviso to clause 4(*a*) places our community in this country on the same footing as Indians, resident but not domiciled in the United Kingdom, are placed in that country and as casual visitors to British India are placed here.

It can be argued and my Honourable friend, the Finance Member, has argued, that while there may be differentiation, there is no unfair discrimination in this proviso. On the other hand, my Honourable friend,

[Mr A Aikman]

the Leader of the Opposition, and other speakers have all maintained that this proviso does unfairly discriminate in favour of the European community, and as such is an unjust proviso and one that all three Parties on my right have openly declared to be unacceptable to them

My Honourable friend, Mr Chambers, in a very able maiden speech has explained to the House wherein lie the differences between the provisions of clauses 4 and 5 of this Bill and the provisions contained in the U K Finance Act His obvious sincerity, his unrivalled grasp of the facts of the case and his method of presentation have, I hope, dispelled, at any rate in the minds of some Honourable Members, any doubts they may have had regarding the allegations of unfair discrimination Nevertheless, my Group, after the most careful consideration, recognize unanimously that whatever the facts may be, Honourable Members in other parts of the House feel—sincerely feel—preferential treatment for the European community is there, and it is apparent that Parties on my right cannot in any circumstances agree to such preferential treatment being given

In view of that, therefore, we take up the attitude which was so clearly stated by Mr Heathcote, representing the Associated Chambers of Commerce, on 9th September, 1937 Let me read his words

"Dealing with the Bill itself and particularly with clause 4(c), which is the clause which allows the resident who is not domiciled in India to avoid the effect of this Bill, I think, that it may assist matters if I try to make our position clear If it had been the opinion of Members on the other side of the House that this Bill should be made law as it stands, British trading interests in India would not have refused benefits which would thereby accrue to them But in the very difficult times through which we are passing, we have decided that we would not support the Government in forcing this clause through, if there was a clear feeling on the other side that with this discrimination it should not be passed Having said that, I think I am possibly entitled to clear up some of the misapprehensions which seem to rest with the other side of the House The British are referred to as the only people or mainly the only people who will obtain a benefit from this Bill That is by no means the case There are large trading sections in India who come from Indian States and as an example, I may refer to Marwaris Unless I am mistaken again, they will secure exactly the same benefits in the matter of avoiding taxation as the British There are others in India, such as the Armenians and the Japanese They also will avoid taxation if British interests avoid it So, possibly, it is a little unfortunate that the only people who are supposed to benefit from this Bill are the British There is, at least, an argument of some sort which justified discrimination There are many people who come out to India from England with private means Those private means arose without any connection with India at all, and there might be some truth in the general statement that the class with private means is the class which it will be best for India to attract from England But if they are to be taxed on their private means—not only on the means themselves, but so as to be rated at a higher rate of income-tax by the inclusion of these private means—then certainly there will be greater difficulties in obtaining the right type of people from England to serve India. There is at least a section of Britishers in India to be found in the Army where private means is common among the officers, and it is not unlikely that the effect of the removal of this discrimination would be to make them pay in income-tax more than the salaries which they earn in India If it were possible to devise a plan which differentiated between an income arising to a resident who is not domiciled in India and which had no connection with India and an income which accrued to a resident who is not domiciled in India and which had accrued to him from connection with India, then I feel that many Honourable Members on the other side of the House would be only too glad to give us the benefit of such discrimination However, as the Government have clearly agreed to withdraw the discriminatory clause, should the Bill get as far as the Select Committee, there is no need for much more to be said with regard to discrimination "

That was our position then that is our position today Now, Sir, my Honourable friend, the Finance Member, has told us all, fairly clearly, that if he loses clauses 4 and 5 of the Bill, he is not prepared to proceed further with it. I trust he will reconsider his words I hope he will come to see that it is given to few of us in this world to obtain all that we want This is especially true in politics, and more particularly is it true of the circumstances in which we find ourselves today in which the executive Government, not responsible to the Legislature, finds itself in a position where it is impossible for it to command a certain majority of the House and where in normal cases it is forced inevitably to compromise in the hope that by so doing it may secure at least two-thirds of the cake

I appeal, therefore, to the Finance Member to withdraw his suggestion that if clause 4 is interfered with, he will not proceed with the Bill I appeal to him to go on with this Bill After all, as I have tried to show in the earlier part of my speech, it contains provisions which all of us are agreed are in principle desirable I feel sure that if he will only listen to this appeal, he will have no reason to regret his decision On the contrary, he will show that he recognises that it would be a great misfortune if all the work put in by the Income-tax Enquiry Committee and by Members of this House were to be thrown away and a large amount of public money wasted unnecessarily If I may digress for a moment, Sir, I should like to take this opportunity to say how much every one of us who has seen Mr Chambers at work appreciates what he has done and what he has tried to do just as on an earlier occasion I complimented my Honourable friend, the Leader of the Opposition, on the constructive work he personally did in Select Committee

My Honourable friend, Mr Jinnah, and the Party he has the honour to lead have also shown us that he and his followers are anxious to remedy the undoubted injustices that exist today under the present Income-tax law and a method of its administration

My Honourable friend, Mr Jinnah, and his party's representatives on the Select Committee have shown very clearly both when they voted for the reference of the Bill to the Select Committee and by their attitude during the Select Committee that they feel there is much that is good in the Bill

That, Sir, is my appeal to the Honourable the Finance Member and to this House We in this Group have endeavoured to the best of our ability to play a constructive part in this as in other important measures. We have endeavoured to do what we sincerely believe to be in the Interests of India though like Honourable Members of all other sections of the House we have naturally endeavoured to safeguard the interests which we have been elected to represent.

Shortly, the House will have to vote upon the amendment we are now debating. The effect of this amendment, if it is carried, will be that the existing provisions of Indian Income-tax Law in regard to taxation of income that accrues or arises out of British India will remain Such income, therefore, will only be taxed in British India so far as it is brought into the country

The alternative is that if this amendment is defeated, we accept a new principle that extends the scope of British Indian Income-tax so as to include income wherever it arises if such income belongs to a resident and domiciled citizen and linked to that we accept the differentiation provided

[Mr. A. Aikman.]

for in the second proviso whereby income arising out of British India to residents who are not domiciled is to a certain extent excluded from the scope of the new principle.

My Group, having considered the matter from all points of view and with full regard to the importance of their decision, have decided that they have no alternative but to support the amendment now before the House.

Dr. P. N. Banerjea (Calcutta Suburbs Non-Muhammadan Urban): Sir, I rise to support the amendment which has been just moved. During the general discussion on the Income-tax Amendment Bill, speaker after speaker made their views clear with regard to this clause of the Bill. There were very few dissentient voices heard in this regard It was urged by all that if foreign income of Indians was subjected to taxation on the accrual basis, a great hardship would arise and foreign enterprise would be greatly hit. There was another objection raised against the principle of discrimination contained in the proviso to clause (*b*) With regard to this question, many of us asked for the sanction of the Governor General but the Governor General has been pleased to refuse his sanction In this connection I must express my hearty appreciation of the good-will which has been shown by the European Group I hope this will be the beginning of a new era of better relations between the European community and all the Indian communities inhabiting this great country Every commercial body—the Federation of Indian Chambers of Commerce and Industry, the Bengal National Chamber of Commerce, the Indian Chamber of Commerce, the Bombay Merchants' Association, and even the Bengal Chamber of Commerce have all with one voice condemned this proposal. I have, therefore, very little to add to what has been said, I heartily support this amendment

Mr. Lalchand Navalrai (Sind Non-Muhammadan Rural) Sir, I will not take more than two minutes I heartily support this amendment. I have already fully discussed the points against this clause 4 and I do not feel called upon to say anything more than what has been said before. The consensus of opinion on this side and on the side of the European Group is against this clause very rightly and justly The second thing is that I have not heard any substantial reply to the several points that were raised against this clause 4, from the Honourable the Finance Member He only wanted to persist in the enactment of this clause against all odds He wished that because this clause was once thrown out before, he should try to take the credit for it I wish he had it but I don't think he will be able to get it I have nothing more to say

Mr. Bhulabhai J. Desai (Bombay Northern Division Non-Muhammadan Rural) During the course of the general discussion on the Report of the Select Committee, I attempted to place before the House the considerations which appealed to me and which I wanted the House to consider arising out of the new source of taxation which is incorporated in clause 4 I am mindful of the fact that a substantially similar provision was brought before this House some years ago when I was not in the House. Reference has been made to the details of that discussion and at the stage at which the matter was then being discussed I did not feel justified in taking up a definite position as to what extent the whole or any part of this clause could remain

as a part of the additional taxation of this country Since then, my Honourable friend, Mr Aney, has pointed out that the ground on which those who voted in 1931 was this,—that while they were prepared to tolerate the amount of taxation and the source which was proposed to be tapped, while the irresponsible Centre continued, they were not prepared to add and hand over to them any further sources of taxation I confess it is by itself a very solid argument to opposition to this matter In addition to that, I also pointed out the actual practical difficulties to which I have heard no answer with reference to this head of taxation, should it become law at all

The first and foremost to which I have heard no answer is the separation of Burma which at all events this country always opposed and for a very good reason, apart from anything more, that the whole of the cost of the annexation of Burma and everything antecedent thereto has been borne by India We were prepared to continue as one unit and entity for more reasons than merely the fact that we belong to the eastern part of the hemisphere That accident of separation has also raised problems which it would be difficult to solve My Honourable friend, the Finance Member, has not replied and could not reply to the question that income which was not taxable under those Acts would now become taxable in so far as it was derived from agriculture in Burma The other difficulties arise also from the exchange restrictions in many countries with which our traders carry on their business Added to all that, there is a matter which I referred to on which I would like to say a word,—*viz* , that while there is undoubtedly a justification or there may be, from the point of view of the Britisher to pay taxes on incomes which arise abroad so far as he is concerned, the Government of India, either by reason of their helpless position as a subordinate Government, has never been able to extend anything like adequate protection, let alone encouragement, to Indian business abroad We are fully aware of many Resolutions passed by this House beginning with South Africa and ending with many other parts of the world where Indian nationals are, under conditions of humiliation and difficulty, carrying on their respective businesses In Kenya, there is a broad distinction between lands reserved for whites and for the non-whites, and there are many other parts of the world where this Government, notwithstanding all its intentions, have been able to extend but little protection, let alone encouragement as I said, to the Indians carrying on business abroad It would be, therefore, unjust, if you weigh all these circumstances, that we should, unless circumstances improve, add this source of taxation I am not referring any more to the proviso to which my Honourable friend, Mr Aikman, has given what you may call a graceful exit. I am glad of the spirit that ran through his speech, which recognizes that the protection of any interest in India should be less sought in future through the machinery of pressure, through the machinery of constitutional safeguards, but more and more resort must be had to reconciliation and understanding,—that everybody who earns his bread in this land—it may be bread, butter and jam for some and only one meal for others—should be considered. Under these circumstances, we feel and my colleagues also feel and I am glad that my Honourable friend, Mr Jinnah, also feels that it is difficult to support and hand over this new source of taxation, hedged with all these difficulties and the considerations which I have put forward.

But there is one word more that I want to say with reference to what fell from my Honourable friend, the Finance Member. He told us, roundly as it was said, that in the event of clause 4 being omitted, or mangled as

[Mr Bhulabhai J Desai]

he called it, he might consider it his duty to withdraw this Bill Whether it lies entirely in his hands in a constitutional sense or not, I do not propose to discuss at this stage, but I do say this, that reading his speeches on the three occasions on which he spoke in this House, he could not possibly ignore and forget that, so far his calculations went, the benefits in the rest of the Bill are there even arithmetically and integrally larger than this single clause 4, and I wonder how, as a servant of the Indian State—by which term I do not mean it in the formal sense in which an Indian State is used—how as a servant of the Government of India, considering himself as a servant of the people, he can seriously say that, because I cannot get all the financial benefits I want, therefore I shall, in a sort of huff or protest, withdraw all the other provisions, which he conscientiously feels are capable of doing so much good, in the Bill, and not merely that, but he told us that his method of taxation in future would relieve the poor man as against the rich What answer could he have to withdrawing that so far as the sense of justice is concerned And I think my Honourable friend would also revise his attitude as if he was a benefactor in this House He is a colleague, and it is not as if he can say, "I offer you this, either take it or leave it" That is an attitude which even they should not adopt during the remaining period of their very short-lived existence They must quite recognize that it cannot be an attitude of saying, "I have brought the Bill, I am the dominant partner, I wish to withdraw, if you do not agree" I do not think that is a proper attitude or a helpful attitude, and I am sure you will recognize that if the other parts of the Bill contain elements by way of extracting more from the unwilling or the dishonest, he ought not to throw them away If there is anything in the Bill, as there is by way of relief to the poorer taxpayers, he must not reject that, by way of greater justice or by way of a tribunal at all events to redress grievances which are legitimately entertained by a large number of assessees, he must take it In other words, it would be an entire error of judgment to say that, in the language of my Honourable friend, Mr Aikman, "because I cannot get all, I will take none" This is a piece of legislation which at all events in the large part of the Bill which remains is bound to be useful I hope, therefore, our action tending towards some possible privation on his part in respect of his pet theory would not lead him to persist in his determination, and I have no doubt myself that when he reconsiders the benefits which remain, he will continue with the Bill

Mr. M. A. Jinnah (Bombay City Muhammadan Urban) Sir, we have been giving our very careful consideration to this clause 4 and we find that there are innumerable difficulties in our way in supporting this clause 4 of the Bill The first and the foremost question that we considered was whether this principle of accrual basis, instead of the remittance basis which exists under the present law, is a principle that we should endorse,—whether it should be accepted in the interests of India, or whether it might not be detrimental to the interests of India, situated as we are We revolved that in our minds and we thought and thought over the matter, and we found that it might work an enormous amount of hardship and injustice in many cases Sir, the object of the Honourable the Finance Member in substituting the accrual basis for the remittance basis was to create a new source of revenue. First and foremost, there are thousands and thousands

of small traders who would have been penalized in various ways, handicapped, and harassed if this clause and the machinery set up in this Bill had been passed. Therefore, on principle, we had very great difficulty in readily accepting clause 4 But if some method could have been found by some adjustment, we were still prepared to re-examine that principle in the light of substantial modifications of this Bill

Then, this Bill will create a situation which cannot be disputed, if we take clauses 4 and 5 together, and which will undoubtedly be a preferential treatment so far as the non-domiciled Europeans are concerned We considered that point very carefully Mr Aikman said that there may be a difference of opinion whether this clause 4 together with clause 5 would mean a preferential treatment to the Europeans or not I do not think there is any doubt of any kind about it, because there is not the slightest doubt in my mind at least—and I have examined it very carefully—that clauses 4 and 5 together undoubtedly give a *de-facto* exemption to the Europeans Then, what are we to do now with this clause 4? There are many other difficulties, the details of which I need not go into, partly because the Leader of the Opposition, my Honourable friend, Mr Desai, has already narrated them Sir, taking all these matters into consideration, we have definitely come to the conclusion that it is not possible for us to give our support to this clause as it stands now It is true that there is, and to that extent I entirely sympathise with the Finance Member a very select number of our countrymen who could be counted on fingers—I should say about 25 or 30 of them—who are undoubtedly taking the utmost advantage of escaping the tax, which they might legitimately be called upon to pay I have no doubt in my mind, as far as I have been able to apply my mind, that the Finance Member, if he can catch these 25 or 30 persons, will be able to get a very substantial amount of revenue But in order to catch them, we have got a very complicated and difficult measure which is almost intended to strike heavily a very large body of our countrymen abroad, who do not get adequate protection or the encouragement of the Government of India, who have difficulties in the way of exchange restrictions of taking out money from certain countries and who would be obliged to send their returns and are likely to be harassed and put to a great deal of difficulties and trouble If in order to try and catch a small number, a machinery of this kind is to be set up with a discrimination and preferential treatment to non-British Indians, then it is a position which it is very difficult for this House to accept I quite understand the Finance Member or the Government of India saying "We were trying to tax or, if you like, to catch those who are best able to bear the burden and who ought to make a proper contribution to the revenue, and, if you do not accept this, of course the money will have to be taken from somewhere else, because the Government must be carried on, and probably the result of it would be that the burden will fall upon those who deserve least of such an imposition of burden upon them" Sir, that may be regretted, but it cannot be helped Taking everything into consideration, the pros and the cons, the advantages and the disadvantages, we have definitely come to the conclusion that it is not possible for us to support clause 4 as it stands in the present Bill Therefore, my Party is unable to give its support.

The Honourable Sir James Grigg (Finance Member) Sir, I think it is necessary to clear the issues before the House comes to a decision. The

[Sir James Grigg.]

original line taken by the Congress Party—certainly by their Press—was that they could not possibly support this clause because it discriminated in favour of Europeans. That objection appeared in the speech of the Leader of the Muslim League Party and I want to dispose of that The European Group have also come to the conclusion that they do not want discrimination in their favour and, therefore, in order to avoid that discrimination, they ask that Indian millionaires should be let off as well as themselves. That is their method of avoiding discrimination The Congress Party, which has made so much of this discrimination, is now rather piping down on that note and it is talking about the hardship to Indian traders abroad including the millionaire who places a large part of his fortune abroad The discrimination issue appeared in Mr Jinnah's remarks As far as Mr. Jinnah's remarks were concerned about the hardship to the small trader, I believe that they are susceptible of being met to a very large extent

Now, let us come to the discrimination issue and I want to test the *bona fides* of the House on that During my last speech on this subject I mentioned several absurd results which would follow from the deletion of the proviso completely There certainly are cases which would have to be provided for if we decided to get nearer the residence basis Objection was made by the Party opposite to unduly favourable treatment of British companies operating in India because in their case residence and domicile were to be regarded as the same thing and residence was defined as the central control and management being in this country. I just want to make quite certain on what grounds the House is taking its decision. If it is taking its decision because it objects to the taxation of Indians, that is one thing If it is taking this decision because it objects to discrimination between Europeans and Indians, that is another Therefore, I ask the Leaders of all the four Parties whether they would be prepared to accept as a basis of taxation the virtual removal of the proviso to clause 4 (*a*) subject to safeguarding those rather ridiculous cases of residence of comparatively short duration in this country, plus amendment to clause 5 so as to ensure that companies registered in England and carrying on the major part of their business in India should be regarded as resident for the purpose of taxation In other words that they should be placed entirely on the basis of Indian companies In other words, I should like to know whether the House is prepared to consider amending this clause in the other direction so that it gets more money and not less and the objection to the continuation of the Bill which I voiced previously that it would not be financially worthwhile would be removed the proviso to clause 4 (*a*) would be retainable only to an extent necessary to cover the rather ridiculous cases which I pointed out the other day of residence for a comparatively short duration in India or for a fixed term—not, of course, people who spend their whole lives in India and make their whole fortunes in India That is what I should like to know I have been blackguarded now for over six months in the Congress Press because I was discriminating in favour of Europeans I now offer to all intents and purposes to consider once more the removal of the discrimination in all except completely ridiculous cases In other words, I want to know from this House: is it the issue that they will not tax themselves or that they will not tax themselves unless we tax the Europeans at the same time? Sir, I am quite ready, if the Leaders of Parties desire to postpone the consideration of

this clause until this question is answered. But it is very necessary that I should get this question clear. I do not propose to allow the Opposition to ride out on the ground that they are rejecting this clause because it is discriminatory If they are going to reject this clause, they will reject it on the basis that it taxes Indians whom they do not want to tax That is the issue.

Mr. M. A. Jinnah: May I point out to the Honourable Member that I tried my very best to get from him an answer on the point of the discriminatory proviso? I think he will bear me out that he was unable to meet me and, therefore, naturally we could not consider anything more.

Mr. Bhulabhai J. Desai: Sir, so far as I am concerned, we actually applied for previous sanction for deleting this proviso, but that has been refused by the Governor General.

Sir Cowasji Jehangir (Bombay City Non-Muhammadan Urban): Mr. President, up to the time my Honourable friend, the Finance Member, spoke, I had no intention of addressing the House He has rightly summed up the objections to the clause But in one matter I do not think he was quite correct He said that if you object to the clause, leaving aside the provisos and the exemptions to non-domiciled people, you are refusing to tax your own people He seems to have forgotten that there were many objections raised in this House to the fundamental basis of the accruing principle, and that the objections were enhanced to the whole clause by the proviso which puts non-domiciled people on a different footing, and by his introduction of clause 5 which makes a distinction in favour of certain companies and makes them non-resident There was definitely an objection to the fundamental basis of the accruing principle as applied to India and that India being not in the same circumstances as England, you could not apply to India the arguments that would naturally apply to England A great deal was made by the Honourable Member of a few people getting off this legitimate taxation Now, let me tell the House very shortly what I believe to be the facts The facts are that if you exclude all companies from the mischief of the principle of clause 4, there will be very few people left indeed who have got investments outside British India, and I do not put those investments down,—I openly say it in the House,—to more than four or five crores of rupees and the revenues that Government would get, by taxing these four or five crores of rupees through income-tax, would not be more than five lakhs of rupees There are companies which have naturally investments abroad, which they are forced to have abroad, and firms which have investments abroad because they have business abroad. Excluding these, I believe, large investments abroad,—outside British India, are a bogey

There is just one more point I should like to make I do not wish to delay the House any further. A large amount of investments by companies or by a few individuals is in Indian Sterling paper today, and the condi-

[Sir Cowasji Jehangir.]

and the reputation and the credit of the Government of India outside British India I have nothing further to add except that there are fundamental objections to the accruing principle

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions. Muhammadan Rural): May I just ask one question which I do not clearly understand? I understood the Honourable the Finance Member to say that he is quite prepared to consider the question of removing the discrimination, and the Honourable the Leader of the Opposition said that he applied for the removal of the proviso and that the Governor General refused Am I to understand that the position is that we can now move further amendment to remove this proviso?

The Honourable Sir James Grigg: The position is this the House at the moment is on the motion to remove the discrimination in favour of Europeans by removing the clause altogether and it is thereby removing the main remunerative clause of the Bill, because there is very little extra money in the rest of the Bill which is mostly concessional and certainly those concessions cannot stand without clause 4, if there is no money to pay for them If the House would on consideration prefer to remove the discrimination by extending the scope of the taxation, then I think the proper course is to postpone the discussion on this clause and to allow me to see how far the wishes of the Parties can be met I make that offer for one reason I think it is important that we should know on what ground the House is taking its decision As I have said, for many months past, I have been blackguarded in the Congress-owned Press for introducing new discriminations on behalf of Europeans I offer to consider and I put it in that form for obvious technical reasons, the removal of that discrimination If the House is not prepared to accept that offer it is clearly because the discrimination bogey was, as I have said on several occasions in this House, a bogey and nothing else, and that the real object of the Congress Party is to save the Indian millionaire and not to hit the European.

Mr. M. S. Aney (Berar Non-Muhammadan) May I know whether the Honourable Member means that in case the House accepts the principle of accrual, he is prepared to consider the question of discrimination? Or is he prepared to consider the question of accrual itself and its retention?

1 P.M.

The Honourable Sir James Grigg: If the accrual basis goes obviously the discrimination goes, and it goes by destroying about three-quarters of the revenue in the Bill.

Mr. M. A. Jinnah: Sir, I think it is a pity that the Honourable the Finance Member is taking up the attitude that he has done Surely, if he has any desire to save this clause 4 in a manner which will be acceptable to this House, then in the first instance I think it is very wrong of him to say that he was testing the *bona fides* of this House. In the second instance, I think it is equally wrong, if I may respectfully point out to him, to attribute any motives to any particular party and say that this party really had some other motive and were taking shelter behind the discrimination point. If he . . . .

Mr. President (The Honourable Sir Abdur Rahim). The Honourable Member is making a second speech. The Honourable Member is quite entitled to say whether he is agreeable to consider the question of postponement or not, but he cannot make a second speech

Mr. M. A. Jinnah: I am, therefore, submitting to the Finance Member that if he really and genuinely desires,—for up to the present moment he has given us no inkling at all,—to confer with us in the proper spirit, I do not see any objection at all, because I am really a believer in compromise or adjustment in the interests of Indians first, second and last And, therefore, I do not want to treat the offer of the Finance Member in a manner which might mean rejection, and I am quite ready to discuss the matter with him

Mr. Bhulabhai J. Desai: There is one other matter which my Honourable friend forgot and that is that even on the definition of "residence" I did my best to get several amendments tabled as to which also sanction has been refused

Mr. President (The Honourable Sir Abdur Rahim) The position now is that an offer has been made by the Honourable the Finance Member that if the House agrees to postpone the consideration of this matter today, he will consider whether he would not be prepared to accept certain amendments in respect to the discriminatory clause The Chair has to find out from the House generally whether they are agreeable to allow this discussion to stand over

Sir Cowasji Jehangir: Then, what is going to be done?

Mr. President (The Honourable Sir Abdur Rahim) The Chair does not know, that is for the Honourable Members themselves to consider

Mr. M. A. Jinnah. I take it that if the House agrees upon that, the Finance Member will meet the Leaders of the Parties?

The Honourable Sir James Grigg: I shall endeavour to find a basis acceptable to the House as a whole But I want to make one preliminary observation I take it that as the House is willing to consider an attempt to find a basis of removing by another method than that of deleting the whole clause

Mr. Bhulabhai J. Desai: There are other difficulties also which I have pointed out

The Honourable Sir James Grigg: Yes, some of those that have been mentioned can be removed; others cannot be removed without destroying the principle of the clause And if it were possible to find a basis partly on the restriction of the scope of the clause in particular directions and its extension in other, which were acceptable to the House as a whole, that is the object we are looking for But what I do not want to be involved in, quite frankly, is myself producing a sort of greatest common measure of the views of the various Parties, as I thought the original was, and

[Sir James Grigg]

then having it rejected by every Party I do want, therefore, to be clear that in agreeing to postponement as an alternative basis, there is at least a *prima facie* assumption that it will be possible to find an agreement

Mr. Bhulabhai J. Desai: I wish to make my position quite clear on this I am always willing, as my Honourable friend said, to sit down and discuss the whole thing *de novo* But I want him to clearly understand that every one of the difficulties that I have put forward to the House will have to be considered and met, and if in doing so he feels that he is mangling the clause, then it is no use wasting time

The Honourable Sir James Grigg: If the Honourable Member is presenting me with a choice that I must agree here and now to meet every one of his points, certainly I cannot.

Mr. M. S. Aney: I cannot give an undertaking to the Finance Member unless he allows me to argue with him even on the propriety of retaining the principle of accrual and urge my difficulties in regard to that

Mr. President (The Honourable Sir Abdur Rahim) Then, does the Chair take it that in the circumstances the House does not desire the postponement of the discussion?

Mr. M. A. Jinnah: I submit, Sir, that an attempt should be made, without any party or anybody being committed to anything, and we should see whether we can get the Finance Member to understand our point of view

The Honourable Sir James Grigg: I am quite content to leave it at that As regards that last little gibe, I quite understand the point of view of the Honourable the Leader of the Muslim League Party

Mr. President (The Honourable Sir Abdur Rahim) The Chair could again ask the House whether it is the desire to allow a further opportunity

(*Cries of* "Yes", "Yes")

If that is so, the Chair is quite prepared to allow postponement of discussion on such an important clause Does the House want to proceed with a discussion of the other clauses?

(*Cries of* "No, Sir")

Mr. Bhulabhai J. Desai: We must finish the conference today

Mr. President (The Honourable Sir Abdur Rahim) Then, the House will adjourn till tomorrow

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 30th November, 1938.

LEGISLATIVE ASSEMBLY.

Wednesday, 30th November, 1938.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

COMING INTO FORCE OF THE INSURANCE ACT.

1613. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Commerce Member state:

(a) whether Government have fixed the date on which to bring the Insurance Act of 1938 into force;

(b) whether the rules under the Act have been framed, and

(c) if so, when they expect to bring it into effect?

The Honourable Sir Muhammad Zafrullah Khan: With your permission, Sir, I propose to answer questions Nos 1613 and 1614 together.

(a), (b) and (c) The attention of the Honourable Member is invited to my reply to question No 1376 asked by Mr Satyamurti on the 22nd November, 1938

Mr. T. S. Avinashilingam Chettiar: May I know when the rules will be ready for publication?

The Honourable Sir Muhammad Zafrullah Khan: I replied on the last occasion that the draft rules have been published for information and criticism

Mr. T. S. Avinashilingam Chettiar: May I know whether the Superintendent of Insurance has suggested any amendments? I do not think that was covered by the previous question.

The Honourable Sir Muhammad Zafrullah Khan: I said that some minor amendments will have to be made It really is immaterial who has suggested them or who has not suggested them.

Mr. T. S. Avinashilingam Chettiar: I want to know whether the Superintendent of Insurance has suggested any amendments in regard to matters of substance and not mere routine matters.

The Honourable Sir Muhammad Zafrullah Khan: It is not usual to say who has made any particular suggestions in any Department, and I really fail to see the point. It is quite immaterial

Mr. S. Satyamurti: Has any time been fixed by which public criticism ought to be sent to Government, after the draft rules are published, and whether it is the 1st January, 1939?

The Honourable Sir Muhammad Zafrullah Khan: I will have to look that up, but I did say on the last occasion that it was hoped that the rules may be placed before the House by the end of February.

Mr. T. S. Avinashilingam Chettiar: May I take it that the Superintendent of Insurance has not suggested any amendment to any material sections of the Act?

The Honourable Sir Muhammad Zafrullah Khan: No The Honourable Member may not take anything at all I have said that the proposed amendments are of a minor character

Mr. S. Satyamurti: May I know whether these rules will be brought into effect independent of the amendment of the Act?

The Honourable Sir Muhammad Zafrullah Khan: I presume so, but I will have to look into it, though, of course, the rules could not in any case be brought into force till the Act has been brought into force

Mr. S. Satyamurti: I am asking whether the subject-matter of the rules is such that any of them depend on any amendment of the Act, before they are brought into force

The Honourable Sir Muhammad Zafrullah Khan: I presume not, but I could not say without notice

AMENDMENT OF THE INSURANCE ACT

†1614. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Commerce Member state:

(a) whether the Superintendent of Insurance has suggested that any amendments should be made in the Insurance Act of 1938 before bringing it into effect;

(b) if so, on which matters; and

(c) whether Government propose to bring in any amending Bill, and if so, when?

EFFECT OF THE NEW EGYPTIAN COTTON TARIFF DUTY ON INDIA'S TRADE.

1615. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Commerce Member state:

(a) in pursuance of his answer to starred question No 674, dated the 1st September, 1938, at what stage the negotiations with Egypt are;

† For answer to this question, see answer to question No 1613

(b) whether the new Egyptian cotton tariff duty has acted prejudicially on Indian export to Egypt, and

(c) what action Government have taken in the matter?

The Honourable Sir Muhammad Zafrullah Khan: (a) My answer to the question referred to did not imply that negotiations were being carried on, but that the particular matter was under discussion.

(b) Yes

(c) The matter is still under correspondence

Mr. T. S. Avinashilingam Chettiar: May I know whether the recent Anglo-Egyptian agreement has in any way affected the negotiations with the Egyptian Government in this matter?

The Honourable Sir Muhammad Zafrullah Khan: That is the matter with regard to which correspondence is going on

Mr. T. S. Avinashilingam Chettiar: I want to know what has been the effect of the Anglo-Egyptian agreement on the Indian trade with that country

The Honourable Sir Muhammad Zafrullah Khan: I have answered that question

Mr. S. Satyamurti: With reference to clause (b), will my Honourable friend elucidate the answer "Yes" he gave, by mentioning figures as regards the extent of the prejudicial effects on exports from India to Egypt, as a result of the new Egyptian tariff duties?

The Honourable Sir Muhammad Zafrullah Khan: I examined the figures recently but I have not got them here, it appears that our trade with Egypt has been seriously affected by the new tariff duties

Mr. S. Satyamurti: In view of that, will Government expedite the steps they propose to take of doing everything in their power to make up the serious shortage of exports?

The Honourable Sir Muhammad Zafrullah Khan: As I have said, the matter is under correspondence, but if there is any particular suggestion that the Honourable Member wants to be considered I shall only be too glad to consider it if he puts it forward

Mr. T. S. Avinashilingam Chettiar: May I know if in this matter of correspondence with the Egyptian Government, the Government of India are taking the advice or suggestion of any commercial bodies in this country?

The Honourable Sir Muhammad Zafrullah Khan: I do not know whether any advice has been formally asked for, but informally yes.

Mr. Manu Subedar: Has any representation been received from the Millowners' Association, Bombay?

The Honourable Sir Muhammad Zafrullah Khan: I would require notice of that.

Mr. Manu Subedar: May I know what suggestions Government have made to safeguard the Indian textile exports to Egypt in view of the fact that Lancashire has now stolen a march over India as far as this is concerned?

The Honourable Sir Muhammad Zafrullah Khan: I do not know that Lancashire is in any better position than India is in that matter

Mr. T. S. Avinashilingam Chettiar: When do they expect to come to a conclusion in this matter"

The Honourable Sir Muhammad Zafrullah Khan: I cannot say

Mr. T. S. Avinashilingam Chettiar: May I know whether Government have examined the position and have satisfied themselves that even after the Anglo-Egyptian treaty the hands of the Government of India are generally speaking free to conclude a mutually favourable agreement with Egypt in this matter?

The Honourable Sir Muhammad Zafrullah Khan: As I explained on the last occasion it is not a question of any trade arrangement or agreement with Egypt The question is whether the present situation can in any way be modified

RESERVATION UPTO CERTAIN COUNTS OF YARN FOR THE HANDLOOM INDUSTRY.

1616. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Commerce Member state

(a) whether Government are considering the matter of reserving up to certain counts of yarn for the handloom weaving;

(b) if so, whether they consulted the Provincial Governments in the matter, and

(c) whether they have come to a conclusion in the matter?

The Honourable Sir Muhammad Zafrullah Khan: (a) No, Sir

(b) and (c) Do not arise

Mr. T. S. Avinashilingam Chettiar: May I know whether Government have considered the advisability of enquiring into this matter, because it is very urgent just now?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member asked whether the specific suggestion was being considered and the answer is "no"

Mr. T. S. Avinashilingam Chettiar: My enquiry was whether they were investigating the matter having regard to its urgency?

The Honourable Sir Muhammad Zafrullah Khan: My answer "No" means that Government have looked into the matter and they do not intend to act upon that suggestion.

Prof. N. G. Ranga: Is it not a fact that some of the Provincial Governments had recommended to the Government of India that investigations should be made in regard to this matter at the last Industrial Conference?

The Honourable Sir Muhammad Zafrullah Khan: The proceedings of the Industries Conference are published

Mr. T. S. Avinashilingam Chettiar: Have Government considered that recommendation?

The Honourable Sir Muhammad Zafrullah Khan: Yes. I said that the consideration had resulted in the answer I have given.

Mr. S. Satyamurti: May I know, apart from the suggestion in clause (a), whether the Government have considered or are considering any other steps to give some protection to the handloom industry, as against unlimited competition of the mills, both indigenous and foreign?

The Honourable Sir Muhammad Zafrullah Khan: That matter has been debated often by way of question and answer and it has certainly been considered by the Industries Conference

Mr. S. Satyamurti: Have the Provincial Governments addressed the Government of India in this matter and made any suggestions with regard to the protection of handloom weavers?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid, I would require notice of that

Mr. T. S. Avinashilingam Chettiar: Have Government considered the advisability of referring this matter to the Tariff Board on cotton which might be set up soon?

The Honourable Sir Muhammad Zafrullah Khan: Yes. I believe I have said on a previous occasion that when a Tariff Board is set up the question of the position of the handloom industry would also be referred to them specifically

INCREASE IN THE IMPORT OF FOREIGN COTTON INTO INDIA.

1617. ***Mr. T. S. Avinashilingam Chettiar:** Will the Education Secretary state

(a) whether the import of foreign cotton into India has progressively increased;

(b) if so, whether Government have investigated as to what proportion of the imported cotton is of a variety that is not available in India;

(c) whether Government have considered the advisability of investigating the possibility of growing such cotton as is imported now, or substitutes for them, and

(d) if so, with what results?

Sir Girja Shankar Bajpai: (a) Yes, it has recently shown a tendency to increase

(b) The Indian Central Cotton Committee have made investigations and are keeping a careful watch on the position Most of the imported cotton is of a staple longer than that now grown commercially in India For example, out of 145,191 bales of American cotton imported during the cotton year ending 31st August, 1938, only 3,578 bales or a little over two per cent were of staple length of 1-1/16 inches

(c) and (d) Yes The question has been engaging the attention of both the Indian Central Cotton Committee and the Government of Sind Experiments conducted by the Provincial Department of Agriculture have shown that certain areas in Sind are suitable for growing quality cottons of staple length 1¼ inches to 1½ inches Two acclimatised varieties, which have been grown on Government Farms since 1933 have yielded promising results, though two difficulties, *viz* , (1) seasonal variations in yield and (2) inadequacy of the premium obtained for these cottons, have manifested themselves The possibility of overcoming these two factors is being examined The Indian Central Cotton Committee also recently decided that the Director of Agriculture, Sind, should put up a carefully worked out scheme for the development of long staple cottons for consideration of the Committee in March 1939

Prof N. G. Ranga: May I know, Sir, if Government have considered the advisability of placing some funds at the disposal of the Indian Central Cotton Committee in order to expedite these researches and produce the necessary quantity of cotton of the requisite quality not only in Sind but also in other parts of India?

Sir Girja Shankar Bajpai: As far as I am aware, there is no lack of funds with the Indian Central Cotton Committee

Mr. S. Satyamurti: May I know, Sir, if my Honourable friend can throw some light, with regard to part (c) of the question, on the actual excess of imports of foreign cotton into India in recent months?

Sir Girja Shankar Bajpai: My Honourable friend has a question later on, and I am supplying the figure in answer to it

Mr. S. Satyamurti: With regard to parts (c) and (d), may I know if Government can inform this House whether any success has attended their efforts to produce long staple cotton which is now imported into India, and which is not produced here, on a commercial scale even to a limited extent anywhere in India?

Sir Girja Shankar Bajpai: That really is the point of investigation I have tried to explain that there are possibilities of growing on a commercial scale in Sind cotton of staple varying from 1¼" to 1½", and that is the position which is being investigated in Sind

Mr. Manu Subedar: Sir, in view of the fact that even 3,000 bales, if offered at an uneconomic price, can affect the range of price in India to the detriment of the Indian cotton cultivator, may I know whether Government have considered the advisability of totally prohibiting import of cotton which can be produced in this country?

Sir Girja Shankar Bajpai: I have already answered that question on previous occasions. Government have examined the question carefully and have come to the conclusion that the bulk of imports into this country would not justify any such action

Mr. Manu Subedar: I am drawing the attention of the Honourable Member to the fact that it is not the bulk which matters, but it is the price which matters.

Mr. President (The Honourable Sir Abdur Rahim) The Chair cannot allow the Honourable Member to discuss a matter like that now

Sardar Sant Singh: With reference to part (a) of the question, may I know, Sir, whether the import of foreign cotton into India is being done in the interests of the textile industry?

Sir Girja Shankar Bajpai: That is a matter of opinion

Sardar Sant Singh: Who imports this cotton into India?

Sir Girja Shankar Bajpai: The consumers of cotton.

Sardar Sant Singh: Who are the consumers? Is it not the textile industry of Bombay and Ahmedabad?

Sir Girja Shankar Bajpai: Cotton is not a staple article of food; what is imported is for the manufacture of goods,

Sardar Sant Singh: If it is imported, will Government take steps to totally prohibit its imports and compel them to use Indian cotton in preference to imported cotton?

Mr. President (The Honourable Sir Abdur Rahim) It is a large question, and it cannot be raised here.

Mr. S Satyamurti: May I know, Sir, if any experiments are being carried out in Sind on the growth of this long staple cotton?

Sir Girja Shankar Bajpai: Yes, Sir

EFFECT OF THE TRADE AGREEMENT BETWEEN CANADA AND THE UNITED STATES OF AMERICA ON INDIA'S TRADE

1618. *Mr. M. Ananthasayanam Ayyangar: (a) Will the Honourable Member for Commerce be pleased to state if negotiations for a trade agreement between Canada and the United States are nearing completion, and if his attention has been drawn to Reuter's news on the 8th November, reported in the *Hindu* to that effect?

(b) What are the articles included in that bilateral agreement and what are the effects of that agreement on the Ottawa Agreement, and on the Indian trade?

(c) Was a similar bilateral agreement entered into between the United Kingdom and the United States?

(d) Have these agreements been considered, while shaping the new Indo-British Trade Agreement?

The Honourable Sir Muhammad Zafrullah Khan: (a) Government have seen a Press Report to the effect that a trade agreement between Canada and the United States was signed on the 17th instant

(b) Government have not yet seen the text of the Canada-United States of America Trade Agreement. This Agreement, however, can have no effect on the Ottawa Agreement, which, as the Honourable Member must be aware, in no way affects the trade relations between India and Canada

(c) A trade agreement has been concluded between the United Kingdom and the United States of America

(d) The Honourable Member's attention is invited to the answers given on the 14th September, 1938, to Mr Thirumala Rao's question No 1044 and its supplementaries

Mr. Manu Subedar: May I know, Sir, whether Government have full information now as to the articles on which preference to Indian exports to the United Kingdom is being reduced on account of the agreement between the United States and the United Kingdom?

The Honourable Sir Muhammad Zafrullah Khan: There is a question by the Honourable Member himself later on

Mr Manu Subedar: It is not today, but I am only asking

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member had better wait

Mr. Manu Subedar: Sir, I am only asking whether he has the information.

Mr. President (The Honourable Sir Abdur Rahim) Very well, the Honourable Member can wait

Mr. S. Satyamurti: With regard to clauses (c) and (d), may I know, Sir, whether the Government in conducting the negotiations which they are now conducting in regard to fresh Indo-British agreement, have any information in their possession as to the agreement between the United Kingdom and the United States on those negotiations, in view of the results of a treaty between the United Kingdom and the United States?

The Honourable Sir Muhammad Zafrullah Khan: I believe the Honourable Member put a similar question to me on a previous occasion, and I said yes, that was being kept in view.

Mr. S. Satyamurti: May I know, Sir, whether the lowering of the Ottawa preferences has come to the notice of my Honourable friend, and if so, what value is being assigned to it in the conduct of these negotiations?

The Honourable Sir Muhammad Zafrullah Khan: It is difficult to assess the value on an item like that in rupees and annas, but the matter is being taken into consideration that the agreement between the United States and the United Kingdom will have this effect.

Mr. T. S. Avinashilingam Chettiar: May I know, Sir, if they are not able to proceed even with this treaty because of their negotiations with the United Kingdom, and may I know how the United Kingdom is able to compete with the United States when my friend is not able to assess the value?

Mr. President (The Honourable Sir Abdur Rahim): That is arguing the matter.

Mr. Manu Subedar: May I know, Sir, from what date the Anglo-American treaty comes into operation, and, therefore, from what date the preferences to Indian exports will be altered?

The Honourable Sir Muhammad Zafrullah Khan: I would require notice

Mr. Manu Subedar: May I know, Sir, whether the Honourable Member has made representations to His Majesty's Government with regard to the outstanding transactions in those items which are being sent to the United Kingdom and in respect of which preferences were hitherto being given?

The Honourable Sir Muhammad Zafrullah Khan: It is not necessary to make any representations.

EVOLUTION OF A SCHEME OF ECONOMIC AND INDUSTRIAL PLANNING FOR INDIA.

1619. *Mr. M. Ananthasayanam Ayyangar: (a) Will the Honourable Member for Commerce be pleased to state if Government are aware that the Indian National Congress has appointed an "Industrial Planning Committee" for organising industries in India?

(b) How far will Government render assistance to and co-operate with that committee in evolving a scheme of economic and industrial planning for India?

The Honourable Sir Muhammad Zafrullah Khan: (a) Government have seen press reports to this effect.

(b) The Government of India have not been approached in the matter. I would in this connection remind the Honourable Member that the development of industries is primarily the concern of the Provincial Governments.

n: Are Government aware that there are many industries of an All-India nature which can be developed only by the Government of India?

The Honourable Sir Muhammad Zafrullah Khan: That is a hypothetical question.

Mr. S. Satyamurti: Are not Government aware that the development of these industries to a large extent depends on the fiscal policy of the Government of India?

The Honourable Sir Muhammad Zafrullah Khan: That is an argument.

Mr. T. S. Avinashilingam Chettiar: May I know, Sir, whether the Secretary or the President of this Committee has addressed the Government of India on this subject?

The Honourable Sir Muhammad Zafrullah Khan: Not, so far as I am aware My information is that we have received no representations from this Committee

Mr. K. Santhanam: May I know, Sir, whether the development of locomotive manufacture is not a matter for the Central Government to decide upon?

Mr. President (The Honourable Sir Abdur Rahim) That does not arise.

Prof. N. G. Ranga: What is the nature of the co-operation that their Industrial Research Bureau is capable of rendering to this Industrial Planning Committee?

The Honourable Sir Muhammad Zafrullah Khan: Let the Industrial Planning Committee approach the Industrial Bureau first

DISCRIMINATION AGAINST INDIANS IN THE KENYA HIGHLANDS.

1620. ***Mr. S. Satyamurti:** Will the Secretary for Education, Health and Lands please state

(a) whether the attention of Government has been drawn to a leading article in the *Hindu* of 31st October, entitled "Kenya Highlands question",

(b) whether the attention of Government has been drawn to the memorandum submitted to the British Government by the executive committee of the East African Indian national congress,

(c) whether it is a fact that the boundaries of the uplands area reserved for Europeans have continuously increased and in 1923 the transfer of land from Europeans to Indians and native Africans was sought to be prohibited,

(d) whether Government are aware of the demand of Indians that the definition by the Secretary of State of the term 'privileged position' of Europeans should be withdrawn;

(e) whether it is a fact that the Government of Kenya intend to appoint a Highlands Board to administer the highlands and there will be a majority of European elected members on it;

(f) whether it is a fact that there is no provision for the appointment of Indians to the Native Land Trust Board; and

(g) whether the Government of India have taken and will continue to take necessary steps to see "that the continuance of this vicious administrative practice" which discriminates against British Indians who are British subjects, in favour of aliens who owe no allegiance to the British Empire, is stopped immediately?

Sir Girja Shankar Bajpai: (a) and (b) Yes

(c) In accordance with the recommendations of the Kenya Land Commission, the area now defined as the Highlands represents an increase over the original area to which the administrative practice of excluding non-Europeans was to be confined. The answer to the second part is in the affirmative

(d) Yes

(e) and (f) The Crown Lands (Amendment) Ordinance, 1938, and the Native Lands Trust Ordinance, 1938, define the Highlands Board and the Native Lands Board respectively, but do not lay down the constitution or the functions of the two Boards

(g) I have repeatedly stated to the House the attitude of the Government of India in this matter

Mr. S. Satyamurti: With reference to the answer to clause (b) of the question, may I know whether Government have taken any action on the memorandum submitted to the British Government by the Executive Committee of the East African Indian National Congress?

Sir Girja Shankar Bajpai: Well, Sir, the memorandum, as my Honourable friend is aware, was sent by the East African Indian National Congress to the Secretary of State for the Colonies The Government of India have not been asked by the East African Indian National Congress to take any action themselves but I can inform my Honourable friend without any breach of confidence that the attitude of the Government of India more or less covers the points which are made in the memorandum

Mr. S. Satyamurti: With reference to part (c) of the question, may I know whether my Honourable friend can inform the House what is the extent now of the boundaries of the uplands area reserved for Europeans by subsequent action both in 1928 and since?

Sir Girja Shankar Bajpai: I should like to have notice of that question I could not say off-hand

Mr. S. Satyamurti: May I know whether this transfer of land from Europeans to Indians and native Africans has been finally prohibited?

Sir Girja Shankar Bajpai: No, Sir The legal position is exactly what it has been so far, that is to say, inter-racial transfers are subject to approval by the Governor

Mr. S. Satyamurti: With reference to the answer to part (d) of the question, may I know what is the latest position, and whether the Government of India have addressed the Secretary of State on this matter; that

is to say, that the definition, "privileged position" of Europeans, should be withdrawn?

Sir Girja Shankar Bajpai: As my Honourable friend is aware, two points arise in connection with that, one, that the definition, "privileged position", should be included in the proposed Order in Council With regard to that, the Secretary of State for the Colonies has categorically stated that no such definition is to be included in the Order in Council; in other words, the administrative practice is not to have a statutory basis The other one, namely the practice itself or refusing to Indians permission to take land in the Highlands —with regard to that, as I have told the House more than once, the Government of India have represented to His Majesty's Government that they do not favour this practice.

Mr. S. Satyamurti: With reference to the answers to parts (e) and (f), may I know whether the Government have any information as to whether these Boards are now functioning, and, if so, what their composition and functions are?

Sir Girja Shankar Bajpai: No They are not functioning

Mr. S. Satyamurti: With reference to the answer to part (g) of the question, may I know what is the latest position? I know that the Government of India have been addressing the Secretary of State, but in view of recent events, may I know whether Government have any information about the latest attitude of the Colonial Office in respect of this very important matter?

Sir Girja Shankar Bajpai: Some days ago I had occasion to inform the House in connection with the question of Jewish settlement that the Government of India had raised the matter with the Secretary of State for the Colonies again, but no answer has yet been received by the Government of India

Seth Govind Das: Is it not a fact that on the whole the position of Indians has, so far as the question of Highlands is concerned, deteriorated?

Sir Girja Shankar Bajpai: Well, I think that is a matter of opinion. I do not know that anything has happened definitely since the deputation of the East African Indian National Congress was here

Seth Govind Das: On the whole if the position remains the same as the Honourable Member has said, what ultimately are the Government of Indian going to do in this respect?

Sir Girja Shankar Bajpai: That is a hypothetical question

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

Seth Govind Das: I am asking a definite question, what Government are going to do

Mr. President (The Honourable Sir Abdur Rahim) The Chair has called the next question

PROTECTION OF THE INTERESTS OF INDIAN COTTON GROWERS.

1621. *Mr. S. Satyamurti: Will the Secretary for Education, Health and Lands be pleased to state

(a) whether his attention has been drawn to a message from the Associated Special Service, New Delhi, dated November 7th, 1938, published in the *Hindu* of the 8th November, 1938, on "Indian cotton in doldrums",

(b) whether the world demand for Indian cotton has not declined,

(c) what the latest figures are,

(d) whether there has been a progressive increase in imports of foreign cotton and what the latest figures are;

(e) whether it is a fact that the increased use of rayon in India for the manufacture of textile goods is a factor seriously affecting the Indian cotton grower, and

(f) what steps, if any, Government propose to take to protect the interest of the cotton growers?

Sir Girja Shankar Bajpai: (a) Government have seen the article in question

(b) and (c) The total consumption of Indian cotton has fallen from 6,022,000 bales in the year ending July 31st, 1937, to 5,868,000 bales in the year ending July 31st, 1938.

(d) A statement is laid on the table

(e) Government are aware that increased use of rayon in India might eventually adversely affect the cotton growers.

(f) The Government propose to examine the matter.

Statement

The import of foreign cotton into India has recently shown a tendency to increase; the figures for the three years ending 1937-38 and for the six months ending September, 1938, are given below

Imports of foreign cotton into British India.

Tons

1935-36	1936-37.	1937-38.	6 months 1st April to 30th September, 1938.
76,487	64,988	134,414	62,835

Mr. S. Satyamurti: My Honourable friend may say it refers to some other Department, but may I know whether, apart from the step of producing the right kind of cotton which the Indian textile mills require, to which my Honourable friend referred in answer to an earlier question—may I know whether Government are contemplating any other steps, considering the almost cataclysmic fall in prices of cotton and the effect it has on the agricultural economy of this country?

Sir Girja Shankar Bajpai: Well, Sir, I had occasion to answer questions about that before, and I believe I have indicated to the House the

action which had been taken by the Indian Central Cotton Committee, to draw the attention of the provinces to the desirability of certain readjustments of the area under cotton and the cultivation of different varieties of cotton.

Mr. S. Satyamurti: With regard to this possible increased production of various qualities of cotton, may I know if the Government of India have sought or have got the co-operation of the Indian textile mills in this matter?

Sir Girja Shankar Bajpai: I do not know whether at the moment long staple cotton of, shall we say, more than one and one-sixteenth of an inch is available in sufficient quantity, to permit of any approach being made in this matter to the mills But I gather that actually during the current year the consumption by Indian mills of Indian cotton has gone up to the extent of 500,000 bales

Mr. S. Satyamurti: With reference to the answer to clause (e) of the question, may I know if any steps are being taken,—because my Honourable friend has said in answer to that question that Government are convinced that the increased use of rayon will have an ultimate adverse effect on cotton consumed in textile mills—may I know if any steps are being taken by Government in this matter?

Sir Girja Shankar Bajpai: May I remind my Honourable friend that what I said was, in the usual cautionary attitude of the Government, that the increased use of rayon in India might eventually adversely affect the cotton growers The report of the Indian Central Cotton Committee on the subject has not yet officially reached the Government of India, but my Honourable friend may rest assured that the position would be examined as expeditiously as possible

Mr. S. Satyamurti: Will Government avoid the usual mistake of shutting the stable after the steed has been stolen?

Sir Girja Shankar Bajpai: In this case is it not the other way about?

Prof. N. G. Ranga: Have Government examined the advisability of putting an embargo on imports of this rayon as well as of those kinds of cotton whose imports can possibly be prohibited without any detriment to the cotton mill industry?

Sir Girja Shankar Bajpai: I have already informed the House that Government will consider the position I cannot say at this stage what their decision will be.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government are aware that control of cotton cultivation cannot be done by any individual province without the help of the Government of India because it has to be done throughout all the provinces?

Sir Girja Shankar Bajpai: Perhaps, my Honourable friend would indicate to us as to what action the Government of India can take to control cultivation of cotton.

Mr. T. S. Avinashilingam Chettiar: May I know whether they have taken any steps to convene a conference of the Ministers of Agriculture in the provinces, in order to consider this matter?

Sir Girja Shankar Bajpai: There is no special virtue in a conference. The necessary co-ordination is being done by the Indian Central Cotton Committee.

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

Appointment of Tariff Boards

1622. *Mr. S. Satyamurti: Will the Honourable the Commerce Member be pleased to state

(a) the number of Tariff Boards and the subject of enquiry undertaken by them appointed *ad hoc* by Government during the last five years,

(b) the number of Tariff Boards due to be appointed during the next three years and the subjects of enquiry thereof,

(c) whether Government are aware of the strong criticism by the public in this country against the appointment of these *ad hoc* boards, and

(d) whether Government have considered or propose to consider the suggestion of having a permanent Tariff Board to deal with all these questions for at least a limited period of years, if not, what are the reasons for that?

The Honourable Sir Muhammad Zafrullah Khan: (a) I would refer the Honourable Member to the statement laid on the table of this House on the 29th September, 1937, in reply to part (a) of his question No 879 Since then three Tariff Boards have been appointed to enquire into the question of continuance of protection to the paper and paper pulp, magnesium chloride and sericultural industries

(b) Government are unable to make any forecast of the number of enquiries which may be undertaken during the period.

(c) and (d) The attention of the Honourable Member is invited to the statement I made during the course of the debate on the adjournment motion moved and withdrawn by him on the 1st September, 1936, in this House, in regard to the abolition of the Tariff Board

Mr. S. Satyamurti: With reference to the reply to part (b) of the question,—I am not asking the Government to give me a forecast of all possible Tariff Boards, but I am asking in respect of the tariff policy now in force—what are the subjects which my Honourable friend in the normal course hopes will be referred to Tariff Boards, in view of the expiry, during the next three years, of the existing level of tariff duties?

The Honourable Sir Muhammad Zafrullah Khan: That depends upon applications made to Government for the continuation of protection. I cannot say in respect of which of those industries such applications may be received

Mr. S. Satyamurti: May I take it, therefore, that till these tariff duties automatically expire Government will not take any steps to constitute Tariff Boards, unless the industry concerned applies in time for the constitution of a Tariff Board?

The Honourable Sir Muhammad Zafrullah Khan: I will not say, unless they apply Some of them may intimate that they do not require any further protection.

Mr. S. Satyamurti: Do Government contemplate themselves appointing *suo moto* any Tariff Board during the next three years, apart from applications from the industries concerned?

The Honourable Sir Muhammad Zafrullah Khan: As I have said, it is difficult to make a forecast today as to what may be done during the course of the next three years

Mr. S. Satyamurti: With regard to the reply to part (d) of the question, may I know whether it is not necessary in the interests of sound fiscal administration in the country and of creating public confidence, to appoint a quasi-judicial body whose findings will not be subjected to the ordinary criticism which is attached to reports of *ad hoc* bodies?

The Honourable Sir Muhammad Zafrullah Khan: I have replied to that That was my Honourable friend's question

Mr. Manu Subedar: Has any representation been received from the salt industry of India making a request for the appointment of a Tariff Board to secure them a reasonable price in the Calcutta market?

The Honourable Sir Muhammad Zafrullah Khan: I do not think so but the Honourable Member had better put down a question to that effect to make sure

Mr. T. S. Avinashilingam Chettiar: Considering that the present protection given to the textile industry will be shortly coming to an end, may I know whether Government propose to appoint a textile tariff board to go into that matter soon?

The Honourable Sir Muhammad Zafrullah Khan: That question is under consideration.

Prof. N. G. Ranga: Has the Tariff Board for the sericultural industry submitted its report?

The Honourable Sir Muhammad Zafrullah Khan: They are still carrying on their investigation

Mr. S Satyamurti: With reference to clause (d), may I know whether Government have examined or will re-examine the question of having a permanent Tariff Board at least for a period of years so as to avoid the criticism against *ad hoc* tariff boards?

The Honourable Sir Muhammad Zafrullah Khan: They did examine the question on previous occasions, and no further re-examination is necessary.

REPORT ON THE WORKING OF THE PAYMENT OF WAGES ACT.

1623. *Mr. S. Satyamurti: Will the Honourable the Labour Member be pleased to state.

(a) whether the Government of India have received a report on the working of the Payment of Wages Act in the various provinces in India;

(b) where they have received no such report, whether they propose to call for such reports, and

(c) whether they will place them on the table of the House?

The Honourable Sir Muhammad Zafrullah Khan: (a) The Governments of Bengal, Bihar, Bombay and Madras have included notes on the working of the Payment of Wages Act in their annual Factory Reports for the year 1937. A report on the working of the Act on federal railways is under preparation.

(b) In reply to a request made by the Central Government, all Provincial Governments have agreed to prepare and furnish to the Central Government a Report on a uniform plan.

(c) The provincial reports, when furnished, will be consolidated, and a copy of the consolidated Report will be placed in the Library of the Legislature.

Mr. S. Satyamurti: Similarly also, will the report on the general working of the Payment of Wages Act in Indian Railways be also placed in the Library of the House as soon as it is ready?

The Honourable Sir Muhammad Zafrullah Khan: I will certainly consider the suggestion.

Prof. N. G. Ranga: Will it form part of the usual Railway Board's annual report?

The Honourable Sir Muhammad Zafrullah Khan: I am unable to say.

Mr. S. Satyamurti: May I know whether, in addition to placing copies of the report in the Library, copies will be supplied to all the Members in view of the fact that this Act was passed by the Legislature and naturally Members would like to see how the Act is working?

The Honourable Sir Muhammad Zafrullah Khan: If copies are placed in the Library of the House, they become available to such of the Honourable Members as are interested in observing the working of the Act.

Mr. S. Satyamurti: May I make a submission on this point? Placing it in the Library means only that six copies are available. Most of us have not the time or the inclination to sit in the Library, but we can find time at home where we are comparatively free to read. May I know what are the insuperable difficulties in the way of Government supplying copies to every Member of the House on the working of an Act which was passed by this [illegible]

The Honourable Sir Muhammad Zafrullah Khan: It is really a question of cost I suggest that such Honourable Members as are desirous of obtaining copies for study at home may get copies on loan from the Department

Mr. S. Satyamurti: What is the cost involved in printing 150 copies and giving a copy to every Member?

The Honourable Sir Muhammad Zafrullah Khan: We do not know how big the reports may be

Mr. N. M. Joshi: May I know whether the report will be published for the benefit of the public?

The Honourable Sir Muhammad Zafrullah Khan: If it is printed and placed in the Library of the House, it is published to all intents and purposes

Mr. Mohan Lal Saksena: Who is preparing the report on the working of the Act in the Railways? Is it an officer of the Railway Department or an officer of the Labour Department?

The Honourable Sir Muhammad Zafrullah Khan: I am unable to say

Mr. N. M. Joshi: Will copies be available for the public to buy?

The Honourable Sir Muhammad Zafrullah Khan: I cannot say in advance

PROCEDURE IN DEALING WITH QUESTIONS RELATING TO INDIAN CONSTITUTIONAL REFORMS.

1624. ***Mr. S. Satyamurti:** Will the Honourable the Leader of the House be pleased to state

(a) the normal procedure in dealing with questions relating to Indian constitutional reforms,

(b) whether the Reforms Office deals with these questions apart from the Government of India,

(c) whether all communications on questions relating to Indian constitutional reforms pass through the Government of India to the Secretary of State,

(d) or whether such correspondence passes only through the Governor General; and

(e) whether pending questions on Indian constitutional reforms are considered by the Executive Council of the Government of India as a whole, or are dealt with by the Governor General alone?

The Honourable Sir Nripendra Sircar: The several parts of this question relate to the internal transaction of business within the Government, on which I regret I am not able to make any statement.

Mr. S. Satyamurti: I am asking what is the normal procedure in dealing with questions relating to Indian constitutional reforms. Surely that does not mean that I want to know the distribution of work among the various members of Government.

The Honourable Sir Nripendra Sircar: I think my answer covers that. Normal procedure must mean that a file has got to be started by somebody and then sent on to some other people and then a decision is arrived at. I say that I am unwilling to disclose all that

Mr. S. Satyamurti: I only want to know the normal procedure that is adopted in the Government of India for dealing with questions relating to Indian constitutional reform

The Honourable Sir Nripendra Sircar: The procedure is normal, not abnormal

Mr. S. Satyamurti: With reference to part (b), may I know whether the Reforms Office is subject to the Government of India or is attached only to the Governor General?

The Honourable Sir Nripendra Sircar: That is exactly the question which I have answered

Mr. S. Satyamurti: What is the answer?

The Honourable Sir Nripendra Sircar: The several parts of this question relate to the internal transaction of business within the Government on which I regret I am not able to make any statement

Mr. S. Satyamurti: I am not referring to internal transactions I am at a handicap in dealing with my friend, who always tries to raise a laugh by saying something humourous. I am not so humourous as he is, but I am more serious I am anxious to find out whether the Reforms Office which we pay for is run as an ordinary Department under the Government of India, or as a Department attached to the Governor General I submit I am entitled to an answer on that point.

The Honourable Sir Nripendra Sircar: I am not trying to raise a laugh, but in a very mournful spirit I say that the question whether the Reforms Office deals with these questions apart from the Government of India or not is part of the internal transaction of business within the Government on which I cannot make a statement

Mr. S. Satyamurti: With reference to part (c), may I know whether all questions on constitutional reforms pass through the Government of India or over their heads to the Secretary of State, apart from demi-official correspondence between the Governor General and the Secretary of State?

The Honourable Sir Nripendra Sircar: That, again, is part of the internal transaction of business within the Government.

Mr. S. Satyamurti: With reference to part (d)—I know the answer that I will get from my friend—may I know whether questions relating to

Indian constitutional reform are considered by the Executive Council of the Government of India as a whole, or are they dismissed altogether from the picture, and the Governor General deals with these questions over the heads of the Government of India?

The Honourable Sir Nripendra Sircar: That is also a matter of internal transaction of business within the Government.

REPORT ON THE AMALGAMATION OF THE LONDON STORES DEPARTMENT WITH THE INDIAN STORES DEPARTMENT

1625. *Mr. Manu Subedar: (a) Will the Honourable the Commerce Member please state if Government have received a copy of the report of Sir James Pitkeathly on the amalgamation of the London Stores Department with the Indian Stores Department? Will such a copy be placed on the table of the House?

(b) When was this work entrusted to Sir James Pitkeathly and when was this report submitted to Government?

(c) What action have Government taken on this report?

(d) Have Government received any representations from commercial bodies urging the amalgamation of the London Stores Department with the Indian Stores Department?

(e) Have Government found any counter-balancing financial advantages for continuing a duplicate machinery for stores purchase to accomplish the same end?

(f) Are the indents on the London Stores Department sent out after the scrutiny of the Indian Stores Department, or, is the scrutiny taking place later after the indents have already gone?

(g) Have Government considered that certain indents which go to the London Stores Department from some Departments could be dealt with promptly and economically by the Indian Stores Department making the necessary purchases from the agents in India?

The Honourable Sir Muhammad Zafrullah Khan: (a) The Report has been received and is under consideration No decision regarding publication of the report has yet been taken

(b) In the summer of 1936 The Report was submitted to Government last July

(c) The Report is still under consideration

(d) Not since 1930

(e) The India Store Department, London, is not a "duplicate machinery" but a complementary organisation as it is entrusted with the purchase and/or inspection only of those stores which cannot be arranged for efficiently and economically by the Indian Stores Department or the consuming departments in India

(f) and (g) Copies of the indents forwarded to the Director-General, India Store Department, London, are, as a rule, forwarded to the Indian Stores Department simultaneously as the indents are despatched, but in special cases drafts of such indents are sent to that Department for prior

scrutiny If they contain any items which the Stores Department consider can be obtained in India under the Rules, such items are at once brought to the notice of the indenting officer and the demands are diverted to India whenever possible

Mr. Manu Subedar: What is the estimated saving if the London Stores Department were abolished?

The Honourable Sir Muhammad Zafrullah Khan: I am unable to say

Mr. Manu Subedar: May I know what steps Government have taken in order to make the Company Railways and the Defence Department go either through the Indian Stores Department or the London Stores Department instead of purchasing direct?

The Honourable Sir Muhammad Zafrullah Khan: That does not arise out of this

Mr. S. Satyamurti: With reference to clause (a) of the question, may I know what is the recommendation of Sir James Pitkeathly?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid I am unable to disclose the recommendations.

Mr. S. Satyamurti: May I know if Sir James Pitkeathly has not recommended that the London Stores Department should continue?

The Honourable Sir Muhammad Zafrullah Khan: That is an attempt to find out the same thing in another manner

Mr. S. Satyamurti: What is the amount of expenditure incurred on the London Stores Department year after year, and the amount of orders placed through them directly?

The Honourable Sir Muhammad Zafrullah Khan: I would require notice of that question

Mr. S. Satyamurti: Why was it said then that no appreciable saving would result by abolishing the London Stores Department?

The Honourable Sir Muhammad Zafrullah Khan: Because I required notice of the previous question, it does not follow that the answer I have previously given is thereby rendered incorrect

Mr. S. Satyamurti: My Honourable friend stated that in his opinion the abolition of the London Stores Department would not result in any appreciable saving to the Government of India, may I know the premises on which he made that statement?

The Honourable Sir Muhammad Zafrullah Khan: I said I was not aware that any saving would be made

Mr. S. Satyamurti: Is my Honourable friend aware that this Department spends a lot of money and has only a few orders sent through it?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir

Mr. President (The Honourable Sir Abdur Rahim) New question

LEVY OF AN IMPORT DUTY ON WHEAT

1626. *Sardar Sant Singh: Will the Honourable the Commerce Member please state:

(a) the quantity of foreign wheat imported into India during the years 1936, 1937 and up to the end of October, 1938,

(b) the quantity re-exported in the form of wheat flour during the same period,

(c) in view of the heavy imports of foreign wheat into India, whether Government propose to re-levy import duty on wheat to prevent such wheat entering India; and

(d) whether Government are aware that the actual import of Australian wheat has considerably affected local prices?

The Honourable Sir Muhammad Zafrullah Khan: (a) The imports of wheat into India from foreign countries during 1936 to 1937 and January to October, 1938, were 6,630, 1,523 and 62,575 tons, respectively

(b) Separate figures are not available for exports of wheat flour made from imported wheat Total exports of wheat flour during 1936, 1937 and January to September, 1938, were 17,786, 55,062 and 50,532 tons respectively

(c) The matter is still under examination

(d) There has been a decline in the prices of wheat in India in sympathy with the fall in world prices.

Sardar Sant Singh: May I know if the Government of India are keeping an eye over the quantities imported into the Bombay and Calcutta ports from Australia, and is it a fact that during the months of October and November the imports have gone up to over 90,000 tons?

The Honourable Sir Muhammad Zafrullah Khan: As regards the first part, yes; as regards the second part, I have not the exact figures.

Sardar Sant Singh: Will Government kindly make an effort to find out the exact figures of the quantities that have reached these two ports and the quantities expected to reach these ports in recent times and decide about re-levying the duty very soon?

The Honourable Sir Muhammad Zafrullah Khan: That is rather a composite question, but I will push forward the decision of the matter as quickly as possible

Prof. N. G. Ranga: Have Government ascertained the percentage of the fall in the prices obtained for Indian wheat?

The Honourable Sir Muhammad Zafrullah Khan: I think it could be worked out if the Honourable Member was anxious to have it done.

Prof. N. G. Ranga: May I know whether it is a fact that the fall in the prices of Indian wheat is very much more than any corresponding fall, if there has been any, in the world parity of price of other wheat?

The Honourable Sir Muhammad Zafrullah Khan: I am not sure that that is so, as a matter of fact I think the prices outside have fallen still more

Seth Govind Das: When will Government decide about the levying of a duty on the imports of wheat?

The Honourable Sir Muhammad Zafrullah Khan: I have already answered that

SLUMP IN COTTON PRICES.

1627. *Sardar Sant Singh: (a) Will the Honourable Member for Communications be pleased to state if the attention of Government has been drawn to the slump in cotton prices in India?

(b) If so, what steps do Government propose to take to raise such prices?

Sir Girja Shankar Bajpai: (a) Yes

(b) The Honourable Member's attention is invited to the reply given to parts (a) and (b) (i) of Sardar Mangal Singh's starred question No 189 on the 15th August, 1938

Prof. N. G. Ranga: Are Government in constant consultation with the Provincial Governments in regard to this matter?

Sir Girja Shankar Bajpai: I can assure my Honourable friend that the Provincial Governments show no reluctance to address the Government of India

Sardar Sant Singh: May I know whether the slump in prices has been outrageously great during the last few months, and if so, what steps the Government of India have taken to protect the Indian interests so far as cotton is concerned?

Sir Girja Shankar Bajpai: The underlying assumption, Sir, is that the fall in the prices of cotton in India has been due to the imports of cotton, and I have been trying to contest that

Sardar Sant Singh: Even if it is not due to the import of cotton, is it not a fact that somewhere from 265 points the prices have fallen to 140 points? Is it not a fact that it is the concern of the Government of India to see that the Indian traders do not suffer from such catastrophic changes in price?

Sir Girja Shankar Bajpai: I do not see how the Government of India can interfere in this matter.

Prof. N. G. Ranga: Is it not a fact that the Governments of Bombay and the Central Provinces have recommended to the Government of India to put an embargo on the imports of foreign cotton into India?

Sir Girja Shankar Bajpai: I have more than once answered that particular question I have stated that the Government of Bombay at one stage did make such a recommendation, and when Government of India found that the imported foreign cotton was not competing with Indian cotton at all, they informed the Government of Bombay that the action recommended by them would not have the effect desired

PURCHASE OF WHEAT BY HIS MAJESTY'S GOVERNMENT FROM RUMANIA.

1628. *Sardar Sant Singh: (a) Will the Honourable the Commerce Member be pleased to state if he is aware of the purchase of 200,000 tons of wheat by His Majesty's Government from Rumania?

(b) If so, does the Honourable Member know that there is a great surplus of wheat in India causing great reductions in the price of wheat and consequently seriously affecting the economic conditions of the agriculturists in India?

(c) Did Government make any effort to induce His Majesty's Government to purchase wheat from India? If not, why not?

Sir Girja Shankar Bajpai: (a) No

(b) Higher production in 1937-38 and a drop in exports during 1938 have probably increased stocks appreciably The fall in price is mainly sympathetic, as world prices have fallen Indian prices are now much above world parity

(c) Government are not aware that His Majesty's Government are purchasing wheat

FIXATION OF MINIMUM PRICE OF WHEAT AND COTTON.

1629. *Sardar Sant Singh: (a) Will the Honourable the Commerce Member please state whether Government propose to fix the minimum price of wheat and cotton in India for the benefit of agriculturists?

(b) If not, why not?

Sir Girja Shankar Bajpai: (a) Initiative in such matters rests primarily with Provincial Governments

(b) Does not arise

Seth Govind Das: Are Government aware that so much wheat is being imported that the Provinces cannot levy minimum prices?

Sir Girja Shankar Bajpai: With regard to the import of wheat, that has been answered separately by the Honourable the Commerce Member.

Seth Govind Das: I am saying that the fall in price is due to the import of wheat, and when Government are not going to do anything as far as the import of that is concerned, I am asking how Provincial Governments are going to fix minimum prices?

Sir Girja Shankar Bajpai: I think my Honourable friend could not have followed the answer given by the Honourable the Commerce Member.

Prof. N. G. Ranga: Is it not a fact that the Punjab Government recommended the fixation of a minimum price for wheat?

Sir Girja Shankar Bajpai: I am not aware of any such recommendation

Prof. N. G. Ranga: Has any other Provincial Government made such a recommendation

Sir Girja Shankar Bajpai: As far as I am aware, no other Provincial Government has made such a recommendation

ANTI-TRUST LAW AND OTHER MEASURES IN THE UNITED STATES OF AMERICA.

1680. ***Mr. Manu Subedar:** Will the Honourable the Commerce Member please state

(a) whether Government have got particulars of the anti-trust law and other measures in the United States of America;

(b) whether the common law provision of the United Kingdom forbidding combination in restraint of trade is applicable to India; if so, whether it has ever been applied to any cases in this country, and

(c) whether the action in such cases is to be taken by Government on their own initiative or on a representation from the public?

The Honourable Sir Muhammad Zafrullah Khan: (a) No

(b) The Honourable Member's attention is invited to section 27 of the Indian Contract Act

(c) Only the parties to a contract can take action to have the contract declared void on the ground that it is in restraint of trade

Mr. Manu Subedar: Since Government have got no information, may I inquire what is the legal position in this country if in any particular article it is found by Government that the prices have been fixed by such trusts, and that these prices are unnecessarily high?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid I cannot give the Honourable Member legal advice.

Prof. N. G. Ranga: Are we to understand that the Government of India are unaware of the existence of what is known as the "Sherman law" which is the anti-trust law in America?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member may understand anything he likes

Mr. Manu Subedar: May I inquire whether the Government of India consider it their duty to watch the situation and, if complaints are received to that effect, to take some remedy with regard to the prices of articles such as kerosene which is in the consumption of the poor, when such prices are fixed arbitrarily by a combine among the manufacturers?

The Honourable Sir Muhammad Zafrullah Khan: That does not arise out of a general question like this.

Mr. President (The Honourable Sir Abdur Rahim) This is a very general question.

TRADE RELATIONS OF THE UNITED STATES OF AMERICA WITH INDIA.

1631. *Mr. Manu Subedar: Will the Honourable the Commerce Member please state

(a) whether there is a Convention dated 1815, between the United States and the United Kingdom, in which the United States of America get favourable treatment for their goods in India without any obligation for similar treatment to goods from India going to the United States,

(b) whether there is any convention of any kind, by which the trade relation of the United States with India is governed, or, whether there is a clean slate for India to negotiate a bilateral trade treaty when the Indo-British trade negotiations are concluded,

(c) whether Government can assure this House that the full benefit of imports to India from the United States has not been secured by the United Kingdom in the recent negotiations, which are going on for preferential treatment to goods emanating from the United Kingdom, and that this bargaining power will be available to India for favourable treatment of her exports to the United States against favourable treatment of the United States goods coming to India,

(d) whether the Trade Commissioner for India in New York has been asked to collect the necessary material and to open preliminary talks on this subject,

(e) whether Government are in a position to say categorically that the negotiations between the United Kingdom and the United States will not involve the immediate grant of preference to the United States goods coming to India until independent negotiations have taken place, and/or without a definite *quid pro quo* to India in the form of preference to Indian goods going to the United States; and

(f) whether Government have considered the desirability of making the question of the entry into the United States of Indians and reasonable facilities to them to (i) own lands in the United States, and (ii) trade in the United States, a part of the negotiations between the United States and India?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b) It is true that Article 3 of the Anglo-American Convention of 1815 contains no reciprocal provisions so far as India is concerned; but in practice American vessels and goods receive no more favourable treatment in India than those of other foreign countries, and Indian exports to the United States of America are assured of most-favoured-nation treatment in that country

(c) Government are not aware of any ground for the suggestion that India's bargaining power has been adversely affected by the recent trade agreement between the United Kingdom and the United States of America

(d) No

(e) Government have not yet seen the text of the Agreement, but have no reason to suppose that there is any truth in the suggestion conveyed by this part of the question

(f) The Government of India are considering in consultation with His Majesty's Government whether a treaty of Commerce and navigation can be negotiated with the Government of the United States of America and in that connection the suggestions made by the Honourable Member will be borne in mind

Mr. Manu Subedar: May I inquire—with regard to the answer to clause (d) of the question—why the Trade Commissioner in New York is not asked to collect the material even prior to the negotiations which the Honourable Member said is a question which is being considered?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member will appreciate that this part of the question refers to a trade treaty I have made a reference to a treaty of commerce and navigation and so far as the requisite material for that is concerned, the material is available

RENTS FOR QUARTERS OF MEMBERS OF THE LEGISLATIVE ASSEMBLY IN NEW DELHI CHARGED FROM OFFICIALS.

1632. *Mr. Sham Lal (on behalf of Mr. Sri Prakasa): Will the Honourable the Leader of the House state.

(a) if it is a fact that Government officers are permitted to occupy quarters at New Delhi available to members during the Sessions of the Legislative Assembly, when the Assembly is not sitting,

(b) if it is so, what rents are charged from them and how that compares with those charged from the members;

(c) if the cost of water and electric lights are included in the rents charged from these Government officers, and, if not, whether they have to pay in accordance with metre readings, or any other methods of calculations;

(d) if the cost of water and electric lights are included in the rents charged from Members of the Assembly when they occupy these quarters, and

(e) if Government are considering the desirability of reducing the rents for members and charging for water and electricity consumed separately? -

The Honourable Sir Muhammad Zafrullah Khan: (a) Yes

(b) A statement giving the information required is laid on the table

(c) and (d). At the Western Court, where there is no independent metering, charges for water and electricity are collected throughout the year from all occupants, official as well as non-official, as part of the additional rent for the special conveniences provided. In the case of the other quarters, all occupants pay for such services according to meter readings, when the Assembly is not sitting. When the Assembly is sitting

the cost of these services forms part of the additional rent for special conveniences collected from all occupants.

(c) No

Comparative statement showing the rent charged from the Members residential quarters reserved for them in New Delhi, and from to whom those quarters are allotted during the non-session periods.

	Standard rent under Fundamental Rule 45-A, exclusive of furniture and other special conveniences.	Rent payable by Government officials, exclusive of furniture and other special conveniences	Rent payable by Members, exclusive of furniture and other special conveniences.
	Rs. A	Rs A.	
I—*Western Court*—			
(i) Single suites	32 0	32 0	32 0
(ii) Married suites		48 0	48 0
II—Orthodox Members' quarters and bungalows		Ranges from Rs. 60 to Rs. 84-8	

NOTE 1.—The houses are allotted to Government officials drawing Rs 600 or more

NOTE 2.—The Government officials pay rent for the quarters at 10 per cent of their emoluments or the standard rent of the houses allotted, whichever is less.

NOTE 3.—In addition, rent is also recovered at fixed monthly rates for the furniture provided These rates are, Rs 6 and Rs 9 8 for single and married suites respectively, in the Western Court while those for the orthodox type of houses vary from Rs 10-12 to Rs. 12 per mensem

NOTE 4.—Additional rent is recovered for "special conveniences" provided The charges for the special "conveniences" during a winter session, in the case of the Western Court, and during the Assembly session in the case of the orthodox type of houses, are based on the actual cost incurred in providing these amenities during the preceding year, These charges are liable to vary from year to year For the current session, the charges are Rs 23-5 and Rs 46-8 for single and married suites respectively, in the Western Court. and Rs 26 for the orthodox type of houses

NOTE 5.—During the session period an extra charge is made from all occupants of quarters reserved for Members in the Western Court in respect of Conference rooms.

ELECTRICITY CONSUMED IN QUARTERS OF MEMBERS OF THE LEGISLATIVE ASSEMBLY IN NEW DELHI.

1633. *Mr. Sham Lal (on behalf of Mr Sri Prakasa): Will the Honourable the Labour Member state:

(a) the highest and the lowest amounts of electricity consumed in a single residence occupied by a Member of the Assembly during the budget session held in Delhi in 1938, in Windsor Place, Queensway, Ferozeshah Road, Canning Lane or Electric Lane (taken together) which were included in the rents paid by such Members,

(b) the name of the authorities who supply electricity to New Delhi, and the price per unit that Government have to pay them, and

(c) the net amount that was paid by Government for the electricity consumed in the residences referred to in part (a) above?

The Honourable Sir Muhammad Zafrullah Khan: (a) cases in which Members stayed for short periods only, it was 399 units and the lowest 29 units

(b) The New Delhi Municipal Committee The price paid by Government is four annas per unit less the usual ten per cent. discount, plus meter rent.

(c) Rs 119

AMOUNT PAID FOR HAULAGE OF CARS TO MEMBERS OF THE LEGISLATIVE ASSEMBLY.

1634. *Mr. Sham Lal (on behalf of Mr Sri Prakasa): Will the Honourable the Leader of the House state

(a) the highest and the lowest amount paid by the Government to Members of the Legislative Assembly for the haulage of their cars by rail from their residence to Delhi, during the present Session of the Assembly,

(b) if it is a fact that only about Rs 50 or Rs. 150, would have been paid to each of them in accordance with their residence in New or Old Delhi, if they had not brought these cars,

(c) if those members who charge the cost of haulage of their cars by rail are entitled to a further sum of Rs 75 per month if they chose to remain in Old Delhi, and

(d) the principle underlying the difference in payment to Members of conveyance allowance on the basis of their place of residence in Delhi?

The Honourable Sir Nripendra Sircar: (a) Rs 442 from Mangalore and Rs 95 from Lucknow

(b) Rs 50 per mensem or Rs 5 per diem as the case may be

(c) Yes

(d) The principle is that the conveyance allowance admissible to a Member should approximate as closely as possible to the amount of expenditure reasonably incurred by him in performing journeys necessary to the discharge of his duty as such.

Mr. Badri Dutt Pande: May I inquire why there is this difference of Rs 100 in the matter of the allowance between Old and New Delhi when the distance is practically the same?

The Honourable Sir Nripendra Sircar: That is a question which I have answered in reply to part (d) of the question

IMPORT OF FOREIGN WHEAT

†**1635. *Seth Haji Sir Abdoola Haroon:** Will the Honourable the Commerce Member be pleased to state.

(a) whether Government are aware of the fact that large quantities of wheat are being imported from foreign countries at Bombay and Calcutta ports now-a-days;

(b) whether Government are aware that due to large importation, the price of wheat has gone down abnormally, causing great embarrassment to zamindars in Sind and Punjab; and

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

(c) in view of the rates having gone down, whether Government have considered or are prepared to impose a protective duty on wheat so as to prevent the import of foreign wheat and thus save the zamindars of Sind and the Punjab from being ruined; if not, why not?

The Honourable Sir Muhammad Zafrullah Khan: (a) Government are aware of the position in regard to imports of wheat at Bombay and Calcutta

(b) and (c) Government have received certain representations to this effect which are receiving consideration

CONNECTION OF KAROL BAGH WITH NEW DELHI BY A DIRECT ROAD.

†1636. ***Sardar Sant Singh:** (a) Will the Secretary for Education, Health and Lands please state whether the Delhi Improvement Trust propose to connect the Karol Bagh area with New Delhi by a direct road joining at the Punch Kuin Road or any other nearest approach to New Delhi and whether such a proposal has so far been examined?

(b) If so, with what results?

Sir Girja Shankar Bajpai: (a) It is reported that no proposal to construct a direct road from Karol Bagh to New Delhi is a present before the Improvement Trust, but examination of the possibility of providing such a road will not be lost sight of

(b) Does not arise

ABSENCE OF HEDGES, ETC., IN ARAM BAGH QUARTERS, NEW DELHI.

†1637. ***Sardar Sant Singh:** (a) Will the Honourable the Labour Member please state if it is a fact that the 'E' type quarters of Aram Bagh, New Delhi, are not properly looked after by the Horticulture Division of the Central Public Works Department, Delhi, and no efforts have so far been made by them to improve the locality?

(b) How much amount was set apart by the Horticulture Division to improve the area during each year since these quarters were constructed and how was it spent?

(c) Are Government prepared to see that hedges and shrubbery as well as trees are put up soon at proper places around those quarters to improve the locality and to maintain the privacy of the quarters?

The Honourable Sir Muhammad Zafrullah Khan: (a) No.

(b) The expenditure on the area is about Rs 5/8/- per acre per mensem, excluding water charges, and covers only the cost of maintenance

(c) The planting of hedges, shrubberies and trees cannot be undertaken under present financial conditions.

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

Insanitary Surroundings of Aram Bagh and Dilkusha Square Quarters, New Delhi.

†1638. *Sardar Sant Singh: Will the Secretary for Education, Health and Lands please state

(a) whether it is a fact that the surroundings of the Aram Bagh and Dilkusha "E" type quarters in New Delhi are very dirty and the area is lying absolutely neglected by the Health Department of New Delhi,

(b) whether it is a fact that there is a big jungle in close proximity of these quarters and is used by the public for nature's call, etc.,

(c) whether it is a fact that on account of the close proximity of the dumping ground near the Idgah these "E" type quarters were considered unfit for habitation sometime ago and now another dumping ground has been created by the Health Department of the New Delhi Municipal Committee nearby the same area towards the Ridge thus again making the locality unhealthy,

(d) whether it is a fact that on account of all these nuisances the area is full of flies and other germs which adversely affect the health of the residents,

(e) how much amount has been spent by the Health Department during the last five years to improve the area and how it was spent, and

(f) whether Government propose to see that the locality does not now remain neglected any longer and more attention is paid to improve it?

Sir Girja Shankar Bajpai: (a) No On the contrary, the area is reported to be in good condition.

(b) There is some waste ground close to these quarters and it is probable that it is used by certain members of the public for the purpose mentioned by the Honourable Member

(c) The quarters may have been exposed to some discomfort when the old dumping ground was in use, but now that dumping ground has been closed and no new one has been opened

(d) No

(e) As no separate accounts are kept for each area it is regretted that the required information is not available

(f) In view of the answer to part (a), this does not arise

Flood Protection Scheme.

1639. *Mr. K. S. Gupta: (a) Will the Secretary for Education, Health and Lands please state if Government are aware of the fact that two retired Chief Engineers of Irrigation, Madras Government, were invited by the Ministry of Agriculture and Lands, Ceylon, to submit a report on various flood protection schemes in the Island of Ceylon?

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

(b) Is there an All-India Flood Protection Scheme contemplated by the Government of India to alleviate the sufferings of millions of Indians by the annual devastation of floods in several parts of India?

(c) If not, why not?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). No.

(c) The subject of 'flood control' is a responsibility of the Provinces

STATISTICS *re* UNEMPLOYMENT OF EDUCATED PERSONS IN INDIA

1640. *Mr. K. S. Gupta: (a) Will the Honourable the Labour Member please state whether there are any statistics with the Government of India with regard to the educated unemployed in India? If so, would Government place them on the table?

(b) Is there any scheme with the Government of India to reduce the damaging effects of unemployment of the intelligentsia on the social structure of the country?

(c) Are the Provincial Governments consulted in the matter of formulating a scheme?

(d) If so, what are the suggestions of the various Provincial Governments?

The Honourable Sir Muhammad Zafrullah Khan: (a) No

(b) to (d) I would refer the Honourable Member to the answer given to Mr Mohan Lal Saksena's starred question No 355 of the 7th September, 1937

INTERPELLATION IN THE HOUSE OF COMMONS *re* CONTROL OF POLICY OF CONGRESS GOVERNMENTS BY THE WORKING COMMITTEE

1641. *Mr. K. S. Gupta: Has the attention of the Honourable the Leader of the House been drawn to the recent interpellation in the House of Commons, in which it was suggested that the control of policy of Congress Governments by the working committee is a Government parallel to the Government of India?

The Honourable Sir Nripendra Sircar: This question and question No 1642 should have been addressed to the Honourable the Home Member

CENSORSHIP OF CORRESPONDENCE OF AGENCIES AND NEWSPAPERS OF BRITISH INDIA IN THE UNITED KINGDOM.

†**1642. *Mr. K. S. Gupta:** Will the Honourable the Leader of the House please state whether it is a fact that the correspondence of reputable agencies and newspapers of British India is not allowed uncensored into the United Kingdom? If so, why?

STRENGTH OF STAFF AND EXPENDITURE OF THE DELHI IMPROVEMENT TRUST.

1643. *Mr. K. S. Gupta: (a) Will the Secretary for Education, Health and Lands please state separately the strength of each Branch of the office of the Delhi Improvement Trust as it stood on the 1st November,

† For answer to this question, see answer to question No. 1641.

1988, together with the pay and deputation or other allowances drawn by each one and the proportion which the Superintendents or Supervisory staff bears to the clerical and other establishment?

(b) Have Government or the Delhi Improvement Trust considered the desirability of bringing down the expenditure either by reducing or replacing the supervisory staff with equally efficient but less expensive men? If not, why not?

Sir Girja Shankar Bajpai: I have asked for information and will furnish it to the House when I receive it.

LEVY OF AN IMPORT DUTY ON WHEAT

1644. *Sardar Mangal Singh: Will the Honourable the Commerce Member please state

(a) whether Government have now finished their consideration of the question of the imposition of wheat import duty, and

(b) what their decision is?

The Honourable Sir Muhammad Zafrullah Khan: (a) No, Sir

(b) Does not arise

Sardar Mangal Singh: May I ask when Government hope to finish their consideration? The Government of India have been considering this matter for the last six months

The Honourable Sir Muhammad Zafrullah Khan: I have already replied to this question this morning

Sardar Mangal Singh: What is the difficulty before the Government of India when all parts of the House have agreed that the wheat import duty should be re-imposed?

The Honourable Sir Muhammad Zafrullah Khan: The difficulty is that the matter has to be considered on the merits and not merely on opinion

Prof. N. G. Ranga: May I ask if Government have got the necessary powers to take emergency action and re-impose this particular duty without having to come to this House before they actually do so?

The Honourable Sir Muhammad Zafrullah Khan: Legislation would be necessary

Seth Govind Das: Is the present fall of prices not a sufficient indication for Government to decide the question on the merits?

(No answer)

Seth Haji Sir Abdoola Haroon: Are Government aware that up till now 175,000 tons of wheat has already been sold in Bombay, Karachi and Calcutta and yet Government do not want to consider this question immediately?

The Honourable Sir Muhammad Zafrullah Khan: Government are aware of the import of wheat, although I am not able to accept the quantity mentioned by the Honourable Member and they are considering the question

Prof. N. G. Ranga: In view of the fact that the Honourable Member himself has said that the previous legislation is necessary for the re-imposition of this particular duty, does it not follow that before the Assembly meets again for the next Session it will not be possible for Government to acquire the necessary protection for the people even if they were to finish their consideration on this matter?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member has put an argument to me

Seth Govind Das: Is it not a fact that by the time the next Session of the Assembly meets, it would be time for the next harvest of the wheat to be ready?

The Honourable Sir Muhammad Zafrullah Khan: We will be getting very much nearer to the next harvest

MURDER OF MR N G MAJUMDAR OF THE ARCHAEOLOGICAL DEPARTMENT

1645. ***Mr. Brojendra Narayan Chaudhury:** Will the Secretary for Education, Health and Lands please state

(a) whether he will make a short statement as to where, how and under what circumstances Mr N G Majumdar of the Archæological Survey was killed,

(b) whether his party was supplied with protective measures in men and arms, if so, what,

(c) whether additional and sufficient protective measures are intended to be supplied to such parties, if so, what;

(d) whether Government intend to give the family of the late officer handsome monetary compensation;

(e) the qualifications of the murdered officer and his position in his profession;

(f) whether Government have considered the advisability of insuring at Government cost such officers who work for the Government at considerable risk of life; and

(g) whether Government intend to express their estimation of the work of the deceased officer in any other shape?

Sir Girja Shankar Bajpai: (a) Government deeply regret that Mr Majumdar, Superintendent of Archæology, who was touring in Sind with a small party for the purpose of surveying pre-historic sites was shot dead by a body of armed men who attacked his camp on the morning of the 11th November, 1938, at Nai Gaj in Dadu District.

(b) Archæological exploration in Sind had been carried on before with complete safety without the need for resort to special protective measures. Mr Majumdar's party, therefore, was not accompanied by any guard.

(c) The question is under consideration

(d) The matter will be carefully considered

(e) and (g) As stated in the special notification published in the Government of India Gazette dated the 26th of this month, Mr Majumdar was an officer of exceptional ability and promise He was a Master of Arts, a Fellow of the Royal Asiatic Society of Bengal, and Superintendent, Archæological Section, Indian Museum and Special Officer for Exploration By his death, which the Government of India deeply regret, Archæology in India has lost a worker of great merit

(f) No

Mr. Lalchand Navalrai: May I know what arrangements the Government of India had before to prevent such accidents and may I also know whether the Government of India have done now anything in the matter of protection so that no more accidents of this kind may recur?

Sir Girja Shankar Bajpai: I was going to remind my Honourable friend of the answer which I have already given to the first part of the question, namely, that there has been no accident in Sind before and the need for protective measures had not been felt Now that this accident has occurred, the question is being examined

Mr. Lalchand Navalrai: Is not the Honourable Member aware that there have been several such incidents and occurrences before also on the border and they were brought to the notice of Government in this very House and nothing was done?

Sir Girja Shankar Bajpai: So far as archæology is concerned, this matter has not been brought to the notice of this House before

Mr. Lalchand Navalrai: If the archæological officers have not been killed, other persons have been killed and there have been many dacoities May I know what was done by Government in those cases?

(No answer)

Mr. Badri Dutt Pande: Was it only Mr Majumdar who was killed or was there any subordinate officer or some menial servant who was also killed?

Sir Girja Shankar Bajpai: No, Sir Mr Majumdar alone of this party was killed, another member of the Party was injured

Mr. Brojendra Narayan Chaudhury: With regard to the answer to part (f), may I know whether the emoluments ordinarily attached to such officers cover the risk of life of these officers also?

Sir Girja Shankar Bajpai: Ordinarily, there is no such exceptional risk to life attending upon the duties of an archæological officer, and that is why I have stated that in this particular case, because a risk had materialised, the question as to whether any compensation should be paid will be examined.

Mr. Brojendra Narayan Chaudhury: Have not the archæological officers got to go to the out of the way places near the border which are not very safe and do they not thereby incur a risk which the officers in other Departments do not?

Sir Girja Shankar Bajpai: I have already explained to the House that this is the first incident of its kind in the history of the Archæological Survey

Prof. N. G. Ranga: Are any special steps being taken to see that the regular Police afford necessary protection to these people whenever they have to visit out of the way places?

Sir Girja Shankar Bajpai: That is the point which has been taken up by the Government of Sind already

WANT OF COMMERCIAL INSTITUTIONS IN INDIA

1646. *Mian Ghulam Kadir Muhammad Shahban: Will the Honourable Member for Commerce be pleased to state

(a) if it is a fact that there is no Government institution for imparting practical commercial education to Indian youths anywhere in India,

(b) if it is a fact that competitive examinations are held in Delhi every year in Civil, Military, Public Works and Railway Accounts, for admission to the Imperial Service,

(c) if he is aware that, owing to the want of any Government commercial institution in India, Indian youths have to go abroad for such training at a tremendous cost, which can only be met by very rich people, and

(d) if so, whether Government are prepared to consider the desirability of starting commercial institutions for imparting training to Indian youths in accounts, banking, etc , in every Province in India, including Sind, particularly in every important cosmopolitan and mercantile port, especially Karachi?

The Honourable Sir Muhammad Zafrullah Khan: (a) No

(b) Competitive examinations for recruitment to certain Audit and Accounts Services are held in Delhi from time to time

(c) No

(d) Does not arise

REPRESENTATION FROM THE SOUTH AFRICAN INDIAN CONGRESS, DURBAN, *RE* COMMERCIAL ACTIVITIES OF EUROPEANS.

1647. *Seth Govind Das: Will the Secretary for Education, Health and Lands be pleased to state

(a) whether he has received a representation from the South African Indian Congress, Durban, with regard to the activities in matters of commerce by European commercial interests, creeping in the propaganda of "colour bar";

(b) whether he has taken any action in the matter; and

(c) if so, what those actions are; if not, his reason therefor?

Sir Girja Shankar Bajpai: (a)—(c) No such representation has been addressed to Government Government's attention has been drawn to a letter published in the *Indian Views* of 9th September purporting to have been addressed by the Honorary Secretaries of the South African Indian Congress to the Honourable Member The Agent General in South Africa has been asked to submit a report on the allegations of commercial discrimination made in that letter

REFUSAL TO SUPPLY PETROL TO INDIAN DEALERS IN SOUTH AFRICA.

1648. ***Seth Govind Das:** Will the Secretary for Education, Health and Lands please state·

(a) whether he is aware that the South African Motor Traders' Association have refused the supply of petrol to even the old established Indian dealers on the grounds that they are not exclusively motor service stations;

(b) whether he is aware that there is a move on the part of the European commercial interests in South Africa to eliminate Indians from this line of commerce,

(c) whether he is aware that in the rural district towns, petrol service stations have been carried on for years with general dealers business by Indian traders, and

(d) whether he has had any correspondence from the Agent General in South Africa on the matter, and the action taken by him thereon?

Sir Girja Shankar Bajpai: (a), (b), (c) and (d) Some time ago an agreement was entered into between the Motor Traders' Association and the Petrol Companies of South Africa for the removal of petrol pumps from hotels, general stores, and so on, where other facilities for motorists were not available, and to secure an adequate return to garages with repair services In pursuance of this agreement a large number of pumps were removed in various places throughout the Union Many Indian general dealers kept petrol pumps, but no other facilities for motorists They were, therefore, affected by the agreement The Agent General's Secretary saw the Manager of the Atlantic Petroleum Company and was assured that there was no racial discrimination in the Company's policy. The matter was also brought to the notice of the Department of the Union Government concerned and in two cases the restoration of pumps was insisted on by the Department. In matters of this kind, the Honourable Member can rest assured that the Agent General in the Union will do any thing that lies in his power to prevent inequality of treatment as between Europeans and Indians

Seth Govind Das: Is it a fact that on account of the agreement which
12 NOON. was made it was mostly Indians who were affected?

Sir Girja Shankar Bajpai: I gather that it so happened not because there was a desire to discriminate racially but because Indians were the only people who ran petrol pumps along with general stores.

(b) WRITTEN ANSWERS

SAFEGUARDING OF THE INTERESTS OF INDIANS IN RHODESIA.

1649. *Seth Govind Das: Will the Secretary for Education, Health and Lands please state

(a) whether he is aware that the Chairman of the Royal Commission to enquire into closer relations or association of Southern and Northern Rhodesia and Nyasaland, refused to allow the representatives of Indians in Africa to give oral evidence and to place the views and requirements of the Indian community of Northern Rhodesia before the Commission,

(b) whether his attention has been drawn to the statements submitted by the South African Indian National Congress on behalf of the Indian community of Northern Rhodesia to the Commission,

(c) whether he has represented this case to His Majesty's Government to protect the interests of Indians in Rhodesia and offer them similar facilities as have been extended to other nationalities, including British;

(d) whether he has had any communication, in reply, from His Majesty's Government and whether any action has been taken in the matter to safeguard Indian interests in Rhodesia, and

(e) whether he has had any representations to seek redress from Government in this matter of the Indian element not included in the personnel of the Commission?

Sir Girja Shankar Bajpai: (a) Government have seen a press report to the effect that two Indians who went from the Union of South Africa to give evidence before the Royal Commission on behalf of the Indian community in Northern Rhodesia were refused the necessary permission

(b) No

(c) to (e) The attention of the Honourable Member is invited to the reply given by me on the 6th September, 1938, to Mr C N Muthuranga Mudaliar's starred question No 771 and the supplementaries arising out of it

RACE PREJUDICE AGAINST INDIANS ON CERTAIN SHIPS.

1650. *Seth Govind Das: Will the Secretary for Education, Health and Lands please state

(a) whether he is aware that steamship lines, such as Italian Line, the DeutscheOost-Afrika Line, and the Holland Africa Line, refuse Indians first and second class passages on their ships to England, to Cape Ports and to the East African ports;

(b) whether he is aware of a large number of cases of tourist class passages to Indians being refused;

(c) whether he is aware that the British India Steam Navigation Company and the Bullard King Boats refuse first class passages for India to Indians;

(d) whether he has taken any action against actions of race prejudice and intolerance by Europeans to Indians calculated to insult Indians and hurt their sentiment and interest; and

(e) if so, what those actions are, if none, his reasons for not doing so?

The Honourable Sir Muhammad Zafrullah Khan: Enquiries are being made and a reply will be laid on the table in due course

FAMINE CONDITIONS PREVAILING IN THE DELHI PROVINCE.

1651. *Prof. N. G. Ranga: Will the Secretary for Education, Health and Lands be pleased to state

(a) if it is a fact that famine conditions prevail in parts of Delhi Province and if so, in which portions, and what is the number of population affected and the percentage of the area thus famine ridden,

(b) what are the main causes for this famine, since when rains have failed and what crops have been spoiled owing to this drought,

(c) whether any test works or relief works have been opened and, if so, where and since when,

(d) how many peasants and workers are engaged at these test or relief works, what wages are paid to them,

(e) so far, how much money has been spent on such relief,

(f) whether the land revenue has been remitted and, if so, what portion of it and in which parts, and what is the total sum so far remitted,

(g) whether any land revenue or other tax is being collected in the affected area,

(h) whether any voluntary Famine Relief Committee has been started, if so, what has been the co-operation offered by the Government to it, and

(i) what steps are taken to provide free grazing facilities in the local forests, or provide cheaper fodder for local cattle?

Sir Girja Shankar Bajpai: I have referred the Honourable Member's question to the Local Administration with a request for any information that may now be available in addition to what I conveyed to the House in reply to Mr. Badri Dutt Pande's question No 1881 and connected supplementaries on the 22nd of this month At present I am unable to supplement what I said then

CONVENING OF AN ALL-INDIA FODDER AND GRAZING FACILITIES CONFERENCE AT DELHI.

1652. *Prof. N. G. Ranga: Will the Secretary for Education, Health and Lands be pleased to state

(a) if it is a fact that an All-India Fodder and Grazing Facilities Conference is being convened at Delhi and, if so, when,

(b) what is its agenda,

(c) whether the advisability of abolishing all grazing fees for forest grazing, as had been done by Bombay Government, will be a part of its agenda,

(d) who are being represented on this conference and how; and

(e) whether Government propose to consider the advisability of including the representatives of the All-India Kisan Sabha?

Sir Girja Shankar Bajpai: (a) Presumably the Honourable Member is referring to the Central Fodder and Grazing Committee (a sub-committee of the Imperial Council of Agricultural Research) which met in New Delhi on 21st November, 1938

(b) and (c) A copy of the agenda of the Committee is placed on the table of the House

(d) It is an expert Committee, which is appointed on the recommendations of the Advisory Board of the Imperial Council of Agricultural Research, composed of members possessing technical and scientific knowledge of the subject At present all the members are officials of the Central and Provincial Governments

(e) Considering the nature of the Committee, Government think that the inclusion of representatives of the Kisan Sabha will serve no useful purpose

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Agenda for the Meeting of the Central Fodder and Grazing Committee to be held in November, 1938

1 Status of the Committee

2 Confirmation of the minutes of the Fodder and Grazing Committee which met in November, 1937

3 Report on the action taken on the recommendations of the first meeting of the Committee

4 Bombay and the United Provinces Fodder and Grazing Schemes—Modifications made by the Governing Body

5 The possibility of introducing cheap fencing in grazing areas, particularly a suitable live fence

6 Reports from members of the Central Fodder and Grazing Committee who attended the International Grassland Conference held at Aberystwyth in 1937

7 New schemes for grassland research

(a) Application from the Government of Madras for a grant of Rs 10,050 spread over a period of 3 years for the Madras University Scheme of research on proteins of South Indian Grasses

(b) Scheme from the Government of Baroda for the improvement of pasture lands and improvement of cattle breeding in Gujerat and adjoining areas in Rajputana

8 Consideration of the best method of harvesting and storing grass in heavy rainfall areas, *e g*, Assam, Bombay Konkan districts, etc

9 Reports from Provincial Fodder and Grazing Committees

10 Notes from Directors of Agriculture, Directors of Veterinary Services and Conservators of Forests (in such Provinces where Provincial Fodder and Grazing Committee has not been set up)

11 The collection of any results obtained by the introduction of controlled and rotational grazing

12 Simple methods of preventing or reducing erosion in grazing areas.

13 Miscellaneous items

Central Fodder and Grazing Committee Meeting, November, 1938.

Supplementary Agenda.

7(c) Scheme from the Government of Orissa for sand flora experiments on the sea beach at Puri

HOLDING OF AN ALL-INDIA AGRICULTURAL MARKETING CONFERENCE AT DELHI.

1653. *Prof. N. G. Ranga: Will the Secretary for Education, Health and Lands be pleased to state.

(a) if it is proposed to hold an All-India Agricultural Marketing Conference at Delhi and, if so, when;

(b) what is the agenda for it,

(c) who will be represented at this conference and how,

(d) whether any representatives of the small holding *kisans* are being invited, and

(e) whether Government propose to consider the advisability of inviting the All-India Kisan Sabha to send some representatives to this Conference?

Sir Girja Shankar Bajpai: (a) Yes, on the 29th and 30th November, 1938

(b) I lay a copy on the table

(c) Provincial Governments, Indian States and the Central Government, mainly by Ministers

(d) No

(e) In view of the nature of the agenda, the Government do not consider that this will serve any purpose

CONFERENCE OF MINISTERS ON AGRICULTURAL MARKETING—1938.

Agenda

1 Report on :

(a) work done and results obtained by the Marketing Staffs,

(b) further work awaiting immediate attention for the development and improvement of marketing

2. Agencies necessary (Central, Provincial and State) for carrying on marketing work, and relation between the Central Staff and Marketing Staffs in Provinces and States, with special reference to the technical assistance required in future (after December, 1939) from any Central Staff.

3. Steps taken (or to be taken) in various Provinces and States :

(a) with the object of establishing a closer relationship between local marketing staffs and other departments concerned and with Ministers,

(b) for the correlation of agricultural production and marketing with a view to the production of the type, quality and quantity required.

4 Any other relevant business.

CONSIDERATION OF THE REPORT OF THE ADULT EDUCATION COMMITTEE.

1654. *Prof. N. G. Ranga: Will the Secretary for Education, Health and Lands be pleased to state

(a) if Government have considered the report of the Adult Education Committee set up by the Bombay Government;

(b) whether this report was placed before the Central Advisory Committee on Education for its consideration,

(c) if the answer to parts (a) and (b) be in the affirmative, what conclusions they have come on the recommendations of that Committee, and

(d) what action they propose to take to develop adult education in the centrally administered areas?

Sir Girja Shankar Bajpai: (a) and (b) No

(c) Does not arise

(d) The general question of the development of adult education in India is on the agenda of the meeting of the Central Advisory Board of Education to be held on the 3rd December, 1938 The action to be taken in the centrally administered areas will be considered on receipt of the Board's recommendations

INSTITUTION OF A TEMPERANCE CAMPAIGN FOR THE PROTECTION OF INDIAN LABOURERS IN MALAYA

1655. *Prof. N. G. Ranga: Will the Secretary for Education, Health and Lands be pleased to state

(a) if he is aware that owing to the general habit of drinking prevalent among the plantation and other labour in Malaya, most Indian labourers who are not previously so much addicted to this ruinous habit contract it during their stay in Malaya,

(b) what revenues the Malayan Government derives from its excise duties,

(c) whether it has done or proposes to do anything to fight this habit of drinking prevalent among workers, and

(d) whether Government propose to consider the advisability of pressing on the Delegation of Malayan Government, when they next visit India, the need for bringing about prohibition or at least for instituting a temperance campaign for the protection of Indian labourers in Malaya?

Sir Girja Shankar Bajpai: (a) The Honourable Member's information is probably true of some Indian labourers

(b) and (c) I would invite the attention of the Honourable Member to the reply I gave on the 6th September, 1938, to Mr C N Muthuranga Mudaliar's starred question No 770 and the supplementaries that arose therefrom

(d) Government will consider the possibility of discussing this question with representatives of the Malayan Government.

UNSTARRED QUESTION AND ANSWER

INSURANCE COMPANIES FAILING TO DEPOSIT SECURITIES.

128. Qazi Muhammad Ahmad Kazmi: Will the Honourable the Commerce Member be pleased to lay a statement on the table regarding Insurance Companies which have failed to deposit with Government in time Government securities required in terms of the Indian Life Assurance Company Act, 1912 (Act VI of 1912), section 4 (*1*), regarding deposits in respect of their published balance sheet

(i) for the period ending 31st March, 1937, and

(ii) for the period ending 31st March, 1938?

The Honourable Sir Muhammad Zafrullah Khan: (i) and (ii) The Honourable Member is referred to my reply to question No 1226, asked by Mr Badri Dutt Pande on the 14th November, 1938

THE INDIAN INCOME-TAX (AMENDMENT) BILL—*contd*

Mr. President (The Honourable Sir Abdur Rahim) The House will now resume consideration of the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee The question before the House is

"That clause 4 of the Bill be omitted "

The Honourable Sir James Grigg (Finance Member) Sir, may I make a statement at the beginning of this business? Sir, in accordance with the arrangement arrived at by the House yesterday, the Party Leaders and myself met yesterday afternoon to discuss the basis of a possible comprehensive compromise, if I may so describe it Quite definite progress was made and I think the prospects of such an arrangement being arrived at are sufficiently favourable to justify me and I think the Leaders of Parties in suggesting to you and to the House that we should postpone discussion of clauses 4 and 5 for a little longer and proceed this morning with clause 6 and the succeeding clauses That, I think, is in accordance with the wishes of those who attended the conference yesterday

Mr. President (The Honourable Sir Abdur Rahim) The Chair takes it that is the general desire of the House The House will now proceed with the consideration of clause 6. The question is

"That clause 6 stand part of the Bill "

Dr. P. N. Banerjea (Calcutta Suburbs. Non-Muhammadan Urban): Sir, I beg to move:

"That in clause 6 of the Bill, in clause (c) of sub-section (*1*) of the proposed 5, the word 'Appellate', occurring in the second line, be omitted "

Sir, the object of this amendment is that I want to do away with the existing system of appeals in regard to income-tax cases and I am also opposed to the system of establishing Appellate Assistant Commissioners

[Dr P N Banerjea]

for trying such appeals. I desire that there should be a distinction throughout between the executive and judicial functions in income-tax matters I have given notice of an amendment with regard to clause 2 of this Bill where I suggest that all First appeals should be heard by Income-tax Judges of a certain status As I had no opportunity of discussing this matter, I shall discuss this matter later on when clause 2 comes up for discussion But for the present I wish to make it clear that Assistant Income-tax Commissioners should have nothing to do with the trial of appeals There are two objections with regard to such trials In the first place, the Court of an Appellate Assistant Commissioner has not the proper judicial atmosphere where an appeal should be heard Secondly, people have not that amount of confidence in such Assistant Commissioners as would be desirable It may be said that income-tax questions are of a very intricate nature and appeals relating to such cases should be tried only by persons who have sufficient knowledge of these matters But this objection can be met by providing that Subordinate Judges or District Judges who would try income-tax cases should have training in income-tax work for a few months The questions relating to income-tax are not so complex and intricate that Judges who have tried civil and criminal cases will not be able to master them The vesting of executive and judicial functions in the same department is very anomalous and very undesirable It may be said that Appellate Assistant Income-tax Commissioners although forming part of the Income-tax Department will be a separate set of officers That may be true But they will not have the same amount of independence as Income-tax Judges In the matter of promotion, in the matter of transfer, and in all matters affecting the prospects of an Appellate Income-tax Commissioner, he will have to depend on the good graces of the Central Board of Revenue Therefore, I suggest that there should be complete separation between judicial and executive duties in the Income-tax Department It is with that object I move this amendment

An Honourable Member: Why not in the land revenue administration also?

Dr. P. N. Banerjea: That ought to be done in all departments I move

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

"That in clause 6 of the Bill, in clause (c) of sub section (1) of the proposed section 5, the word 'Appellate', occurring in the second line, be omitted "

The Honourable Sir James Grigg: Sir, I am sorry that I cannot accept this amendment The Honourable Member is not satisfied, I understand, with the arrangements which were produced by the Select Committee for the super-imposition on the present appellate machinery of a Tribunal as soon as the arrangements for that can reasonably be made. There is an amendment down on the Supplementary List No. 3, page 12, which carries that out The Honourable Member wants to destroy the present machinery before anything new is set up in its place That, of course, means a complete break down of the machinery altogether. On that ground any immediate introduction of an alternative machinery is impossible. But,

Sir, even if you leave out of account the question of time, there is another objection. If you have the ordinary judicial appeal machinery it will be necessary to have some means of sifting out a large number of appeals on questions of fact inside the department itself Otherwise, the whole machine will be clogged and the machinery will break down For these reasons I ask the House to reject this amendment

Mr. Lalchand Navalrai (Sind Non-Muhammadan Rural) Sir, I have an amendment in my name, No 185, which is akin to this question, but is only more specific, that is that the Appellate Assistant Commissioner who should decide these cases should be a District Judge or First Class Sub-Judge. But as the very principle on which this is being asked by me is involved in this amendment, I have, therefore, got up to say a few words on this amendment Under the present system, decisions are given by an Assistant Commissioner who is also the inspecting Assistant Commissioner and is an administrative officer and a man who is directly under the Central Board of Revenue and has to see the interest of the Central Board of Revenue more than that of the public The demand of the public has been that the appellate portion of the income-tax procedure should be in the hands of a judicial officer The present Bill gives the power of assessment to the same higher Income-tax Officer. In my speech on the consideration motion I submitted that there should be some one with knowledge of income-tax to help the Income-tax Officer, but that is beside the point My point is that when making of the assessment is with the Income-tax Officer who is an administrative officer, he will naturally see that money comes in, and that is my reply to Mr Joshi

Mr. N. M. Joshi (Nominated Non-Official) The Assistant Collectors do it as regards land revenue.

Mr. Lalchand Navalrai: There also we want separation, at least in the appellate side of it My submission is that the assessment of the Income-tax Officer will be more with an eye to revenue than to the interests of the assessees Therefore, there should be some safeguard against that and the country has been demanding the separation of judicial from the executive. Here we say that some one who commands the confidence of the public should sit over the Income-tax Officer and give us a judicial, legal and an equitable decision And I do not see why the Finance Member should say, "Oh, we do not want anything judicial, we want only more money". I submit that the principle is being accepted in this Bill, namely, that the higher appellate authority is going to be a tribunal in which there will be judicial officers and those who are conversant with the income-tax law Therefore, why not the first appellate authority too? Therefore, a judicial officer should also sit and give a decision in order to see whether the assessee has been rightly assessed or not We are only asking for what is equitable My Honourable friends say that the second appellate court will be a judicial tribunal; but there will be very few cases before them The only cases which will come before them will be those under sections 27 and 31 and no others.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadan Rural): No, no

Mr. Lalchand Navalrai: That is how I read it

Mr. Bhulabhai J. Desai: You have not read it correctly

Mr. Lalchand Navalrai: I have read and re-read it The words are: "When there is an appeal under sections 28 and 31 " That does not include all

Dr. P. N. Banerjea: That refers to second appeals and not first appeals

Mr. Lalchand Navalrai: That does not refer to all decisions of the Assistant Commissioner I am open to correction on this, but it only says that decisions made on certain grounds are open to appeal The first man is an administrative officer who will have evidence before him And the second appellate court also may take some evidence So the case will be decided as in the civil courts Therefore, from all points of view it is a very important amendment The country wants separation of judicial and executive and as the tribunal is going to be judicial, the first Assistant Commissioner should also be a judicial man In my own amendment (No 185) I have asked for a District Judge, and failing that, an Advocate of the High Court with ten years' practice After all there will be two men, one an inspecting officer and the other an appellate officer When there will be two men, why should not the second man be a judicial officer? I, therefore, appeal to all parties in this House that in order to create confidence among the people, this system must be introduced Sir, I support the amendment

Mr. Bhulabhai J. Desai: Sir, on this matter I ask leave to make a statement, with reference to the machinery for inquiring into the taxation, once for all for this reason that there is quite a large number of amendments intended to provide some other machinery than the one which was unanimously accepted by the Select Committee, and we, therefore, owe it to the House to explain the reasons and the actual circumstances relating to this matter I may at once point out to my Honourable friend, Mr Lalchand Navalrai, that if he will look at clause 30 printed at page 39 in this parallel column book, it will be clear to him that on every single order that is made there is an appeal provided And, therefore, when you come to the further appeal, it is an order by way of appeal on an order revising the first order Therefore, a reference to clauses 30 and 31 covers every possible kind of order which can be worth objecting to at all Therefore, merely because only two sections are mentioned, our friends need not remain under the impression that it is not comprehensive

Coming next to the substance of the matter, as it is pointed out in supplementary list 3—page 12—there is printed the present proposal with reference to the appellate tribunal So far as I understand it, my Honourable friend's objection is that in addition to the appellate tribunal in the very first appeal which is provided to the appellate Assistant Commissioner, there ought to be substituted a judicial machinery The answer to that is short. There are at present, as was reported, some 29,000 appeals. It is, however, clear that of the records [illegible] is only a question of whether the amount ascertained by the income-tax officer is

correctly ascertained and involves more or less matters of adjustment and if all these 29,000 appeals were to go immediately to what is called a judicial tribunal, there are two insuperable objections The first is that if he is solely the first appellate body, he may or may not be qualified with sufficient knowledge of accountancy to be able to deal with it in other words, a tribunal for the purpose of income-tax would have to consist of a man having judicial qualifications and a man sitting with him who has accountancy qualifications Therefore, so far as we have been able to see, it would easily clog the machinery if there are to be two tribunals, which is the only possible solution In other words, the Assistant Commissioner with a judicial officer, and, on that, again, the proposed tribunal We felt and we were satisfied, so far as we have been able to see, from the facts presented to us that a large number of these appeals—nearly two-thirds of them —really end in a proper adjustment in what you may call give and take manner, and it is only the remaining third which involves difficult questions either of law or of accountancy and which will go before the tribunal. In every matter of this kind, there is the consideration that, if the machinery is not sufficiently elastic, expeditious tax collection would for all practical purposes be rendered so difficult as to make it impossible

Mr. Lalchand Navalrai: Will not a judicial officer also go into such adjustments?

Mr. Bhulabhai J. Desai: I am afraid my Honourable friend has missed the point The answer is this He may be able to do it, but that one man whom you can think of would not be sufficiently qualified. If you want to have machinery which is simply everlasting, there is no objection Anyway, that is the answer I can give. (Interruption) I dare say, my Honourable friend entertains a different opinion I am only trying to place before him the reasons which appealed to the whole of the Committee which sat for this purpose I cannot do any more To continue what I was saying to the House, the only point is that he really wants to intervene between the mixed tribunal of law and facts, a tribunal of what you may call purely a judicial officer The result of it would be that what we hope to obtain, a sort of rough clearing house leaving only questions of law and fact to be tried by the tribunal, that machinery does not and would not exist and, in fact, would break down Then the one-third in which there are important questions of law and fact left would come before the tribunal, there would be a man of judicial qualifications as well as accountancy qualifications, and I may also remind the House that that is not what you may call the final decision The Bill seeks to preserve unimpaired the reference to the High Court in section 62 and the following sections

An Honourable Member: And, of course, the appeal to the Privy Council.

Mr. Bhulabhai J. Desai: Yes Therefore, for any reasonably dissatisfied assessee the machinery which is provided is fairly convenient and expeditious and every amendment that now seeks to substitute some other machinery I would oppose.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Sir, it appears to me that the amendment of Dr. Banerjea is not self-contained.

[Syed Ghulam Bhik Nairang.]

All that he requires us to do is to omit the word "appellate" from sub-section (*1*) of clause (*c*) of the proposed section 5 Suppose we do so, then how will the clause read? It will read

"There shall be the following classes of Income tax authorities for the purposes of this Act, namely,—

(*a*) the Central Board of Revenue,

(*b*) Commissioners of Income-tax,

(*c*) Assistant Commissioners of Income tax who may be either Assistant Commissioners of Income-tax or Inspecting Assistant Commissioners of Income-tax "

To my mind, it will make the clause meaningless, and, therefore, with this brief remark I would say that we oppose the amendment

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

"That in clause 6 of the Bill, in clause (*c*) of sub section (*1*) of the proposed section 5, the word 'Appellate', occurring in the second line, be omitted "

The motion was negatived

Mr. Lalchand Navalrai: Sir, I beg to move

"That in clause 6 of the Bill, in sub-section (*2*) of the proposed section 5, all the words occurring after the words 'specified in the order of appointment' be omitted "

Sub-section (2) says

"The Central Government may appoint a Commissioner of Income-tax for any area specified in the order of appointment, and may appoint Commissioners of Income-tax, not more than three in all, each to discharge, without reference to area, and to the exclusion of any Commissioner appointed for any area, the functions of a Commissioner in respect of any cases or classes of cases assigned to him by the Central Board of Revenue "

According to this section power is given to the Central Government to appoint Commissioners of Income-tax At present or as it would be hereafter, these will be commissioners appointed for particular areas—just as Commissioner for Calcutta, Bombay and so forth But at present the idea is to create more Commissioners and the House should understand that if this amendment is not accepted you are going to have more Commissioners than those who have been created for the areas Now, power is being given to Government to create two or three Commissioners, so that we are empowering the Government to create more and more appointments

The Honourable Sir James Grigg: Only three more.

Mr. Lalchand Navalrai: Even three more appointments will be too much, because when you have imported one man from England, we have spent so much, though that Chief Commissioner appears to be a very genial gentleman of very good nature, and if we can have such people gifted with greater knowledge and experience than Indians, that might perhaps be an excuse for creating more appointments, but here that is not the question: The question here is if you want to spend more and more money on more and more higher appointments, and at the bottom to reduce some peons and a few subordinates, while increasing the number at the top Sir, I am very sorry to say again that I am in a very difficult position, because the Bill itself did not want these additional Commissioners. It is the Select Committee which has incorporated this clause, and I do not know what I

should say to the Select Committee on this question The very members of the Select Committee used to cry hoarse in the House on the top heavy administration of the Government and not to have any more so-called experts from abroad,—I am not referring to the expert here—and yet the Select Committee Members thought it best to embody this particular clause Sir, we have seen in practice that the same Commissioner of an area can do additional work in addition to his duties. I will give an instance. When these men are put on special duty, they have their able assistants who are also sufficiently senior men and who draw a little less than the Commissioner himself, and the Commissioner's work can be attended to by his senior or other Assistant Commissioner of the area and the special work can be done by the Commissioner himself For instance, when the Income-tax Bill and was being framed the Inquiry Committee was going on, Khan Bahadur Vachcha, Commissioner for Bombay, was brought here on special duty He remained in the Government of India and did the special work, in addition to his own duties, while Mr Merchant, who was his senior Assistant, was doing Mr Vachcha's work on the spot Where is the necessity, therefore, of increasing the expenditure? Why is income-tax being increased? It seems first of all, to meet the high salaries. I would, therefore, appeal to the Members of the Select Committee, who are present here, to think over this matter once again because they themselves are otherwise giving a handle to Government to increase officers at the top and thus increase the expenditure

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved

"That in clause 6 of the Bill, in sub-section (2) of the proposed section 5, all the words occurring after the words 'specified in the order of appointment' be omitted."

Mr. M. S. Aney (Berar Non-Muhammadan) Sir, I only want to make a few observations with a view to eliciting some information

The Honourable Sir James Grigg: I was about to give it

Mr. M. S. Aney: After hearing the Honourable Member, I shall speak, if necessary

The Honourable Sir James Grigg: Sir, the Honourable Member from Sind is, as usual, barking up the wrong tree The object of the alteration made in the clause by the Select Committee was to enable a certain amount of co-ordination work to be done at headquarters, and not in relation to any territorial jurisdiction of the existing Commissioners It was pointed out by the Select Committee when we were discussing the penalty clauses that the administration of penalties in the various circles or in the areas of the various Commissioners was by no means uniform, and some Income-tax officers imposed very serious penalties and others imposed very lenient ones, and as the penalties were being increased, the Committee felt that some co-ordination was necessary I, therefore, gave the undertaking to the Committee that the work in relation to penalties should be co-ordinated and to all intents and purposes supervised from headquarters In order to that, we will require to have a staff, and without overlapping and duplication the simplest way would be to give the headquarters staff the power, in regard to cases or classes of cases and not in regard to particular areas, to do this work Penalties was the main question on which this arose The other classes of cases which may be dealt with at headquarters are cases where fraud is suspected. In the United Kingdom administration, that is done

[Sir James Grigg.]

at the headquarters branch Then in Insurance companies specially complicated cases and classes of cases arise, where technical knowledge and familiarity with the classes of cases is required, and those are done at the headquarters. What we propose to do is no more than that. And here perhaps I may deal with Amendment No 189 where it is proposed to accept the provision made by the Select Committee, but limited to classes of cases and not individual cases I hope the House will not insist on that limitation, because in the case of fraud cases as also penalty cases, I suppose in a way they can be described as classes of cases, but they are in fact individual cases I am very doubtful whether the full benefit of what we intend to do, that is the centralisation of difficult and important work of a specialised character, will be possible unless the wording of the clause is retained as it is My recollection is,—I am not very certain,—but my recollection is we did discuss it in the Select Committee and came to the conclusion that not only classes of cases, but individual cases ought to be covered by it. Sir, I oppose the amendment

Mr. M. S. Aney: Sir, I only want some further information on two points I gathered that it was with a view to consider certain classes of cases and to bring about some kind of co-ordination that the appointment of these three officers is deemed necessary I am not clear whether these appointments will be made from officers who are already in service at the headquarters or they will be specially recruited from outside for the purpose. Officers who are working at the headquarters can be promoted to that rank and made to work as Additional Commissioners I am not sure whether this is the idea But if that is not so, I should like to know whether the Public Service Commission will have any hand in making these appointments

Then, the second point is, whether the Government is in a position to give an undertaking that under no circumstances non-Indians will be appointed

The Honourable Sir James Grigg: I cannot possibly give an assurance as the existing income-tax staff is not entirely confined to Indians. If the Honourable Member means if I have got in my breast the idea of another appointment of a special officer from England

Mr. M. S. Aney: I am not attributing any motives

The Honourable Sir James Grigg: I can say that as far as I am concerned, I am near enough to the end of my time in India to desire to have a quiet time for the rest of my life, so far as quiet is consistent with the progress of the present Bill As regards Public Service Commission, as I say, at the moment I have no idea myself of importing any people outside the income-tax service The question of Public Service Commission does not arise

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): May I say a word? I quite realise that this amendment will go against the idea of the Select Committee We did agree unanimously, as our Leader pointed out, to these Special Commissioners being appointed, not more than three in number. I hope that three will be the maximum and will not

become the practical minimum for practical purposes, because there is the danger, with regard to the Government of India, whenever we sanction appointments by legislative enactment, the maximum tends to become the normal figure I do hope that these three posts will not be filled at once, that only one or two at the utmost will be appointed, according as the exigencies of work demand

The Honourable Sir James Grigg: The Honourable Member can be perfectly sure that the appointments will not be made in advance of necessity, and, at the moment, I may tell him quite frankly I do not see as many as three being required

Mr. S. Satyamurti: There is another point to which my Honourable friend referred in Amendment No 189 which I may anticipate My Leader's recollection and the Honourable the Finance Member's recollection coincide that this matter "of cases" was mentioned and if that is so it is binding upon me, and the House may consider the unanimous decision of the Select Committee But I am rather anxious that this word "cases" should be interpreted very, very carefully It is not the object of this amendment to substitute new, all-India Commissioners for discussing and deciding in the normal course of things, individual cases of assessees or assessments I heard the Honourable the Finance Member say that it is only in special cases of difficulty, of fraud, or of anything else, that the cases will be referred to the Special Commission Normally, the normal procedure is to apply,—for each assessee to be assessed by the income-tax officer of the area, then go to the Appellate Assistant Commissioner, then to the Tribunal, to the High Court, and then to the Privy Council In view of the position that this word "cases" seems to have been accepted by the Select Committee, I cannot very well object to it, but I see dangers of the word "cases" being extended, especially as officers who have no other work will tend to clutch at work because, if they cannot get special cases of penalties or of large insurance cases, or of frauds, there will be a temptation in all Government officers to clutch at work which will keep them busy all the year round I should like the House to have an assurance that these Commissioners will be Special Commissioners entrusted with special kinds of work which the ordinary income-tax officer cannot be expected to deal with adequately or with adequate knowledge and experience, and will be confined to particular classes of cases or of persons One last point, I want to make As regards these three appointments, if they are to be confined to the present occupants of the income-tax offices, no question such as my Honourable friend, Mr Aney, has raised, arises, but if they are to be recruited outside, I think all Honourable Members of this House would desire that, first, they ought to be on the recommendation or at least in consultation with the Public Service Commission, and, secondly, they ought to go to Indians I do hope that this section will not be used merely to make a permanent addition to the income-tax staff at headquarters.

The Honourable Sir James Grigg: With your permission, Sir, may I say this? The Honourable Member who has just spoken has asked for an assurance that there is no intention of merely picking out individual cases because the Commissioners at headquarters would like to work particular individual cases. Apart from the class of case I have mentioned, the only

[Sir James Grigg.]

kind of cases which I can imagine being centralised is somewhat as follows. Supposing you have a group of companies controlled by the same people who are assessed in different parts of India or whose incomes in various circles are assessed in three or four different areas, it may be desirable to bring together all those assessments under one head so to speak I do not say that that class of case will be dealt with that way, but outside the class of case, that is the only kind that I can think of I can assure the Honourable Member that it is not a question merely of making extra staff and of allowing them to grab cases to justify their existence

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

"That in clause 6 of the Bill, in sub-section (*3*) of the proposed section 5, all the words occurring after the words 'specified in the order of appointment' be omitted."

The motion was negatived

Dr. P. N. Banerjea: Sir, I beg to move:

"That in clause 6 of the Bill, in sub-section (*3*) of the proposed section 5, the words 'cases or' be omitted"

The Honourable the Finance Member has just offered an explanation. He said that individual cases will not be referred, and he mentioned a certain class of cases If that be so, I do not see what harm will ensue if the words "cases or" are omitted If the Special Commissioners confine their activities only to certain classes of cases, such as, penalty, fraud, and so forth, why should you not omit the words? The Honourable the Finance Member himself has admitted that there is no necessity for these two words

The Honourable Sir James Grigg: The Honourable Member misunderstands me I said that class of case was not wide enough Kinds of case there will be, but each of the kinds of case would be individual cases

Dr. P. N. Banerjea: Kinds of case and classes of case—I do not know what distinction there is between these two terms But if my Honourable friend does not think that individual cases will be taken up, then he may substitute the words "kinds of case" for "classes of case", but we object to individual cases being taken up by these Special Commissioners, because that will interfere with the ordinary system of income-tax administration in this country

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved.

"That in clause 6 of the Bill, in sub-section (*3*) of the proposed section 5, the words 'cases or' be omitted"

The Honourable Sir James Grigg: I do not want to add anything to my previous remarks

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

"That in clause 6 of the Bill, in sub-section (*3*) of the proposed section 5, the words 'cases or' be omitted"

The motion was negatived

Mr. President (The Honourable Sir Abdur Rahim): No 191.*

Maulvi Abdur Rasheed Chaudhury (Assam. Muhammadan). Yes, I move.

The Honourable Sir James Grigg: May I take a point of order on this? This deals with the functions of the Public Service Commission In so far as the amendment covers cases in which the Public Service Commission operates it is unnecessary, and in so far as it proposes to extend the functions of the Public Service Commission I submit it comes within the damage of section 267 of the Government of India Act That section runs:

"Subject to the provisions of this section, an Act of the Federal Legislature or the Provincial Legislature may provide for the exercise of additional functions by the Federal Public Service Commission or, as the case may be, by the Provincial Public Service Commission:

Provided that—

(*a*) no Bill or amendment for the purposes aforesaid shall be introduced or moved without the previous sanction of the Governor General in his discretion"

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member says that this is an additional function

The Honourable Sir James Grigg: There is no doubt that this amendment does confer additional functions.

Mr. President (The Honourable Sir Abdur Rahim) What does the Honourable Member (Maulvi Abdur Rasheed Chaudhury) say?

(There being no answer)

The Chair declares that this amendment is out of order.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) When the question of previous sanction is raised, it should be referred to the Governor General and the Chair itself has no jurisdiction to decide the matter

Mr. President (The Honourable Sir Abdur Rahim). Supposing it is absolutely clear Look at the provisions of 19A.

"If any Member desires to move an amendment which under the Act cannot be moved without the previous sanction of the Governor General, he shall annex to the notice required by the Standing Orders a copy of such sanction and the notice shall not be valid until this requirement is complied with"

It is the duty of the Chair to see that sanction has been obtained If any difficulty arises, then it is not for the Chair, but for the Governor General to decide

Mr. S. Satyamurti: This is not an additional function. The Public Service Commission is established for the purpose of advising the Government and recommending to them the persons to be appointed.

*"That in clause 6 of the Bill, in sub-section (3) of the proposed section 5, after the words 'Central Government' the words 'on the recommendation of the Public Service Commission' be inserted."

Mr. President (The Honourable Sir Abdur Rahim) Why does the Honourable Member then want these additional words?

Mr. S. Satyamurti: In order to make the meaning clear Surely there are words in Statutes, which are surplusage

Mr. President (The Honourable Sir Abdur Rahim) The amendment seeks to add these words and the Chair holds that the amendment is out of order, because it seeks to add to the functions of the Public Service Commission by legislation and no sanction has been obtained as required by the Act

Mr. K. Santhanam: Sir, I beg to move

"That in clause 6 of the Bill, in sub-section (*i*) of the proposed section 5, for the words 'Commissioner of Income-tax' the words 'Central Board of Revenue' be substituted"

It is provided that all income-tax officers and officers above that grade are to be appointed by the Central Government, while the income-tax inspectors are to be appointed by the Commissioner of Income-tax There will be many commissioners throughout the country and I do not think that each commissioner should be given discretion to appoint as many income-tax officers as he chooses It should be regulated by the Central Board of Revenue and I do not see what difficulty there can be in each Commissioner submitting proposals about the number and their salaries to the Central Board of Revenue Another point is that the Select Committee have provided for the appointment of three special Commissioners of Income-tax and it is not made clear whether they also will have the right of appointing income-tax inspectors For all these reasons I think that the Central Board of Revenue should be entrusted with these powers Sir, I move

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved

"That in clause 6 of the Bill, in sub-section (*i*) of the proposed section 5, for the words 'Commissioner of Income-tax' the words 'Central Board of Revenue' be substituted"

Mr. J. F. Sheehy (Government of India Nominated Official) Government have no objection to this amendment

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

"That in clause 6 of the Bill, in sub-section (*i*) of the proposed section 5, for the words 'Commissioner of Income-tax' the words 'Central Board of Revenue' be substituted"

The motion was adopted

Mr. K. Santhanam: Sir, I move

"That in clause 6 of the Bill, in sub-section (*i*) of the proposed section 5, after the word 'and', occurring in the second line, the words 'the Commissioner of Income-tax' be inserted."

It only means that while the appointments will be made by the Central Board of Revenue, the actual area may be allotted by the Commissioner. This is only for administrative convenience

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved

"That in clause 6 of the Bill, in sub-section (4) of the proposed section 5, after the word 'and', occurring in the second line, the words 'the Commissioner of Income-tax' be inserted."

Mr. J. F. Sheehy: Government have no objection to this amendment

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

"That in clause 6 of the Bill, in sub-section (4) of the proposed section 5, after the word 'and', occurring in the second line, the words 'the Commissioner of Income-tax' be inserted"

The motion was adopted

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

"That clause 6, as amended, stand part of the Bill"

The motion was adopted

Clause 6, as amended, was added to the Bill

Clause 7 was added to the Bill

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

"That clause 8 stand part of the Bill"

Dr. P. N Banerjea: Sir, I move:

"That sub-clause (*a*) of clause 8 of the Bill be omitted"

This sub-clause (*a*) reads thus

"the words 'received by him' shall be omitted"

The object of this clause, which is sought to be introduced, is to tax salaries which are not received but which are only due The actual words "salaries or wages which are due to him whether paid or not or are paid by or on behalf of" These words did not exist in the Act of 1922 Now, what will be the effect of the introduction of these words? The effect will be that salaried persons will have to pay the tax upon salaries which have not yet been received Now, this is wholly contrary to the principle of ability to pay I do not get any salary but I am compelled to pay the tax on an amount which is only due to me This is exceedingly unfair, and will cause a great deal of hardship on all persons, particularly, poor persons I, therefore, submit that this House should accept my amendment, and I also appeal to my Honourable friend, the Finance Member, to accept this amendment

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

"That sub-clause (*a*) of clause 8 of the Bill be omitted"

Mr. S. P. Chambers (Government of India Nominated Official): Sir, I oppose this amendment The object of the proposal in the Bill I think was made quite clear last week, viz, that if we assess an income only on the basis of the amounts that are actually received, that leaves a loop-hole for evasion, and I also gave an instance I explained that in one single circle not less than four hundred cases had

1 P.M.

[Mr. S P Chambers.]

been discovered in that circle and that a considerable amount of tax had been evaded This proposal would make it possible for these loop-holes to remain although we have attempted to stop them. As far as cases of hardship are concerned, an assurance has already been given that where the salary has not been paid, arrangements will be made to hold over the collection of the tax if it can be shown that the assessee, that is, the recipient of the salary, is in difficulties and cannot pay the tax in consequence of the non-payment of salary There is a further point which relates to some amendments which come on a little later on, particularly amendment No 220 If the salary is never paid, either because the employer becomes bankrupt or because the employer raises some objection to paying the salary, then we need no specific provision in the Income-tax Act to say that tax is not chargeable on the amount which was originally payable, because, it is already accepted law that income which is payable but becomes not ultimately paid, in any circumstances whatsoever, is not income and cannot be assessed

Dr. P. N. Banerjea: Where is the accepted law?

Mr. S. P. Chambers: No specific ruling, as far as I am aware, has been given on this point in India but as the law on this subject is identical with the law in the United Kingdom, there are High Court cases in the United Kingdom which would cover the point and probably, if such cases were taken to courts in India, that would be the position

Dr. P. N. Banerjea: But you are changing the wording of the existing law

Mr. S. P. Chambers: The wording now equals or is equivalent to the wording in the United Kingdom where such rulings have been given

Mr. M. S. Aney: Sir, I have listened to what my Honourable friend, Mr Chambers, has said and his point comes to this, that the Finance Department thinks it necessary to provide by a statutory provision against what they imagine to be cases of evasion

The Honourable Sir James Grigg: Not imagined but what they know to be cases of evasion

Mr. M. S. Aney: My position is this I infer that from his own statement But as regards hardship, he has asked us to remain content with the assurance given by him that those cases will be dealt with leniently. I do not know how that assurance is going to be translated, unless it be by means of certain instructions to be issued later on to the departmental officers concerned when that Act comes into force. That is probably the idea. I think it would be better not to leave things in this rather unsatisfactory manner.

An Honourable Member: You must plug the loop-holes.

Mr. M. S. Aney: That has become a common expression, "plugging the loop-hole"! My suggestion is this It is admitted that the provision as it is at any rate likely to prove a hardship in a number of cases where the salaries may not be received and there would be no ground for a suspicion of any evasion of tax, but suppose that that non-receipt is due not to any attempt at evasion of the tax, then such cases ought to be provided for and some remedy to get over that hardship must be directly provided for in the clause itself and not be left to the discretion of the officer. I am, therefore, constrained to say that I am not satisfied with the explanation my Honourable friend has given, because, we are leaving these cases of hardship to mere chance later on, and then in each case of hardship the question will arise whether it is really a case of hardship or it is a matter of evasion, and after the inquiry, if the departmental officer is satisfied that it is a case of hardship and not evasion, then he might think of acting up to the instructions which will be issued later on That would be an extremely anomalous and undesirable state of things I, therefore, think the original law as it is is right, that is, salary which is received should be taxed, that is the income that is in my pocket, and income that is merely due to me but which for many reasons cannot be or is not realized on account of some difficulties ought not to be taxed till it is a reality If it be a case of evasion, that could be separately dealt with, but it is not proper that cases of evasion should be provided for only in this way and that the other cases should be dealt with in any manner I submit that a tax on salary should really mean a tax on salary received and not merely due. I, therefore, support the amendment which my Honourable friend has moved

Mr. K. Santhanam: Sir, there are two issues in this amendment, viz , whether the tax should be payable, and from whom the tax should be collected So far as the payability of the tax is concerned, I do think it should be payable as soon as it is due But so far as the collection is concerned, if it is deductable by the employer only, the employer should be liable and not the man until the latter has received the money There are two different issues which have to be dealt with in a different manner. If the employer is liable to deduct the salary and if that is not paid to the employee, then the employee should not pay, but there is no reason why the employer should not be asked to pay There are later amendments which provide that until the employee has received the pay in his hands he ought not to be called upon to pay the tax If Honourable Members over there will concentrate on these amendments, that would be better.

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

"That sub-clause (*a*) of clause 8 of the Bill be omitted "

The motion was negatived

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I move:

"That in sub-clause (*c*) of clause 8 of the Bill, after the words 'or otherwise', occurring in the sixth line, the words 'in lieu' be inserted."

[Mr. M Ananthasayanam Ayyangar.]

Sir by the amendment of section 7 even salaries which are due have been made taxable Before that, only those salaries were taxable which had been received Even when a man takes a loan or when the payment of his salary has been deferred, that has also been brought in by this amendment My amendment seeks to avoid an error which has crept in Sub-clause (c) of clause 8 runs thus

"and for the purposes of this sub-section advances by way of loan or otherwise of income chargeable under this head shall be deemed to be salary due on the date when the advance is received"

The object of the clause as it stands at present is that if a loan is taken on the income or the salary due, then even the loan will be included in the taxable income on the date when the loan was made In January, for instance, an employee may take Rs. 10,000 when his annual salary is only Rs 1,000 in advance for the coming period or he may take as a loan all the salary that may be due to him for the coming years There is no justification to treat that as the income for that year in the month of January when it is only a loan on his salary This was no doubt necessary according to the report of the Select Committee which sat over that matter,—but section 7 has been suitably amended in the earlier portion in the cases where no salary is fixed. That has also been brought in the category of salaries under section 7. That is enough But the other amendment, namely, that even when there is a loan it should be taxed, will give rise to harassment of the assessees In this connection, I will read an extract from the Income-tax Enquiry Report, page 28, where they say·

"There are other cases, e g, (a) deferring remuneration of the penultimate year of service and drawing it in the final year when remuneration is less than that for a full year, (b) drawing only part of commission in a year when it is abnormally high and (c) taking loans in lieu of salary"

If it is made to appear that only loans are being given, and the employee escapes taxation because it is only a loan from his employer, to avoid evasions of that kind, section 7 has already been amended in the earlier portion where it is said that any payment in lieu of salary will also be taxed Therefore, in the later portion where the salary is definitely fixed it is not necessary Take, for instance, an employee who takes an advance for the purchase of a car which may become due from him after a period of two or three years That amount should not be treated as his salary which has accrued in that year, otherwise he will have to pay the tax on his salary as well as the advance for the purchase of the car On the accrual basis his salary is liable to be taxed and there is no harm in taxing the salary which accrues later in the years to come I want to make it clear by my amendment that loans in lieu of salary ought alone to be taxed because the date has not been fixed

Mr. President (The Honourable Sir Abdur Rahim) Unless the Honourable Member wants to finish his speech now, he can continue it after lunch.

Mr. M. Ananthasayanam Ayyangar: Sir, I will take a few minutes more to finish my speech.

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

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

Mr. M. Ananthasayanam Ayyangar: Sir, by my amendment two objects will be achieved, firstly the evasion of tax on salaries sought to be concealed by granting of loans will be prevented Secondly, where salaries can be taxed, and where they are definitely known, loans on salaries will not be taxed That is the double object of this amendment Sir, I move

Mr. Deputy President (Mr Akhil Chandra Datta) Amendment moved

"That in sub-clause (c) of clause 8 of the Bill, after the words 'or otherwise', occurring in the sixth line, the words 'in lieu' be inserted"

Mr. S. P. Chambers: Sir, I oppose this amendment I am not quite sure whether this amendment secures what the Honourable Member intends to secure But all I can say is that where an advance is a genuine advance of salary, it is the intention of the Bill to see that it is taxed Where there is hardship owing to the advance being very large, so that more than one year's income would otherwise be included in one year's assessment there is a statutory provision in sub-section (2) of section 60 for relief In other cases, where the advance is not an advance of salary or anything in the nature of salary, then it is clearly not caught by this section So, I submit that to the extent to which relief is justified that relief is granted by another section and this amendment is therefore unnecessary

[At this stage, Mr Deputy President (Mr. Akhil Chandra Datta) vacated the Chair which was then occupied by Mr Chairman (Mr S Satyamurti)]

Mr. K. Santhanam: Sir, I am unable to see what objection the Honourable Member has to this amendment I understand from his statement that he intends that if somebody takes for motor car advance a sum of Rs. 5,000 on the 1st of January, the tax should be deducted on the 1st January on that advance I want to know if that is the intention of the Government

The Honourable Sir James Grigg: The Honourable Member will refer to sub-section (2) of section 60 to which reference has been made

Mr. K. Santhanam: The Honourable Member forgets that he is introducing the slab system and under the slab system one-twelfth will be taken in the first month Will the tax on Rs 5,000 also be deducted in the first month?

The Honourable Sir James Grigg: No, we cannot, because the man cannot be taxed on more than a year's salary in a year under sub-section (2) of section 60

Mr. K. Santhanam: The Central Government may grant appropriate relief Why should we allow the Government to tax advance taken on the basis of salary which is taxable as soon as it is due and then allow discretion to grant such relief as it may think fit What is wrong in taking advance on fixed salaries for definite purposes I can understand the Honourable Member saying that if you have no salary fixed and if somebody takes advance and tries to evade tax, then it should be collected When a man has got a definite salary fixed, why should they not tax it when it is due and when it is taken as an advance? Why should they have this complicated provision I do suggest that my Honourable friend's amendment carries out precisely what he intends "In lieu of" will mean 'instead of' When loans are advanced or are issued instead of salary, they can be taxed on the date on which the advances are taken. There is another absurdity if it is income chargeable now It is already salary by the definition and what is the fun of making it salary again It is already taxable Why should you again say it is taxable Either it is tautology or it is mischievous In either case the amendment is necessary I do contend that this amendment carries out precisely the object I would otherwise ask the Honourable Member to prove how this amendment will not effect an improvement What will be his interpretation if this amendment is carried? Will it do any harm? I challenge him to say that it will interfere with his purpose I appeal to the House to accept the amendment

The Honourable Sir James Grigg: My objection to accepting this amendment is I do not think it does the Honourable Member any good That is my position It will not achieve what he wants What he wants is already achieved under the Act and therefore it is not only unnecessary but useless

Sir Cowasji Jehangir (Bombay City Non-Muhammadan Urban) I want the Honourable the Finance Member or Mr Chambers to assure me, that if a servant takes a loan on the security of his salary and when the loan is four or five times the amount of the salary, will he be charged to income-tax on the whole loan immediately or will the income-tax be charged on the full amount of the salary as if no loan had been taken and the man will not be charged in one particular year on the full loan? If he assures us of that, that that is provided for in this Bill somewhere, that the man will not be charged on the full amount of the loan, but that he will be charged gradually as if it was his salary, then that meets the case But if it is not so, then provision must be made that the man cannot be charged on the full amount of loan that is taken

The Honourable Sir James Grigg: Sir, I have no hesitation in giving the Honourable Member that assurance.

Mr. Chairman (Mr S. Satyamurti): The question is:

"That in sub-clause (c) of clause 8 of the Bill, after the words 'or otherwise', occurring in the sixth line, the words 'in lieu' be inserted."

The Assembly divided

AYES—45

Abdul Qaiyum, Mr
Abdur Rasheed Chaudhury, Maulvi
Aney, Mr M S
Asaf Ali, Mr M
Ayyangar, Mr M Ananthasayanam
Bajoria, Babu Baijnath
Banerjea, Dr P N
Basu, Mr R N
Chaudhury, Mr Brojendra Narayan
Chettiar, Mr T S Avinashilingam
Chetty, Mr Sami Vencatachelam
Damzen Mr P R
Das, Mr B
Das, Pandit Nilakantha
Desai Mr Bhulabhai J
Gadgil, Mr N V
Govind Das, Seth
Gupta, Mr K S
Hans Raj, Raizada
Hegde, Sri K B Jinaraja
Jedhe, Mr K M
Jogendra Singh, Sirdar
Kailash Behari Lal, Babu
Maitra, Pandit Lakshmi Kanta
Mangal Singh, Sardar
Misra, Pandit Shambhu Dayal
Mudaliar Mr C N Muthuranga.
Muhammad Ahmad Kazmi, Qazi
Paliwal, Pandit Sri Krishna Dutta
Pande Mr Badri Dutt
Parma Nand, Bhai
Raghubir Narayan Singh Choudhri
Ramayan Prasad, Mr
Ranga Prof N G
Rao, Mr M Thirumala
Sant Singh, Sardar
Santhanam, Mr K
Sham Lal, Mr
Sheodass Daga, Seth
Singh Mr Gauri Shankar
Singh, Mr Ram Narayan
Sinha Mr Satya Narayan
Som Mr Suryya Kumar
Subbarayan Shrimati K Radha Bai
Subedar, Mr Manu

NOES—58

Abdul Hamid, Khan Bahadur Sir
Abdullah, Mr H M
Ahmad Nawaz Khan, Major Nawab Sir
Aikman, Mr A
Ayyar, Mr N M
Azhar Ali, Mr Muhammad
Bajpai, Sir Girja Shankar
Bartley, Mr J
Bewoor Mr G V
Boyle Mr J D
Chambers Mr S P
Chanda Mr A K
Dalal Dr R D
Dalpat Singh Sardar Bahadur Captain
Essak Sait, Mr H A Sather H
Fazl i Haq Piracha, Khan Bahadur Shaikh
Ghiasuddin Mr M
Ghulam Bhik Nairang, Syed
Gorwala Mr A D
Greer, Mr B R T
Grigg The Honourable Sir James
Hardman Mr J S
James Mr F E
Jawahar Singh, Sardar Bahadur Sardar Sir
Jehangir Sir Cowasji
Joshi Mr N M
Kushalpal Singh Raja Bahadur
Mackeown, Mr J A
Maxwell the Honourable Mr R M
Mehr Shah, Nawab Sahibzada Sir Syed Muhammad
Menon, Mr P A
Menon Mr P M
Metcalfe Sir Aubrey
Miller, Mr C C
Mody, Sir H P
Mukerji, Mr Basanta Kumar
Nur Muhammad Khan Bahadur Shaikh
Rahman Lieut Col M A
Row Mr K Sanjiva
Scott Mr J Ramsay
Shahban, Mian Ghulam Kadir Muhammad
Sheehy, Mr J F
Sher Muhammad Khan, Captain Sardar Sir
Siddique Ali Khan, Khan Bahadur Nawab
Sircar, The Honourable Sir Nripendra
Sivaraj, Rao Sahib N
Sobha Singh Sardar Bahadur Sardar
Spence Mr G H
Stewart The Honourable Sir Thomas
Sukthankar, Mr Y N
Sundaram, Mr V S
Talukdar Mr J N
Town Mr H S
Umar Aly Shah Mr
Yamin Khan Sir Muhammad
Zafar Ali Khan, Maulana
Zafrullah Khan, The Honourable Sir Muhammad
Ziauddin Ahmad, Dr Sir

The motion was negatived

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore cum North Arcot Non-Muhammadan Rural) Sir, I beg to move

"That to sub-clause (c) of clause 8 of the Bill, the following be added at the end

'provided that the tax shall not be payable in respect of any sum which the assessee by the conditions of his employment is required to spend out of his remuneration wholly or necessarily in the performance of his duties'."

Sir, on page 29 of the Income-tax Enquiry Report, the experts have recommended that such allowances should be made, they say.

"Our attention has been drawn to the fact that the employee who by the conditions of his employment is required out of his remuneration to incur expenses wholly and necessarily in the performance of his duties, receives no deduction therefor in his Income-tax assessment, and we recommend that provision be made to meet this case"

I do think, Sir, that a specific provision is necessary in the Act for there are people like Insurance Agents who are given lump sum under their conditions of employment and they are asked to keep a motor car. In such a case it is wrong to take the whole sum as salary to that man. And I do think that if this provision is not incorporated, it will work great hardship Sir, I move

Mr. Chairman (Mr S Satyamurti) Amendment moved

"That to sub-clause (c) of clause 8 of the Bill, the following be added at the end

'provided that the tax shall not be payable in respect of any sum which the assessee by the conditions of his employment is required to spend out of his remuneration wholly or necessarily in the performance of his duties'."

Mr. J. F. Sheehy: Sir, if the Honourable Member who moved the amendment is prepared to accept a slight alteration of the wording Government will raise no objection The alteration that I suggest is that for the words "wholly or necessarily" the words "wholly, necessarily and exclusively" be inserted

Mr. Bhulabhai J. Desai: What is the force of "exclusively"?

Mr. J. F. Sheehy: That is the wording of the English law

Mr. T. S. Avinashilingam Chettiar: Sir, I accept it

Mr. Chairman (Mr S Satyamurti) As Mr Sheehy's amendment is not altogether a verbal one, the Chair has got to take the opinion of the House for Mr Sheehy being permitted to make that amendment, and for the Chair to incorporate those words in the amendment and put it to the House Is there any objection to the amendment?

(*Cries of* "No".)

The question is

"That to sub-clause (c) of clause 8 of the Bill, the following be added at the end

'provided that the tax shall not be payable in respect of any sum which the assessee by the conditions of his employment is required to spend out of his remuneration wholly, necessarily and exclusively in the performance of his duties'."

The motion was adopted

Mr. K. Santhanam: Sir, I beg to move·

"That after sub-clause (c) of clause 8 of the Bill, the following new sub-clause be inserted and the subsequent sub-clauses be re-lettered accordingly :

'(*d*) after the proviso the following further proviso shall be inserted, namely :

'Provided further that where salary is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction'."

The point is clear It has already been explained by me and others and I merely move the amendment

Mr. Chairman (Mr S Satyamurti) Amendment moved

"That after sub-clause (c) of clause 8 of the Bill, the following new sub-clause be inserted and the subsequent sub-clauses be re-lettered accordingly :

'(*d*) after the proviso the following further proviso shall be inserted, namely .

'Provided further that where salary is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction' "

Mr. J. F. Sheehy: Sir, my answer to this amendment is that it is unnecessary The amendment deals with cases where the salary has been deducted by the employer That is dealt with already in section 18(*5*) of the Act which says

"Any deduction made in accordance with the provisions of this section shall be treated as payment of income-tax or super-tax on behalf of the person from whose income the deduction is made and credit shall be given to him therefor in the assessment, if any, made for the following year "

So that there can be no question of taxing him on it again as he is getting credit for it in his assessment

Dr. P. N. Banerjea: Sir, this amendment seeks to secure in a somewhat roundabout way what I wanted to secure by my amendment in a straightforward manner However, as the substance of the amendment is the same as that of mine I heartily support it

Mr. Bhulabhai J. Desai: Sir, the attention of the House has been called to clause 19 but if the House will see it, it becomes all the more necessary that the amendment should be made The clause to which attention has been called runs as follows.

"In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of section 18, income-tax shall be payable by the assessee direct "

The object of this amendment is that where it is not so deducted unless the assessee receives the salary he should not be called upon personally to pay Therefore it is a necessary provision and I hope the House will accept it

An Honourable Member: What about section 18 (*5*) of the present Act?

Mr. Bhulabhai J. Desai: That does not cover this case The point is that where in fact it has been deducted there is no question of recovery for a second time The amendment wants that where in fact it has not been deducted and it therefore becomes payable by the assessee he should not be assessed personally until he has received his pay without any such deduction.

Syed Ghulam Bhik Nairang: Will "deductible" include both what is actually deducted and what is only liable to be deducted?

Mr. Bhulabhai J. Desai: The point is that the person who ought to have deducted should have deducted in the first instance Secondly, it provides for the case where having failed to deduct he gives the whole of the salary In such a case the assessee should pay It is only where he does not pay, that the assessee unless he has received his salary without deduction should not be called upon to pay personally I submit that it is a correct point

3 P.M.

Mr. Chairman (Mr S Satyamurti) The question is:

"That after sub-clause (c) of clause 8 of the Bill, the following new sub-clause be inserted and the subsequent sub-clauses be re-lettered accordingly

'(d) after the proviso the following further proviso shall be inserted, namely:

'Provided further that where salary is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction' "

The Assembly divided

AYES—72

Abdul Ghani, Maulvi Muhammad
Abdul Qaiyum Mr
Abdullah, Mr H M
Abdur Rasheed Chaudhury, Maulvi
Aikman, Mr A
Aney, Mr M S
Asaf Ali, Mr M
Ayyangar, Mr M Ananthasayanam
Azhar Ali, Mr Muhammad
Bajoria, Babu Baijnath
Banerjea, Dr P N
Basu, Mr N
Bhagchand Soni, Rai Bahadur Seth
Bhutto, Mr Nabi Baksh Illahi Baksh
Boyle, Mr J D
Chaudhury, Mr Brojendra Narayan
Chettiar, Mr T S Avinashilingam
Chetty, Mr Samu Vencatachelam.
Chunder, Mr N C
Damzen, Mr P R
Das, Mr B
Das Pandit Nilakantha
Desai, Mr Bhulabhai J
Deshmukh, Mr Govind V.
Essak Sait, Mr H A Sathar H
Gadgil, Mr N V
Ghiasuddin, Mr M
Ghulam Bhik Nairang, Syed
Govind Das, Seth
Greer, Mr. B. R T.
Gupta, Mr K S
Hans Raj, Raizada
Hegde, Sri K. B Jinaraja
James, Mr F E
Jedhe, Mr K. M
Jehangir, Sir Cowasji
Jogendra Singh, Sirdar
Kailash Behari Lal, Babu
Lalchand Navalrai, Mr
Maitra, Pandit Lakshmi Kanta
Mangal Singh Sardar
Mehr Shah, Nawab Sahibzada Sir Sayad Muhammad
Miller, Mr C C
Misra, Pandit Shambhu Dayal
Mody, Sir H P
Mudaliar, Mr C N Muthuranga
Muhammad Ahmad Kazmi, Qazi
Murtuza Sahib Bahadur, Maulvi Syed
Paliwal, Pandit Sri Krishna Dutta
Pande, Mr Badri Dutt
Parma Nand, Bhai
Raghubir Narayan Singh, Choudhri
Ramayan Prasad, Mr
Rao, Mr. M Thirumala
Saksena, Mr Mohan Lal
Sant Singh, Sardar
Santhanam, Mr K.
Scott, Mr J Ramsay
Sham Lal, Mr
Sheodass Daga, Seth
Siddique Ali Khan, Khan Bahadur Nawab
Singh, Mr Gauri Shankar
Singh, Mr Ram Narayan
Sinha, Mr Satya Narayan
Som, Mr. Suryya Kumar
Subbarayan, Shrimati K Radha Bai.
Subedar, Mr Manu
Town, Mr H S
Umar Aly Shah, Mr
Yamin Khan, Sir Muhammad.
Zafar Ali Khan, Maulana
Ziauddin Ahmad, Dr Sir

NOES—32

Abdul Hamid, Khan Bahadur Sir	Menon, Mr P A
Ahmad Nawaz Khan, Major Nawab Sir	Menon, Mr P M
Ayyar, Mr N M.	Metcalfe, Sir Aubrey.
Bajpai, Sir Girja Shankar	Mukerji, Mr Basanta Kumar.
Bartley, Mr J	Nur-Muhammad Khan Bahadur Shaikh.
Bewoor, Mr G V.	Rahman, Lieut.-Col M A
Chambers, Mr S. P	Row, Mr K. Sanjiva.
Chanda, Mr. A K	Sheehy, Mr J F
Dalal, Dr. R D	Sher Muhammad Khan, Captain Sardar Sir
Dalpat Singh, Sardar Bahadur Captain	Sircar, The Honourable Sir Nripendra.
Gorwala, Mr A D	Sobha Singh, Sardar Bahadur Sardar
Grigg, The Honourable Sir James	Spence, Mr G H
Hardman, Mr J S	Stewart, The Honourable Sir Thomas
Jawahar Singh, Sardar Bahadur Sardar Sir	Sukthankar Mr Y N
Mackeown, Mr J A	Sundaram, Mr V S
Maxwell, The Honourable Mr R M.	Talukdar, Mr J N

The motion was adopted

Dr. P. N. Banerjea: Sir, I beg to move

"That in sub-clause (*d*) of clause 8 of the Bill, in the proposed *Explanation* 2, the words 'due to or', occurring in the first line, be omitted"

The absurdity of the Government's proposal and the eminently fair character of my amendment will be at once evident as soon as you look at the words of the clause, which are:

"A payment due to or received by an assessee from an employer, etc, etc, is a profit received in lieu of salary, etc"

So a payment due is a profit received Now, what is due may not be received, but here, for the purposes of this clause, it is to be regarded as received As the Honourable the Law Member on one occasion put it, what is black is to be regarded as white As the House only a few minutes ago accepted a proposal of a similar character made by me and my Honourable friend, I hope the House will accept this amendment also

Mr. Chairman (Mr S Satyamurti) Amendment moved

"That in sub-clause (*d*) of clause 8 of the Bill, in the proposed *Explanation* 2, the words 'due to or', occurring in the first line, be omitted"

Mr. S. P. Chambers: Sir, I oppose this amendment for reasons similar to my opposition to an earlier amendment of a similar kind If we delete the words "due to or", then under this explanation, if an employer allows a large sum to an employee,—and for this purpose we include Directors,—though not actually paid,—then we cannot collect tax on it. There are a large number of cases in which it would be impossible for an employee,—and I think in this case it is almost entirely of important employees,—who, after receiving large sums, go back to England or to some other country after retirement, and we would never be able to collect the tax at all. Unless we can collect the tax when it is due, then we should probably be unable to collect it at all. I, therefore, submit that this amendment is undesirable.

Mr. M. S. Aney: Sir, all the arguments which my learned friend has advanced come to this. He imagines cases of persons to whom this amount may be due but who may later on leave this country. It will be impossible

[Mr M S Aney]

for the Government to trace them later on and recover the tax from them. It seems to be an extreme case which he has cited to justify the provision . . . .

Mr. S. P. Chambers: Sir, May I make an explanation? I had not imagined cases, but there are actual cases; and moreover, it is not at some future date that the provisions of this clause will be applied, but at the termination of the employment It is quite possible that quite a large number of persons will shortly after their retirement leave this country if they are domiciled outside and they go Home when they have finished their time here

Mr. M. S. Aney: Such a case could have been provided for by means of separate provision bringing in those circumstances under which evasion of that kind becomes possible, but to make it a general rule that an amount due should be taken as a profit will work as a hardship in at least 99 cases where there is no question of evasion of that kind at all Secondly, in 99 cases, the position will be this It may be that the amount is due this year, it is not collected or received, next year it may be received, and when it is received, it will be subject to taxation The only cases which my friend has cited are really of an exceptional nature, and to provide for those cases, specific provision could be introduced somewhere only intended to apply to such cases, and not to apply generally I, therefore, think, Sir, that the provisions here are of a general nature and will cause greater hardship than the relief expected in cases of the kind to which my learned friend referred if we allow the words "due to or" to remain undeleted Therefore, I think these words must go

Sir Cowasji Jehangir: Sir, I would again like to ask a specific question to my Honourable friend, Mr Chambers An amount is due and you charge income-tax on it, and then it is not received What is the relief for the assessee and under what section?

Mr. S. P. Chambers: There is no section of the Act under which relief can be given, but it is a matter of general definition of income If an amount is due, but it is ultimately irrecoverable, then it is not income, because it has been laid down in the courts in England,—and in this respect the law is substantially the same here,—if the income is not ultimately received, it is not income because income has been defined as what comes in,—if it never comes in, it is not income

Mr. M. S. Aney: What is likely to come is the question

Mr. Chairman (Mr S Satyamurti) No doubt, in a Bill of this kind, there are possibly occasions to put questions, but the Chair cannot allow a conversation to go on The Honourable Member will complete his speech, and somebody will answer

Sir Cowasji Jehangir: I thank you, Sir, for allowing Mr Chambers to answer the question Suppose the amount is due and is not received for some years. Income-tax will be charged on that amount, though the

amount has not been received Then, is the assessee to get a refund, and if it is so, after how many years? Or is he to go without it? The result will be that Government will get the income-tax and they will be enjoying the use of an amount which they are not justified in holding I can understand that the assessee pays his income-tax, because the amount is due,—then, he does not get it for certain reasons. He has to put himself to the trouble of asking for a refund Even if the refund is easily obtainable, the man has paid the income-tax out of his pocket, and meanwhile Government utilise that amount I think there ought to be some provision in the Act, whereby, it must be made quite easy for the assessee to get a refund within a limited time I therefore think that the provision laid down is rather harsh, and unless those points are answered, these words "due to or" must remain Notwithstanding the risk of evasion, you cannot do hardship to a large number of people in order to catch a few

The Honourable Sir James Grigg: Sir, I thought the position had been clearly explained to the Honourable Member in the Select Committee, but if it has not, I am sorry The position is that, when the salary is due but proves ultimately not to have been paid, then there is no tax due, and, therefore, if tax has been paid, it will have to be refunded It was made clear, I thought, in the Select Committee, that no demand for that tax would be made in the case of salaries not paid But if Honourable Members feel that that an administrative assurance is not enough that the tax will not be collected and the assessment will be discharged when it is ultimately proved to be irrecoverable, I am quite agreeable that it should be made clear But I suggest this is a wrong place to do it, and I undertake to bring forward an amendment in connection with clause 45 which deals with payment of tax in order to cover that point

Mr. Bhulabhai J. Desai: I will certainly accept that assurance if in the refund section this item is also included

The Honourable Sir James Grigg: The tax will not be paid It is not a question of refund, it will not be collected

Dr. P. N. Banerjea: In view of the assurance that has been given, I beg leave of the House to withdraw my amendment

The amendment was, by leave of the Assembly, withdrawn

Mr. M. Ananthasayanam Ayyangar: I beg to move

"That in sub-clause (*d*) of clause 8 of the Bill, in the proposed *Explanation 2*, before the word 'profit', occurring in the seventh line, the following be inserted :

'to the extent it does not consist of contributions by the assessee or interest on such contributions' "

The object of this amendment is to exempt that portion of the contributions made by an assessee to an unrecognised provident fund If the contribution is made to a recognised provident fund, both the contributions, the one by the assessee as well as the one by the employer, are exempted from taxation In Chapter IXA there is section 58F which says.

"An employee shall not be liable to pay income-tax on contributions to his individual account in a recognised provident fund, in so far as the aggregate of such contributions in any year does not exceed one-sixth of his salary in that year or Rs 6,000 whichever is less."

[Mr M Ananthasayanam Ayyangar.]

This specific provision is made to exempt contribution by an assessee and the employer in so far as the fund is a recognised fund Then, as regards unrecognised funds, the contribution by the assessee is taxed in his hands even though it has not been received by him, the moment it accrues as a salary. If my amendment is not accepted, the contribution will be taxed twice, once as and when that portion of his salary accrues each month or each year, and again, when it accumulates into a fund and the provident fund is paid as a whole Thus, there will be double taxation of the same contribution. To relieve it I have brought this amendment

Mr. Chairman (Mr S Satyamurti) Amendment moved

"That in sub-clause (*d*) of clause 8 of the Bill, in the proposed *Explanation 2*, before the word 'profit', occurring in the seventh line, the following be inserted :

'to the extent it does not consist of contributions by the assessee or interest on such contributions' "

Mr. S. P. Chambers: Sir, I oppose this amendment, and I propose to deal with it very shortly The Honourable Member says that without this amendment there will be double taxation On an earlier occasion, I think, I explained that it is not possible, or legal either in this country or elsewhere, to charge the same assessee twice in respect of the same income; any attempt to do that, and any section which purports to do that is, I think, outside the general charging section of the Income-tax Act I suggest, therefore, that these words are unnecessary.

Mr. K. Santhanam: If the Honourable Member means that a man cannot be taxed twice on the same income in the same year, I agree with him, but this is income accruing after 20 or 25 years A man goes on paying month by month, or year by year to an unrecognised provident fund Because that allowance is not exempt, he pays tax on all the salary, including the sum which he pays to the unrecognised provident fund This goes on accumulating for a period of 20 or 25 years and then it comes to him in a lump sum How is the income-tax officer to find out which portion of this accumulated sum should bear the tax and which portion should not? I do not see any provision of the Bill by which he can separate the amount on which he has already paid tax, and the amount which the employer has given as donation I think that unless this amendment is incorporated the entire amount will be taxed and there will be no means, even if the income-tax officer were willing, by which the two amounts could be separated Therefore, in order to make it clear that the same amount which has been taxed twenty years ago shall not be taxed again this proviso has been brought in I, therefore, think that this is necessary, otherwise there is sure to be double taxation in spite of what Mr Chambers has said.

Syed Ghulam Bhik Nairang: I am again confronted with the same kind of difficulty as I had this morning in understanding the amendment of my Honourable friend, Dr Banerjea This amendment seeks to insert before the word "profit" these words, "to the extent it does not consist of contributions by the assessee or interest on such contributions." I am, rather, weak in English composition and cannot understand how by inserting these words after "a" and before "profit" it will make any sense at all. I am afraid, my honourable friend will have to make a slight verbal amendment in order to make it intelligible, and unless we understand how

these words will fit in the line between "a" and "profit" it is really difficult to make up one's mind whether to support the amendment or oppose it.

Mr. Bhulabhai J. Desai: Sir, I will attempt to explain what is intended to be carried out, and I hope my Honourable friend will then see that, bad though the English may be, it does carry out the intention The whole point is this The Explanation reads—I will only read the material words.

"A payment due to or received by an assessee from an employer from a provident or other fund at or in connection with the termination of his employment is a profit"

Therefore, the Explanation says, it is profit received in lieu of salary which is now intended to be taxed What is intended to be taxed is profit in lieu of salary, and the Explanation says that the item to be so received is a payment from a provident fund. A provident fund consists of two parts, one contribution by the employee and one by the employer. Inas-much as this is not a recognised fund, the employee's contribution would not get exemption as and when he pays it In other words, to take an illustration, supposing a man gets a fifty rupees salary and he pays Rs 5 at the end of the year towards this fund Then, he does not get any exemption over it, because it is not a recognised fund This Rs 5 spread over 20 years accumulates to Rs 100 Then, the employer's contribution also of Rs 5 accumulates to another Rs 100 Then, the two together is Rs 200 On the Rs 5 that the employee has already paid, he has paid income-tax, because the whole of the Rs 50 income is taxable. Therefore, what is intended is that the profit which he will get, namely, not the Rs 100, which he has paid, but the Rs 100 which is not paid by him should be treated as profit In the light of this explanation, if my Honourable friend will read it, I do not think there is much difficulty·

"A payment due to or received from a provident fund is a profit"

Syed Ghulam Bhik Nairang: May I suggest that the Honourable Member should read all the words and compose a complete sentence with the amendment in?

Mr. Bhulabhai J. Desai: I am omitting only immaterial words

"A payment due to or received from a provident fund is to the extent that it does not consist."

Syed Ghulam Bhik Nairang: "that" is left out

Mr. Bhulabhai J. Desai: As I said, I apologise for the English I am trying to see whether, as it stands, it does not purport to carry out the meaning, namely, that to the extent to which it does not consist of contributions by the assessee it is a profit The only thing is that this profit is an excess over his own contribution paid by somebody else, because, in so far as he is concerned, he has paid it and I am quite willing to add the words "to which" after the word "extent" to make the meaning clear, so that what you are taxing is what the employer pays and not his own contribution on which he has already paid tax

Mr. Chairman (Mr. S. Satyamurti): It is not the function of the Chair to give arguments for or against any amendment, but it is the function of the Chair to explain the scope of the amendment The Chair is anxious,

[Mr. Chairman.]

therefore, that the House should understand that the amendment, No. 226, which the House is discussing, merely seeks to exempt contributions by the assessee or interest on such contributions to provident funds; and the Chair wants also to point out to the House that at the third reading stage, it is possible for the Government or for others to move formal or consequential amendments to any amendment made now The Chair is, therefore, anxious that the House should vote on the merits of the amendment, and not on a small omission in the mere wording of it which can be corrected later

The Leader of the Opposition suggests the addition of the words "to which" after the word "extent", in the amendment. Is there any objection?

(No objection was raised.)

Mr. Chairman (Mr S Satyamurti) The question is

"That in sub-clause (*d*) of clause 8 of the Bill, in the proposed *Explanation 2*, before the words 'a profit', occurring in the seventh line, the following be inserted '

'to the extent to which it does not consist of contributions by the assessee or interest on such contributions' ''

The motion was adopted

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

"That in sub-clause (*d*) of clause 8 of the Bill, to the proviso to the proposed *Explanation 2*, the words 'or any payment in the nature of a consolidated compensation for death or injuries' be added at the end"

The necessity for adding this proviso is that in the present Act we had an exemption from taxation for the sums of money that were received by a man as damages for injuries or compensation for death You will find it on page 8 of the comparative list Under section 4(3)(v), we had under the exemptions any capital sum received in commutation of the whole or a portion of a pension or in the nature of consolidated pension for death or injuries or any payment of any insurance policy or as the accumulated balance at the credit of a subscriber to any such provident fund Under the present Bill, the whole of this is deleted My submission is that looking at the nature of the compensation, it cannot be called an income, and, therefore, it should not be rendered liable to income-tax Therefore, I move this amendment

Mr. Chairman (Mr S. Satyamurti) Amendment moved

"That in sub-clause (*d*) of clause 8 of the Bill, to the proviso to the proposed *Explanation 2*, the words 'or any payment in the nature of a consolidated compensation for death or injuries' be added at the end."

Mr. J. F. Sheehy: Mr Kazmi is under a misapprehension when he says that the removal of clause (*v*) of sub-section (3) of section 4 means that items under that clause become subject to tax. This clause was taken out

because the Privy Council in the Shaw Wallace case said that none of these items were income or could be taxed. The Privy Council in their judgment say:

"Any capital sum received in commutation of the whole or a portion of a pension or in the nature of consolidated compensation for death or injuries or any payment of any insurance policy or is the accumulated balance at the credit of a subscriber to any such provident fund

Their Lordships do not think that any of these sums, apart from their exemption, can be regarded in any scheme of taxation as income and they think that the clause must be due to the over anxiety of the draftsman to make this clear beyond possibility of doubt."

I submit that we will be stultifying the judgment of the Privy Council if we put these words back into the Act.

Qazi Muhammad Ahmad Kazmi: In view of the explanation, I beg leave of this House to withdraw my amendment

The amendment was, by leave of the Assembly, withdrawn

Mr. S. P. Chambers: Sir, I move·

"That in sub-clause (*d*) of clause 8 of the Bill, to the proviso to the proposed *Explanation 2*, the following be added·

'or any payment from an approved superannuation fund within the meaning of Chapter IX-B made on the death of a beneficiary or in lieu of or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established'."

The object of this is to provide specifically for the exemption of certain payments which, under rules which are being submitted for superannuation funds, would otherwise be regarded as income It has been already explained that these sums would not be income unless they were specifically made income under these rules. In order to make sure that sums paid are properly dealt with when an employee has only been for a short period with a firm, it is necessary to make further provision that such payments from these superannuation funds which should, in our opinion, be regarded as capital sums, are specifically exempted. Therefore, I move this amendment.

Mr. Chairman (Mr S Satyamurti) The question is

"That in sub-clause (*d*) of clause 8 of the Bill, to the proviso to the proposed *Explanation 2*, the following be added :

'or any payment from an approved superannuation fund within the meaning of Chapter IX-B made on the death of a beneficiary or in lieu of or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established' "

The motion was adopted.

Mr. Chairman (Mr. S. Satyamurti). Certain amendments have been placed in the hands of the Chair—one received at 2-20 p m. and another list of amendments at 2-25 p. m. Standing Order 40 lays down the procedure Of course, the Chair has got its discretion to suspend or not suspend that

[Mr Chairman]

Standing Order; but, first, the Chair would like to know if all Honourable Members have got copies of the amendment? (*Cries of* "No, no.") Is there any Honourable Member who objects? (*Cries of* "Yes, yes.") Then, the Chair declines to suspend the Standing Order.

The question is:

"That clause 8, as amended, stand part of the Bill"

The motion was adopted.

Clause 8, as amended, was added to the Bill

Mr. T. S. Avinashilingam Chettiar: Sir, with your permission, I should like to make a small verbal change in amendment No 233. Instead of the words "given to" I want to substitute the words "made for" and before the word "purpose", I want to insert the word "the" I beg to move

"That after clause 8 of the Bill, the following new clause be inserted

'8 A In section 8 of the said Act, after the first proviso, the following shall be inserted

'Provided further that while calculating the income of the assessee under this section allowance shall be made for any interest paid on money borrowed for the purpose of investment in the securities by the assessee' "

Mr. Chairman (Mr. S Satyamurti): The Chair believes these are verbal amendments—there is perhaps no objection? There appears to be none.

Mr. T. S. Avinashilingam Chettiar: It will be clear from the precis of opinions supplied that the Indian Merchants' Chamber, Bombay, the Share-holders' Association, the Incorporated Accounts' Association, Bombay, etc, have recommended that interest paid on money borrowed for the purpose of investment in securities may be allowed to be deducted under section 8 of the Act. This is now allowed as a deduction under executive orders This allowance will be recognized now by a specific provision in the Act, and I see that the latest volume of the Income-tax Manual on page 206 says that such allowance has been made under executive orders:

"Assessees other than Banks or similar concerns may set off interest on money borrowed specifically for investment in taxable securities or shares, and so invested against their income liable to tax taken as a whole, and not merely against the interest on such securities or the dividends on such shares."

Sir, I do not think it is necessary for me to elaborate the point. This is a point which has been conceded by executive order and by this amendment I seek to incorporate it in the Bill Sir, I move

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

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

"That after clause 8 of the Bill, the following new clause be inserted:

'8 A In section 8 of the said Act, after the first proviso, the following shall be inserted:

'Provided further that while calculating the income of the assessee under this section allowance shall be made for any interest paid on money borrowed for the purpose of investment in the securities by the assessee'."

The Honourable Sir James Grigg: Sir, if it be the wish of the House to pass this new clause, Government have no objection.

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

"That after clause 8 of the Bill, the following new clause be inserted :

'8 A. In section 8 of the said Act, after the first proviso, the following shall be inserted

'Provided further that while calculating the income of the assessee under this section allowance shall be made for any interest paid on money borrowed for the purpose of investment in the securities by the assessee' "

The motion was adopted

New clause 8A was added to the Bill.

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

"That clause 9 stand part of the Bill "

Mr. Sham Lal (Ambala Division. Non-Muhammadan): Sir, I move·

"That after part (*i*) of clause 9 (*a*) of the Bill, the following new part be inserted, and the subsequent parts be re-lettered accordingly ·

'(*ii*) after clause (*iii*), the following new clause shall be inserted

'(*iv*) the amount of any tax paid to any Municipality, Cantonment Board or any Local Board' "

Sir, the object of the amendment is to exclude from assessment the tax imposed by a Municipality, Local Board or Cantonment recovered by the house-owner from the tenant This should not be treated as part of the income In Simla, for instance, the house-owner realizes ten per cent of the annual rent from the tenant as the house tax and that is paid to the municipality. This should not be treated as income This is referred to at page 288 of the printed Opinions

"At various places house tax at different rates is charged by the local bodies It is a main item of expenditure, sometimes up to ten per cent as in Simla, but is not allowed to be deducted from the annual letting value of the property It is a tax which is collected by the house owners like water tax, from their tenants, and paid to the Municipal Committee The house owners do not in any way stand to gain anything in this respect except unnecessary botheration to them."

Sir, the point is this If it is convenient to any Local Board or Municipality to make the annual rent as the basis for assessing Municipal or Board tax then it may be convenient but it does not become the income of the house-owner and it should be treated as an item of expenditure In some cases the house tax may be 20 per cent or 30 per cent. and to say that it is the income of the house-owner is, I think, quite unreasonable. The position, therefore, is that whatever tax is imposed by any local board, which the house-owner realises from the tenant, should not be treated as income, and the house-owner should pay income-tax only on the actual rent received by him Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim)· Amendment moved

"That after part (*i*) of clause 9 (*a*) of the Bill, the following new part be inserted, and the subsequent parts be re-lettered accordingly :

'(*ii*) after clause (*iii*), the following new clause shall be inserted

'(*iv*) the amount of any tax paid to any Municipality, Cantonment Board or any Local Board'."

Rahu Rajnath Rajoria (Marwari Association; Indian Commerce): Sir, I rise to support this amendment. In Calcutta we have to pay 20 per cent. of the rent to the municipality, ten per cent. is payable by the owner and ten per cent. by the occupier. As a matter of fact, in most cases the whole of the 20 per cent. is to be paid by the owner himself as the rent includes the occupier's share of taxes also We are not allowed that deduction from the income-tax It is, I think, a great hardship on the property-owners in Calcutta and also in Simla, as my Honourable friend, Mr Sham Lal, has pointed out This hardship also exists in many other cities like Bombay and other places Therefore, I think that this is a just amendment and should be accepted by the House

Mr. Sami Vencatachelam Chetty (Madras Indian Commerce): Sir, I rise further to support this amendment It is not only in respect of the house property tax that a tax is not deductable from the assessable income, but also there is another tax called the professional tax which is almost equivalent to the income-tax levied in certain municipalities That tax is particularly noticeable in the Madras Presidency The tax amounts to as much as Rs 1,500 per year In addition to this tax, there are also what are called levies for the installation of machinery and various other things I am not quite sure whether such amounts as are paid either in the name of the tax or in the name of the licence fee for the installation of machinery and other things come under business expenditure or not, but so far as the professional tax is concerned, there cannot be two opinions with regard to the necessity of admitting it as a business expenditure It is a tax on business and not only that it is a tax on income. I am afraid it is also infringing upon the domain of the Central Government's authority in regard to the levy of income-tax In any case, there seems to be a very good case for exempting the tax as is complained of by my Honourable friend, Mr. Sham Lal, but more particularly with regard to the professional tax

Mr. T. S. Avinashilingam Chettiar: Sir, on page 30 of the Income-tax Enquiry Report, the experts have recommended that a certain deduction allowance should be given for local rates On page 30, they say

"(*d*) *Municipal Taxes*.—Representations have been made generally that local rates in respect of property payable by the owner, especially those levied for specific services such as water supply or conservancy in respect of property, should be deductable in arriving at the annual value"

They further go on to say:

"It is recommended, however, that instructions be given that in computing the annual value of property, allowance should be made for charges borne by the owner, levied specifically in respect of services, *e g*, water and conservancy, rendered to the occupier of the property"

If I may say so, services like the water-supply and conservancy are absolutely essential for the property to get an income, for, without these services you cannot utilise the property and without these services the property won't fetch any income So, I do think that they are legitimate expenses and, therefore, they should be deducted and the experts themselves have recommended that such a deduction should be made. What is recommended to be made by executive action, we want it to be incorporated in the Act itself. Sir, I support the amendment

Seth Haji Sir Abdoola Haroon (Sind: Muhammadan Rural): Sir, I beg to support the amendment The landlords of the Karachi City have been complaining for a long time that they are not allowed whatever they are

paying to the municipality The income-tax officer allows only one-sixth, including repairs, depreciation and collection charges, whereas in Karachi the landlords are paying at least 15 per cent taxes to the municipality alone I think in Calcutta and Bombay they are paying even more I think it is a very reasonable amendment, and I hope the Honourable the Finance Member will agree to it because this is an expenditure which is compulsorily paid by landlords to the municipality With these words, I support the amendment.

Sir Muhammad Yamin Khan (Agra Division. Muhammadan Rural). Sir, I feel some difficulty in this matter My friend, Mr Sham Lal, said that a representation has been made by the house-owners of Simla and he said that it is the custom in Simla that the house-owners charge a house-tax apart from the usual rent of the house from the tenants. This is the first time that I have heard about this house-tax being paid by the tenants although I have also got to deal with a little house property there. Such a tax is never charged from them. Whatever the landlord has to pay to the municipality is never charged from the tenant No agreement is ever made on that account If some landlords have made an agreement of that kind that the rent of the house is Rs 100 and the tax of the municipality is Rs 10 extra which the tenant has to pay, then that extra amount of Rs 10 is never added on to the income of the landlord as is done in New Delhi In New Delhi, agreement is generally entered into that so much rent will be paid to the house-owner and the tenant will also pay so much to the municipality as house-tax Here, the burden is thrown on the tenant himself So, the amount never comes into the hands of the house owner, and, therefore, it cannot be added on to his income. Besides, I do not like the wording of the amendment, which says "the amount of any tax paid to any Municipality, Cantonment Board or any Local Board". This tax will include the conservancy tax, the water-tax, the water meter rent, electric charges, and so on These things are meant to give service to the tenant, and these are never charged from the owner These taxes are meant to be paid by the tenant and they are specifically mentioned I think this is not a justifiable amendment and it cannot be supported on equitable grounds, because if it does not form part of the income of the house owner, it cannot be in any sense included in the income of the house owner if the agreement is properly drafted If some owners take the whole responsibility upon themselves to include it in their income they have to bear the consequence, and I do not think there is any justification for supporting this amendment

Mr. S. P. Chambers: Sir, I think the first thing I had better do would be to clear away some obvious misunderstandings There are three different classes of taxes which have been referred to in various Honourable Members' speeches First of all, let me deal with profession tax Now, we are dealing with the assessment of property—property income—and there can be no question, I think, of deducting a tax on professions which are dealt with in a different section altogether from the assessment on the income from property. I take it, therefore, that it is not the wish of Members here to press the amendment which would allow as a deduction, from property income, a tax which is assessed on professions. As the amendment is drafted, it would, in fact, allow such a tax and for that reason alone the amendment, as drafted, in any case would be completely unacceptable I think, therefore, I will leave the profession tax and hope that the Honourable Member who has moved this

4 P.M.

[Mr. S P. Chambers.]

amendment does not wish to press it in the form of words in which it has been put down Then, as regards property taxes, that is to say, taxes imposed by a municipal authority on house property, those taxes again can be divided into two classes first of all, there is the tax which is imposed and intended to fall ultimately upon the occupier, and secondly, there is the tax which is intended to fall upon the owner The first type of tax is imposed with the object of paying for specific services rendered—it may be for water, it may be for electricity there are a number of charges which can be imposed by a municipal authority on property Where the owner pays—I think this is a very important point and if Members understand this I think they will not press their amendment—where the owner pays taxes, which are taxes intended to fall upon the occupier for specific services rendered to the occupier, then those taxes are already liable as a deduction in arriving at annual value They are not a deduction from annual value and there is no necessity to make a specific provision to deduct these from annual value because they are deductible in arriving at annual value

An Honourable Member: How?

Mr. S. P. Chambers: The word 'annual value' as far as I remember is not specifically defined in the Income-tax Act, nor is it specifically defined in the corresponding Act in the United Kingdom But where the same difficulty arose in determining what was annual value in the absence of a specific definition it was laid down in the courts that annual value meant the rent at which the property was worth to be let, taking one year with another, the owner bearing all owner's taxes and the tenant bearing all tenant's taxes and charges; so that if I may use some figures to make myself absolutely clear, if the rent is Rs 1,000 and the owner pays Rs 200 taxes which are tenant's taxes the annual value is Rs 800 and not Rs 1,000 The Honourable Member referred to page 80 of the Income-tax Enquiry Report and I think, although he read it correctly, he did not draw the correct inferences from it I beg the indulgence of the House if I read the same sentence again and explain what exactly it means

"It is recommended, however, that instructions be given that in computing the annual value of property, allowance should be made for charges borne by the owner levied specifically in respect of services, *e g*, water and conservancy, rendered to the occupier of the property"

That exactly bears out what I was saying a moment ago, that in arriving at the annual value these and other taxes which should fall upon the occupier but which are paid by the owner are deductible in arriving at the annual value and are not therefore deductible again from the annual value as computed

An Honourable Member: May I ask what about taxes payable by the owner and not by the occupier?

Mr. S. P. Chambers: I am coming to that. I explained that there were two types of taxes paid by the owner, one which was intended ultimately to fall upon the occupier for specific services rendered to the occupier and which was deductible from the rent in arriving at the annual value; and, then, there is the second class of tax charged upon property This second

tax charged upon property is in the nature of an income-tax When I say income-tax it is intended to be charged upon the owner of the property, not for specific services, but for the general expenditure of the municipality or the province or whatever the authority is That is in the nature of a tax upon his income and is intended to be borne by him out of his income and it is against the general theory of a tax upon income what we should allow anything which is in the nature of expenditure of income For that reason we do not allow income-tax in arriving at income upon which we are going to charge income-tax We regard income-tax as one way which income is allocated and in the same way the tax which falls upon the owner of property and is intended, ultimately, to be borne by him is one way in which his income is allocated and is not a proper deduction from his income. Therefore, I suggest that of these three types of taxes, first of all, the profession tax is quite inappropriate and has nothing to do whatever with this section, secondly, that part which falls upon the occupier is already deductible from the rent in arriving at annual value, and the only remaining class is one which should not be deducted in arriving at the income of the owner of such property I, therefore, oppose the amendment

Sir Cowasji Jehangir: Is the last one what you call the general tax?

Mr. S. P. Chambers: A general tax borne by the owner or what is called in England, a general rate It is intended to be a tax charged on the basis of the annual value of the property and to fall upon the owner for the purpose of meeting the general expenditure of the municipality, improvement trust

Sir Cowasji Jehangir: For drains, roads, lighting, etc Why should that be considered income?

Mr. S. P. Chambers: I do not suggest that that is income any more than expenditure by the Central Government or by the provinces out of income-tax is income What I do suggest is that in arriving at income no deduction should be made in respect of such taxes because they are the manner in which the State or municipality or local authority, whatever it is called, spends part of the income of the persons within its area and, therefore, it would be quite improper to deduct that tax, just as it is improper to deduct income-tax in arriving at income

Mr. Bhulabhai J. Desai: Sir, the issue is of some importance, I quite agree. But it should be approached in the correct way. I quite agree that in so far as what are called profession taxes are concerned, that is entirely outside the scope of this section It deals only with what is called the annual value, or an expression which is more common in the taxing Statutes, the annual letting value But either of these two expressions is precisely intended to convey the same meaning Take, for instance, the illustration of the City of Bombay Municipal Act, the provisions of which are to be found *in pari materia* in many other Acts of the same kind It is true that there are three types of taxes,—there is what is called the general tax, there is the water tax and there is the *halalkore* tax or the conservancy tax. These are the three taxes which are charged by the Bombay Municipality. The question now is whether any of these, if not all, should form the subject of deduction before you

[Mr Bhulabhai J Desai]

arrive at the annual letting value. My Honourable friend, Mr Chambers, pointed out that with regard to this conservancy tax or the water tax, if in substance the rent is so ranged or so arranged that for the services which go to each of the tenants it is to be found in the rent itself, it stands on one footing In other words, if he pays what ought to have been paid by the tenant himself to that extent he ought not to be taxed But when it comes to the general tax, the question is of paramount importance It is said that a general tax is not deductible because it has some resemblance, which I fail to see, to the income-tax when you assess a man's income, that is to say, arrive at the income, then in anticipation deduct a tax out of that income in order to assess the taxable amount That is the argument But in so far as a general tax in a city like Bombay is concerned, it is a matter of serious consequence, and for this reason It is true that in that the general tax is reflected or used by the municipality for the purpose of roads and lighting and other amenities Everybody who understands anything of letting value should know that the greater the amenity the greater the rent In other words, you have already got a rent which reflects the amenities given The same premises which fetch Rs 20 in Karol Bagh, for instance, will fetch Rs 25 in another place So the landlord starts as against himself for this assessment with Rs 25 Now, my Honourable friend argues that this Rs 25 should not have any deduction whatever on the ground that in order to provide the increased letting value of Rs 5 he has already to pay a general tax of 17 per cent. as it is under the Bombay Municipal Act Now, what happens is that he pays on a larger income which is provided by the very tax itself Now, test it the other way There are many suburbs of Bombay, for instance, where the amenities are not there Space for space he gets lesser rent,—apart from the situation There the landlord will pay, as I said, Rs 20, because the amenities do not exist The amenities exist in Bombay He is asked to pay on Rs 25 without allowing him to deduct for what produces the amenities and increases the rent That is the issue What increases the rent is the fact that the amenities are there, and the amenities are provided by the tax that he pays In other words, the true issue is whether he has to pay on net income or not, on proper and reasonable net income I quite agree, speaking for myself at all events, that to the extent to which the *halalkore* or conservancy tax and water tax are in fact part of the rent, it is really paid by the tenant and it stands on a different issue But to the extent to which the general tax is concerned, it seems to me that that is a primary factor in the enhanced rent on which he is called upon to pay, and, therefore, it would be improper not to allow deduction for the general tax.

The Honourable Sir James Grigg: Sir, this is the first amendment which raises a general question of some importance, and I should like to make an appeal to the House on a general aspect I leave the question of principle because that has been argued sufficiently, and in spite of the extremely clever disquisition of the Leader of the Opposition it is left in exactly the same state as it was before I will give another analogy. Suppose I am a taxpayer of this country who carries on an iron and steel business The iron and steel business is subsidised. Part of the income-tax which goes to pay that subsidy is obtained from me and, therefore, it should be a deduction in arriving at the profits of my business.

It is exactly the same principle. But what I want to get at is a much more general point This amendment will undoubtedly cost a lot of money. There is no doubt that what it amounts to is making a general concession to property-owners and reducing the amount of tax collected from them, and nothing that you can say is going to alter that fact It is a general reduction of tax on property-owners and it will cost money. It is impossible to say how much money it will cost but in the amendment as it stands it means that every pie of municipal taxation levied on property-owners shall be a deduction for tax It must cost a considerable sum of money,—whether it is five lakhs or 15 lakhs I do not know, but I shall not be surprised if it is 10 or 15 lakhs in reduction of receipts.

An Honourable Member: Is it fair?

The Honourable Sir James Grigg: It is not even fair, and if the House is going to use the Bill as a means of giving Christmas presents all round, not only will there be no money left from those clauses where increased taxation is imposed but it will cut into the existing yield of the Act And in that case what is happening is that the House will destroy the Bill not by making large wounds in it but by a series of small cuts, and I very much hope that the House will agree that a procedure of that sort will as surely ruin the Bill as defeating the Bill on some large question of principle I appeal to them not to let their hearts run away with their heads and to tax and give concessions wherever they are asked for

Syed Ghulam Bhik Nairang: Sir, it appears to me that it is impossible to support the amendment as it stands In the light of the speech of my Honourable friend, Mr Desai, it appears that the wording of the amendment would cover all manner of taxes payable to local bodies, municipalities and district boards, while according to his own classification of taxes it is not intended to cover the *halalkore* tax and the other taxes but only the general tax as the phrase goes in Bombay That is in his mind Anyhow taking the classification of taxes as given by him and considering them with the wording of the amendment before this House, it is impossible to support the amendment as it stands All the same it is perhaps desirable, as far as I am at present able to see, that we should consider for what taxes payable to local bodies exemption can legitimately be given in the assessment of income-tax and what taxes should not be taken into consideration in giving exemption The matter is of some importance as explained by the Honourable the Finance Member. We cannot afford to allow this amendment wholesale in its present form, but all the same the interests of fairness require that we should get a little more time to consider to what extent and in what form an amendment like this can be allowed at all I would, therefore, request you, Sir, to take the sense of the House, and if possible to adjourn the discussion of this amendment till tomorrow so that in the meantime we may have a discussion among ourselves and arrive at some workable compromise

Mr. M. S. Aney: Sir, it would appear that there is some agreement between the Honourable the Finance Member and the Honourable the Leader of the Opposition to the effect that although all taxes from municipalities cannot be taken into account, there are at least some taxes which can be taken into account for the purposes of income-tax. Now,

[Mr M. S. Aney]

the amendment, as it stands, is certainly widely worded Even a professional tax is included in it, but I do not agree with what the Honourable the Leader of the Opposition has said that conservancy taxes and other rates which are paid for the amenities of life, or taxes paid by those who occupy houses, should not be taken into account in assessing the annual letting value of the property As a matter of fact, there is a specific recommendation made by the Inquiry Committee on that point. From what I have heard from Mr Chambers, he also agrees that that ought to go towards the deduction of the rent in order to find out the annual letting value So those kinds of taxes

Mr. S. P. Chambers: I want to make it quite clear that I do not agree that there should be a deduction from the annual letting value, but that the law already provides that it must be deducted in arriving at annual letting value.

Mr. M. S. Aney: It is a difference without a distinction, and I am thankful for the explanation given If there is a deduction, we are only asking to adhere to the existing practice in that matter As regards the general tax to which reference has been made, I have failed to understand the objection which the Honourable the Finance Member has raised on that ground except this, that if it is allowed, it is likely to take out a very big slice from the income which he has estimated to get by the passing of this measure Now, Sir, considerations of that kind ought not to stand in the way of our finding out what is equitable and what is not If on equitable grounds we think a tax coming under the head general tax can be properly taken into account, the mere fact that it is likely to get a good deal of deduction from the income-tax to be collected ought not to weigh with us so much Therefore, the suggestion made by Mr. Ghulam Bhik Nairang commends itself to me, that some time should be given to us to enable the Honourable the Leader of the Opposition or Mr Sham Lal to bring forward a suitable amendment or the Finance Member to make a suitable proposal So I also suggest that until then the consideration of this matter should be postponed I support the suggestion made by my Honourable friend, Mr Ghulam Bhik Nairang.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions Muhammadan Rural) Sir, there are two different ways in which the municipalities impose a tax Some municipalities charge a house tax, and I call it an indirect tax, other municipalities do not charge a house tax, but they charge heavily for every article that is taken into the municipal limits For instance, I have no house and I don't pay a house tax, but I have to pay very heavily for every little article that I take to my place It ultimately means that those people who live in municipal areas, who are paying indirect taxes, will get some relief For instance, if a man who lives in Aligarh has no house, there is no direct tax, but he will have to pay an indirect tax, and he will get no relief So this is also a point which should be considered In some places there will be relief granted on house properties, while in other places there will be no relief.

Sir Cowasji Jehangir: Sir, I quite agree that this raises a very important point of taxation, and as the Honourable the Finance Member has

pointed out, it is likely to make a "big hole" in the revenues; but there is no reason why we should not discuss it I quite agree we should not come to a hasty conclusion, and this is the opportunity to discuss it.

The Honourable Sir James Grigg: I never sought to stifle discussion in any way, but if the House decides to make a further X-mas gift, the basket will very soon be empty

Sir Cowasji Jehangir: That is an argument for saying that if there is an unjust tax, let it continue, don't do justice if there has been an injustice, because, if you rectify every error, you get nothing left I don't think that is a very good argument. At any rate, let us discuss it on its own merits I don't suggest for a moment that any "big holes" should be made in the revenues of the Government. In the first place, we are not discussing municipal taxes, we are discussing income-tax I can understand talking about the annual letting value when we are talking of a municipal tax The whole point, to my mind, is this Discussing as we are an income-tax Bill, are we going to tax the gross income of a man from property or his net income from it? That is the main issue. If we are to tax a man's income from property, that is to say, his gross income, then I can understand the Finance Member arguing that municipal taxes should not be deducted out of his income and he ought to pay his income-tax on the actual rent he receives If he has to pay income-tax on his net income from property, then you must see what is it that the man gets at the end of the year after paying out all sorts of taxes that are leviable on that property We have been told by Mr. Chambers that an allowance is made by the municipalities in each case when the annual letting value is considered and decided That is for the purposes of municipal taxes

Mr. S. P. Chambers: On a personal explanation, Sir, I said that in arriving at the annual letting value for the income-tax assessment made under section 9 I did not say anything regarding the way in which a local authority may determine the annual letting value for their purpose. I say for the purpose of arriving at the annual letting value for the purpose of income-tax

Sir Cowasji Jehangir: If a man has property which he cannot let

Mr. S. P. Chambers: He gets a vacancies allowance

Sir Cowasji Jehangir: He does pay the taxes; he cannot pay an income-tax on an income which he does not receive Income-tax is charged on what he receives If there is a landlord and his annual income from property is X, he is charged on that, and then he has got to pay municipal taxes. That is the present position. Now, Sir, whether that position should continue or not is a question of general policy, and I agree that we cannot possibly come to any hasty conclusion in this matter, because, it had not been discussed in the Select Committee. I would deprecate making any radical change straightaway in a House like this without giving the matter very serious consideration. I would be quite prepared to have this matter examined, but we have not the opportunity just now, and unless some method can be found whereby this matter can be examined from all points of view, I don't think it is right for us to come to a

[Sir Cowasji Jehangir]

hasty conclusion The discussion has been useful from all points of view We understood more about it We realise we are paying more than is due,—I quite realise that,—and there have been complaints over and over again But I am not one of those, as sometimes, the Honourable the Finance Member makes us out to be, who really try to rob the revenues without justification I think this little debate will have some use, at any rate, in instructing the Honourable the Finance Member of the mentality of the Opposition, that they are not always out to rob Government revenues but are also here with a sense of responsibility to see that "big holes" are not made in the revenues When once they make up their mind, I hope this Honourable House will insist upon expressing their opinion and seeing to it that their opinion is accepted by the Government In this case, at any rate, I trust that we shall not come to a hasty conclusion in this matter, it may be raised again at some future date.

Mr. Bhulabhai J. Desai: May I make a suggestion that this matter may be allowed to stand over?

Mr. President (The Honourable Sir Abdur Rahim). It is difficult in a matter like this, when there are a number of amendments to each clause,—if the Chair allows any particular amendment to stand over because the drafting is not acceptable to the House, then there will be no end to it Honourable Members can consider it here and discuss it till some better amendment is moved. The House can discuss it as long as it likes

Syed Ghulam Bhik Nairang: Allow me to make a suggestion, that the present amendment may be withdrawn and another may be moved later on? There is time yet

An Honourable Member: Two days' notice is necessary

The Honourable Sir James Grigg: With your permission, I would like to supplement the remarks which I made just now The amount of income-tax collected from property, excluding super-tax, in India is of the order of a crore of rupees a year If you add something to that as super-tax it may be Rs 150 lakhs I do not know what the average level of municipal taxation is, but quite obviously, the owner's part of it may be 10 or 15 per cent

Sir Muhammad Yamin Khan: One-thirtieth of the letting value

The Honourable Sir James Grigg: I have heard cases of 20 per cent. mentioned

Sir Cowasji Jehangir: 22 per cent in Bombay.

Dr. P. N. Banerjea: 20 per cent. in Calcutta.

The Honourable Sir James Grigg: If you assume that half of that figure —and I am now excluding professional taxes and all the other taxes which

nobody wants to touch—I am dealing now with municipal tax, the general municipal tax alone—if I assume half of this 22 per cent. figure, 11 per cent is attributable to the owner and 11 per cent of 130 lakhs is 14 lakhs. And that is the figure of 14 or 15 lakhs of which I gave just now as the amount which would be lost by even a narrower wording of the amendment than the one just before the House, and I suggest to the House that we simply cannot give away 15 lakhs here, 10 lakhs there, 30 lakhs somewhere, without wrecking the Bill

Mr. K. Santhanam: I am afraid the Honourable Member is making a miscalculation It is tax on the 15 lakhs and not 15 lakhs is the tax.

The Honourable Sir James Grigg: A crore is the tax, and I submit I am right

The Honourable Sir Nripendra Sircar (Law Member) I do not want to discuss the question of policy which has been dealt with by my Honourable colleague, but certain statements of fact have been made which do not agree with my own experience, and if I shall give an example My experience is limited only to the Calcutta Municipality If I have a house there, and assume that it fetches a rent of Rs 100 a month According to the Calcutta municipal law, it is charged, I believe, 21 or 21½ per cent, consolidated rate

Dr. P. N. Banerjea: 20 per cent

The Honourable Sir Nripendra Sircar: I believe it is 21, Dr Banerjea, if you look at your books

Dr P. N. Banerjea: 20—I am absolutely certain.

The Honourable Sir Nripendra Sircar: I stand corrected It is 20, but I think Dr Banerjea will agree that, although a part of it may be referable to water, even if I do not take any water connection at all, and I get no services in the shape of water being supplied to me, yet I have to pay a consolidated rate of tax which is 20 per cent On the Rs 100 which I get as rent I pay Rs 20 as municipal tax. Out of that, speaking roughly, again subject to correction by Dr Banerjea,—possibly something in the region of Rs 9 or 10 is called the owner's share of taxes, and Rs 10 is the occupier's share of taxes For the purpose of assessment for income-tax they deduct Rs 10 which is the occupier's share of taxes in calculating the value, but they do not deduct the Rs 10 which is paid by the owner These are the facts

Mr Bhulabhai J. Desai: If my Honourable friend will assure me that they do allow by way of deduction what is called the tenant's share of the taxes I am quite willing

Mr. Sami Venkatachelam Chetty: This is not generally the case. It may be the case in Calcutta, but in Madras there is no such thing as owner's share of the tax or tenant's share of tax. There is only one kind of tax.

An Honourable Member: In Karachi. . . . .

Mr. President (The Honourable Sir Abdur Rahim) We do not want information regarding every town.

The Honourable Sir James Grigg: I can certainly give the Leader of the Opposition an assurance that the occupier's share of the tax is deducted in arriving at the annual value. I will go further in order to make it certain that there will be no slip up in individual cases,—I will see that fresh instructions are issued to make that abundantly clear

Mr. Sham Lal: Sir, I beg leave of the House to withdraw my amendment

The amendment was, by leave of the Assembly, withdrawn

Mr. K. Santhanam: I beg to move

"That in part (ii) of sub-clause (*a*) of clause 9 of the Bill, in the proposed clause (iv), after the word 'acquired', occurring in the ninth line, the word and comma 'constructed,' be inserted"

I am only rectifying a slip which I think has occurred in this Where the property has been acquired, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital is allowed. I am asking also that where property is constructed for the first time it should be allowed Sir, I move

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved

"That in part (ii) of sub-clause (*a*) of clause 9 of the Bill, in the proposed clause (iv), after the word 'acquired', occurring in the ninth line, the word and comma 'constructed,' be inserted"

Mr. J F. Sheehy: Government have no objection to this amendment

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

"That in part (ii) of sub-clause (*a*) of clause 9 of the Bill, in the proposed clause (iv), after the word 'acquired', occurring in the ninth line, the word and comma 'constructed,' be inserted"

The motion was adopted

Qazi Muhammad Ahmad Kazmi: Sir, I move

"That in part (ii) of sub clause (*a*) of clause 9 of the Bill, in the proviso to the proposed clause (iv), for the words 'without British India' the words 'to a person not resident in British India' be substituted'

The object of the proviso is that any interest that is paid to a person who is not residing in British India will not be allowed to be deducted from the income unless tax has been paid or deducted under section 18 But the words are "any payment of interest without British India" The person to whom the tax must be paid must be outside British India and not the mere fact that the tax is to be paid without British India. This provision can easily be evaded. I may just give an example A person who is living adjacent to an Indian State near Agra advances a loan to a person living in Agra and makes a provision that he will personally take the interest from the debtor at Agra, and he comes to Agra and takes away the interest.

According to the present provision, you will have to allow him that interest, because the interest is payable within British India, though it is paid to a person who is residing outside British India from whom you cannot charge tax It is for this reason that I have proposed this amendment

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved

"That in part (ii) of sub-clause (*a*) of clause 9 of the Bill, in the proviso to the proposed clause (iv), for the words 'without British India' the words 'to a person not resident in British India' be substituted"

Mr. S. P. Chambers: I oppose this amendment, although I feel that my Honourable friend and I are in the same position We want the same results. The difference between us is only a matter of drafting but the words already in the section have this effect, that where the contract is made within British India then tax must be deducted under the provisions of section 18 Now, we want to provide that where tax cannot be deducted then no allowance should be made in arriving at the assessment on the property A similar provision occurs in sections 10 and 12 as well If we substitute the words 'to a person not resident in British India' we arrive at very different results The result at present is that if the contract is made abroad, then the person paying the interest cannot deduct tax, because it will be a good answer in a court of law in the country where the contract was made that the full interest must be paid and that no deduction is allowable in respect of the tax imposed by a foreign country, that is to say, India, and therefore, we say that where the terms of the contract are such or have been arranged to be such that tax cannot be deducted and paid over to Government by the payer in India, then we shall refuse the deduction The proposed words of the amendment would not have that effect and where the contract was made abroad and the interest, whether it was payable abroad or in British India, was sought to be deducted, we could not refuse that deduction under the amendment proposed That is why I oppose the amendment

Qazi Muhammad Ahmad Kazmi: Sir, I beg leave of the House to withdraw the amendment

The amendment was, by leave of the Assembly, withdrawn

Babu Baijnath Bajoria: Sir, I move.

"That in part (ii) of sub-clause (*a*) of clause 9 of the Bill, in the proviso to the proposed clause (iv), after the words 'deducted under section 18' the words 'or there is an agent for the payee in British India who may be assessed under section 43' be inserted"

This is on the principle that the payer of interest to a non-resident in British India should be allowed the interest paid to the non-resident if that non-resident has got an agent from whom the interest is charged or any sum accrued to the non-resident is charged The point I am concerned about is that the person who pays the interest may have this amount disallowed and the agent may also be asked to pay under section 43. Then it will be double payment. If I am under a misapprehension I am prepared to withdraw the amendment, but if I am correct I would ask the House to accept my amendment.

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved

"That in part (*ii*) of sub-clause (*a*) of clause 9 of the Bill, in the proviso to the proposed clause (*iv*), after the words 'deducted under section 18' the words 'or there is an agent for the payee in British India who may be assessed under section 43' be inserted"

Mr. J. F. Sheehy: Government raise no objection to this

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

"That in part (*ii*) of sub clause (*a*) of clause 9 of the Bill, in the proviso to the proposed clause (*iv*), after the words 'deducted under section 18' the words 'or there is an agent for the payee in British India who may be assessed under section 43' be inserted"

The motion was adopted

Dr. P. N. Banerjea: Sir, there is a misprint in my amendment No 246, —for the word "particularly" there should be substituted the word "partly" Sir, I move

"That in part (*iii*) of sub-clause (*a*) of clause 9 of the Bill, in the proposed clause (*vii*), after the words 'the property is wholly' the words 'or where the property is let out in parts partly' be inserted"

There is very little to be said on this matter The Bill says that an allowance will be granted only when the property is wholly vacant, but that is not fair The property may be divided into many parts A house in Calcutta is very often divided into a number of rooms and these rooms are let out separately, and if any part of the house is vacant, then there should be a proportional deduction from the computation of the annual value That is all I want

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved

"That in part (*iii*) of sub-clause (*a*) of clause 9 of the Bill, in the proposed clause (*vii*), after the words 'the property is wholly' the words 'or where the property is let out in parts partly' be inserted"

Mr. Manu Subedar (Indian Merchants' Chamber and Bureau Indian Commerce) Sir, I beg to support this amendment I did not press one standing in my name because we consider that this amendment is more comprehensive With regard to the point that the property may be vacant for a period of time, such vacancy is at present under the present income-tax administration recognized, but the wording which was in the original Bill was somewhat misleading so far as property which is let out in sections was concerned In large urban cities like Bombay there is hardly ever one occupier The case where the whole property is occupied is the more infrequent case, the general phenomenon is that there is more than one tenant, and it often happens that while one part of the property is being kept continuously occupied, another part may be vacant either for a short period or for a long period Those of us who have had to deal with income-tax authorities in these matters must confess that we have had considerable difficulty, occasionally with both municipal as well as income-tax authorities, and in order that there may be no doubt so far as such property is concerned, I consider that this amendment is necessary With regard to the wording, the word "wholly" which we are modifying here was

capable of being applied only to the period of time or it was capable of being applied only to the structure as a whole What we are now providing specifically is that if the property is vacant for a few months or, in the alternative some portion of the property is vacant, allowance will be made accordingly and for each different section as the case may be

Sir Muhammad Yamin Khan: Sir when this amendment was made in Select Committee, exactly this was the idea which has been explained by my Honourable friend, Mr Manu Subedar This has been explained, and I do not think that the wording of the section goes against this idea, because the words which are used here are "wholly unoccupied" This does not mean that the whole property is unoccupied, but it means that the property is not in any manner occupied, and whether it is a portion of the property or not, if the property is let out in parts, even that part must not remain in the occupation of the owner,—for instance, he may be going for something like a few weeks leaving his luggage here, and he may then say that this property has been unoccupied Or he may say, "I have gone out for a week-end and this week-end may be deducted as a vacancy". That was why the word "wholly" was used, but now it appears that the word "wholly" has been greatly misunderstood and I think there may even be difficulty in some cases For the purpose, then, of making the law in such a manner that it may be properly understood by the income-tax officer, this amendment must be supported and this amendment must remain, and that makes the same point clear which was the real object of the Select Committee.

Mr. Bhulabhai J. Desai: Sir, one is not generally allowed disclosure of what happened in a Select Committee, but as my Honourable friend himself has waived the point, this gift is entirely due to my Honourable friend The real difficulty is this Property in the ordinary sense of the term may consist either of one tenement or more than one tenement, and what my Honourable friend probably wanted was that in case any of the tenements is vacant, that is what he wanted to provide for He wanted to say that if the property is wholly unoccupied so long as one tenement is occupied he has got exactly the reverse of what he wants But I quite agree that in so far as the language of the present amendment is concerned, the words "in parts" is equally unhappy Supposing a servants' room is unoccupied, what is to happen? What is really intended is where the property is wholly unoccupied by more than one tenement, any such tenement is unoccupied, and that is intended and we will try to do something which really expresses our meaning

The Assembly then adjourned till Eleven of the Clock on Thursday, the 1st December, 1938

LEGISLATIVE ASSEMBLY.

Thursday, 1st December, 1938.

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

Mr. President (The Honourable Sir Abdur Rahim): The Chair understands the Honourable the Finance Member and the Honourable the Home Member are engaged elsewhere So, if it suits the House, the Chair will first go on with the questions put down for the Defence Secretary.

STARRED QUESTIONS AND ANSWERS

(*a*) ORAL ANSWERS.

PROPOSALS TO TRAIN RESERVES OF OFFICERS AND RANKS.

1656. ***Mr. T. S. Avinashilingam Chettiar**: Will the Defence Secretary state

(a) whether they have any proposals to train reserves of officers and ranks to meet cases of emergency in case war breaks out;

(b) whether they have come to any definite conclusion in the matter; and

(c) if so, what steps they propose to take in the matter?

Mr. C. M. G. Ogilvie: (a) Adequate arrangements exist for the training in peace of the Army in India Reserve of Officers and the Indian Army Reserve (other ranks) up to the authorised establishments of these categories.

(b) and (c) Do not arise

Mr. T. S. Avinashilingam Chettiar: The answer that the Honourable Member gave is that adequate arrangements exist for times of peace but my question was to meet cases of emergency in case a war breaks out?

Mr. C. M. G. Ogilvie: That is why these reserves are trained in peace in order to meet an emergency when war breaks out

Mr. S. Satyamurti: The authorised strength is fixed, to which my Honourable friend has referred May I know whether it is fixed with reference to the breaking out of war and, if so, on what scale is it being kept?

Mr. C. M. G. Ogilvie: I cannot give the Honourable Member exact details of that, but it is kept at a sufficient strength, at any rate, to tide us over.

Mr. T. S. Avinashilingam Chettiar: May I take it that nothing special has been done in this matter more than what has been done already for so many years?

Mr. C. M. G. Ogilvie: No, these arrangements have not been altered

Mr. K. Santhanam: May I ask what is the number of the officers in these reserves?

Mr. C. M. G. Ogilvie: I think it is 1,579

Mr K. Santhanam: How many Indians are there in this number?

Mr. C. M. G. Ogilvie: Again, as far as I remember, there are 700 Indians

Mr. K. Santhanam: May I ask if these officers include the Indian Medical Service Officers also?

Mr. C. M. G. Ogilvie: Yes

Mr. K. Santhanam: How many Indian officers who are, really speaking, military officers other than the Indian Medical Service Officers are there in these reserves?

Mr. C. M. G. Ogilvie: About 450

Mr. T. S. Avinashilingam Chettiar: Of the remaining number, how many of them are Anglo-Indians and domiciled Europeans?

Mr. C. M. G. Ogilvie: That I am unable to say

Mr. S. Satyamurti: I think my Honourable friend in reply to a previous question said that then number is enough to tide over the situation or the crisis, may I know what is the contingency up to which they have got the officers and men trained for the outbreak of the war? Is that contingency the arrival of troops from abroad, that is, from the British Empire, for the defence of India, or the creation of a second line of defence inside the country itself?

Mr. C. M. G. Ogilvie: I am afraid I too have not quite understood the Honourable Member's question I think he was trying to get me to delimit that word crisis I am afraid I am unable to do so I can only say that this reserve is trained in peace in order that we may have a sufficient number of trained officers and men to fall back upon in the event of war

Mr. K. Santhanam: May I ask if the University Training Corps also form part of this reserve?

Mr. C. M. G. Ogilvie: No

Mr. T. S. Avinashilingam Chettiar: In view of the fact that the Indian portion of this reserve is not more than half, may I ask whether Government propose to take any steps to increase that number?

Mr. G. M. G. Ogilvie: Steps may be taken but none are being taken at present

Mr.: May I ask whether the reply refers only to the army or it refers also to the Air Forces and the Naval Forces?

Mr. G. M. G. Ogilvie: It refers only to the army

Sardar Sant Singh: May I ask if any steps have been taken to train the pilots and other necessary contingent for the protection of ports in India?

Mr. G. M. G. Ogilvie: No reserve air force at present exists

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

FALL IN THE NUMBER OF CANDIDATES SEEKING ADMISSION INTO THE INDIAN MILITARY ACADEMY.

1657. ***Mr. T. S. Avinashilingam Chettiar:** Will the Defence Secretary state

(a) whether Government have considered the progressive fall of the number of candidates offering themselves for admission to the Indian Sandhurst.

(b) what are the reasons for the fall in numbers; and

(c) what steps they have taken, or propose to take, to get increasing numbers of the proper type of young men?

Mr. G. M. G. Ogilvie: (a) Yes

(b) and (c) The reasons are uncertain A Committee will shortly assemble which will examine this question among others, and after Government have received its report, the necessary steps will be taken

Mr. T. S. Avinashilingam Chettiar: May I know if the Committee that is referred to is the Committee that will be appointed in pursuance of the Resolution passed by this House?

Mr. G. M. G. Ogilvie: Yes

Mr. T. S. Avinashilingam Chettiar: May I know whether Government have taken into consideration the amendment that was passed in connection with that Resolution?

Mr. G. M. G. Ogilvie: Not yet

Mr. T. S. Avinashilingam Chettiar: May I ask whether the report that has appeared in this morning's papers that the Honourable Sir Muhammad Zafrullah Khan has been approached to be a member of that Committee is true?

Mr. G. M. G. Ogilvie: I am not prepared to say who has been approached and who has not.

Mr. S. Satyamurti: My Honourable friend said that Government have not yet come to a decision on the recommendation of this House that the majority of this Committee should consist of elected Members of the Legislature. At the same time, my Honourable friend has said that he cannot say who has been approached and who has not been approached. May I know whether Government have approached some people, independent of their decision on the recommendation of this House?

Mr. C. M. G. Ogilvie: I did not say I could not say. I said I would not say

Mr. S. Satyamurti: May I take it, then, that Government are approaching some people or have decided to approach some people, without deciding the entire composition of the Committee one way or the other?

Mr. C. M. G. Ogilvie: No person has been approached officially in any way

Sardar Sant Singh: May I know if Government propose to consult the Leaders of Parties before any person is nominated on this Committee?

Mr. C. M. G. Ogilvie: I cannot add to my previous answer on that question It has not yet been decided whether we will or not

Sardar Sant Singh: Will Government consider the advisability, when accepting the Resolution of this House, to consult the Leaders of Parties with regard to the selection of the personnel of this Committee?

Mr. C M. G. Ogilvie: That is exactly the kind of thing that the Government invariably consider with very great care

Mr. K. Santhanam: May I ask whether any person has been approached unofficially?

Mr. C. M. G. Ogilvie: With your permission, Sir, I am not going to answer any further questions about what I may or may not have done unofficially

†**1658*.**

‡**1659*.**

‡**1660*.**

ALLOWANCES PAID TO ARMY OFFICERS AND SOLDIERS

1661. *Mr. C. N. Muthuranga Mudaliar: Will the Defence Secretary please state:

(a) the nature and number, as well as the amount of the various allowances paid to soldiers (i) British, and (ii) Indian, in the army in India, including privates, warrant officers and non-commissioned officers; and

†For question No 1658 *see* page 3631.

‡For questions Nos 1659 and 1660 *see* pages 3625-27.

(b) the nature, number and amount of the various allowances, besides pay, paid to officers, (i) British, and (ii) Indian, in the army in India from the rank of second-lieutenant upwards?

Mr. C. M. G. Ogilvie: (a) and (b) The required information was laid on the table of the Council of State in reply to question No 339 asked by the Honourable Mr Brijlal Nandlal Biyani on the 19th November, 1937, and question No 51 asked by the Honourable Rai Bahadur Lala Ram Saran Das on the 4th March, 1937

UNIFORMS SUPPLIED TO PRIVATES.

1662. *Mr. C. N. Muthuranga Mudaliar: Will the Defence Secretary state what is the cost of the uniform or dress supplied

(a) to an Indian private,

(b) to a British private,

and also how frequently they are renewed, and if any allowances are given annually for the upkeep of such uniform or dress?

Mr. C. M. G. Ogilvie: (a) and (b) The cost of public clothing, that is, a great coat, for a British private is Rs 22 and that of personal clothing, that is, service dress, Rs 75

The cost of public clothing for a sepoy of Indian Infantry is Rs 20 and that of personal clothing Rs 48

The public clothing of both is replaced free of cost when worn out through fair wear and tear, the standard life being seven years

The upkeep of personal clothing is the responsibility of the soldier for which the following monthly allowance is paid

British private	. .	. Rs. 1-10-0
Indian sepoy	...	. . Rs. 1-5-0

Prof. N. G. Ranga: Will Government consider the advisability of reducing these allowances to the British privates to the level at which Indian privates are paid?

Mr. C. M. G. Ogilvie: No, Sir

Prof. N. G. Ranga: Why not?

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member cannot enter into a discussion

Seth Govind Das: What is the reason of the differentiation between the allowance which is being paid to the British soldiers and the Indian soldiers?

Mr. C. M. G. Ogilvie: Because the British soldiers are compelled to keep up a larger amount of uniform than the Indian soldiers

Prof. N. G. Ranga: In view of the fact that both are obliged to work in the same country and under the same circumstances and conditions and also in view of the great need in this country to economise our expenditure, why is it that Government are not prepared to consider the advisability of reducing this expenditure by lowering these allowances for British privates to the level at which these allowances are given to Indian privates?

Mr. C. M. G. Ogilvie: As I explained, the reason is that these allowances are calculated upon the amount of uniform which the respective soldiers have to keep

Mr. T. S. Avinashilingam Chettiar: The Honourable Member said that British soldiers are required to keep a larger amount of uniforms May I know if there is a larger wear and tear for British soldiers?

Mr. C. M. G. Ogilvie: I can only inform the Honourable Member that the British Army Regulations entail the keeping up of a larger amount of uniform than the Indian Army regulations

Seth Govind Das: Will Government consider the question of reducing the number of uniforms for British soldiers to the level of Indian soldiers?

Mr. C. M. G. Ogilvie: The Government do not propose at present to consider that

BARRACKS FOR BRITISH AND INDIAN TROOPS.

1663. *Mr. C. N. Muthuranga Mudaliar: (a) Will the Defence Secretary please state

(a) the number of barracks, with the amount of accommodation available therein, for (i) British troops in India, and (ii) Indian troops, and

(b) the amount spent annually on the upkeep of those barracks?

Mr. C. M. G. Ogilvie: (a) The required information is contained in the Accommodation Statements of Northern, Southern, Eastern and Western Commands relating to January, 1938 A copy of each statement has been placed in the Library of the House

(b) About rupees one crore and fifty-six lakhs

Mr. S. Satyamurti: May I know how much is spent on Indian barracks?

Mr. C. M. G. Ogilvie: No separate account is maintained.

Mr. S. Satyamurti: Is the amount spent, comparing like with like, on barracks of British troops and on barracks for Indian troops, equal?

Mr. C. M. G. Ogilvie: I am entirely unable to say

Seth Govind Das: May I know whether the barracks allotted for British troops are more spacious than the barracks allotted for Indian troops?

Mr. C. M. G. Ogilvie: I do not see that arises out of this question

Mr. S. Satyamurti: I want to know whether, in distributing the amount of one crore and fifty-six lakhs to which my Honourable friend referred, there is any distinction shown either in size or in the amenities provided in these barracks, as between British and Indian troops? If so, why?

Mr. C. M. G. Ogilvie: I cannot see how either the size or amenities arise out of this question In any case, I cannot answer it But I may inform the Honourable Member that separate accounts are not maintained

Mr. S. Satyamurti: I submit the question does arise The question asks "the amount of accommodation" and the "amount spent annually"?

Mr. President (The Honourable Sir Abdur Rahim) The Chair thinks the Honourable Member said that no separate accounts are maintained

Mr. S. Satyamurti: I am asking, first of all, about the amount of accommodation I want to know whether there is any difference in the accommodation provided on the one hand for British troops and on the other for Indian troops.

Mr. C. M. G. Ogilvie: I must again submit that that does not arise out of this question The "amount of accommodation" in part (a) of the question clearly desires the number of persons who can be accommodated in them should be given. The Accommodation Statement which has been placed in the Library of the House gives the fullest possible information of every kind If the Honourable Member desires to ask further questions about the differences between the accommodation for various ranks of the army, British and Indian, I shall be happy to answer them if he will give me notice of the question

Mr. K. Santhanam: May I know if the Army Department has set up any particular standard of accommodation for British soldiers and another standard of accommodation for Indian sepoys?

Mr. C. M. G. Ogilvie: I submit that question does not arise

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member will give notice of his question The Defence Secretary has already said that full information may be obtained from the publication that he has placed in the Library of the House If he wants any further information, he must give notice

Mr. S. Satyamurti: The question itself asks the amount of accommodation for British troops as compared with Indian troops Our allegation is that they make racial discrimination. The Honourable the Defence Secretary can say, yes or no, to this allegation.

Mr. President (The Honourable Sir Abdur Rahim). The Honourable Member should give notice of this question

MILITARY HOSPITALS MAINTAINED IN INDIA AND DOCTORS AND NURSES EMPLOYED IN THEM.

1664. *Mr. C. N. Muthuranga Mudaliar: Will the Defence Secretary please state

(i) the number of military hospitals maintained in India

(a) for British officers,

(b) for Indian officers,

(c) for British troops, and

(d) for Indian troops,

(ii) the number of doctors employed in such hospitals who are.

(a) European,

(b) Indian, and

(c) Anglo-Indian, and

(iii) the number of nurses employed in those hospitals with their grades of pay, and if any of them are Anglo-Indian or Indian?

Mr. C. M. G. Ogilvie: (i)—(a), (b), (c) and (d) There are no separate hospitals for British officers and British troops nor are there any separate ones for Indian officers and Indian troops But all officers, except Viceroy's commissioned officers, are treated in British Military Hospitals which also cater for British other ranks These number 72 Viceroy's commissioned officers and Indian other ranks are treated in Indian Military Hospitals which are 90 in number

(ii) I refer the Honourable Member to pages 615-620(b) and 628-695(a) of the Current Issue of the Indian Army List.

(iii) The number of lady nurses employed in these hospitals is 265. 210 belong to the Queen Alexandra's Imperial Military Nursing Service, five to the Queen Alexandra's Military Service for India, and 55 to the Indian Military Nursing Service The members of the two former services are all Europeans Members of the Indian Military Nursing Service may be of European, Anglo-Indian or Indian parentage All of them are either Anglo-Indians or Domiciled Europeans There are no Indian ladies in the Service at present, because none possessing the requisite qualifications have applied for appointment to it The rates of pay and allowances for the Queen Alexandra's Imperial Military Nursing Service and the Queen Alexandra's Military Nursing Service for India are laid down in Rules 682-684 and 687-690 of Pay and Allowance Regulations, Volume I, and Rules 15 and 17 of Volume II, a copy of which is in the Library of the House Those for the Indian Military Nursing Service are laid down in Rules 694 and 696 of Volume I and Rule 19 of Volume II of the same Regulations

Mr. S. Satyamurti: With reference to the Honourable Member's statement that no Indian nurses with the requisite qualifications apply for these posts, may I know what are the minimum qualifications for entry into the first two categories of services?

Mr. C. M. G. Ogilvie: The minimum qualifications are that they should be either unmarried or widows between the ages of 20 and 40 and that they should have had not less than three years training and service in medical and surgical nursing including nursing of male patients in civil hospitals of not less than 100 beds.

Mr. S. Satyamurti: May I know what are the facilities available in India, to the knowledge of my Honourable friend, for Indian ladies acquiring the qualifications prescribed which he just now announced? Are there any hospitals here in which these Indian ladies can get themselves trained and thus acquire these qualifications?

Mr. C. M. G. Ogilvie: There are a very large number of civil hospitals in India with more than 100 beds As regards the question about facilities for Indian ladies to become nurses, I think that question does not arise or if it does arise, I do not propose to answer it without notice.

Sardar Mangal Singh: May I know whether any Indian medical officer is posted to British hospitals?

Mr. President (The Honourable Sir Abdur Rahim) That question does not arise

ARRESTS AND SENTENCES IN CONNECTION WITH THE SHIVA TEMPLE SATYAGRAHA IN DELHI.

†1659. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Home Member state

(a) the number of people arrested and sentenced in connection with the Shiva Temple Satyagraha at Delhi till now;

(b) what steps Government have taken to bring about a peaceful settlement in the matter; and

(c) what is the present situation in the matter?

The Honourable Mr. R. M. Maxwell: (a) On the assumption that the Honourable Member's question has reference to the Satyagraha over a disputed site in Queens Gardens, the answer is

785 persons have been arrested since the beginning of the agitation, and of these 702 have been convicted

(b) and (c). Satyagraha continues and the dispute is the subject of civil suits which are being heard *de die in diem* in the Courts; the ultimate settlement would appear to depend on the result of these suits

Sardar Sant Singh: May I know if Government have taken into consideration the steps taken by the Local Government in removing all the materials and in taking the law into their hands when a civil suit is pending in the Court?

The Honourable Mr. R. M. Maxwell: I am not aware of any such action having been taken during the pendency of the civil suit

* †*Vide* page 3620 *ante*. This question was answered out of its turn at the request of the Member in charge as he was unavoidably delayed.—*Ed*

Mr. M. S. Aney: Is the Honourable Member not aware of the fact that the police have removed the idol of Shiva and also other articles belonging to the Sadhu?

The Honourable Mr. R. M. Maxwell: I answered that question last Session

Mr. M. S. Aney: Are Government aware of this fact or not?

The Honourable Mr. R. M. Maxwell: When the person on the site, that is the Sadhu, was assaulted, at that time the site became vacant and the articles left there were taken into the custody of the police and listed

Mr. M. S. Aney: Why is it that the Sadhu was not allowed to go back to his place during the pendency of the civil suit?

The Honourable Mr. R. M. Maxwell: It is a matter for decision in the civil suit whether he is entitled to go back there or not But, in the meanwhile, in order to preserve public peace, the site is being held vacant and no one is allowed to approach it.

Mr M. S. Aney: Was there any aggressive act done by the Sadhu to justify the order passed against him under section 144?

The Honourable Mr. R. M. Maxwell: It depends on what the Honourable Member means by an aggressive act

Mr. President (The Honourable Sir Abdur Rahim) These supplementaries hardly arise out of the original question.

Mr. M. S. Aney: If that is your ruling, I do not want to ask any more supplementaries

Sardar Sant Singh: Does the civil suit pending in court relate to the title to the property in question?

The Honourable Mr. R. M. Maxwell: That will be among the issues framed in the suit I think the decision of the case will involve some kind of declaration by the Court as to whether the Sadhu has a right to be there or not,—if that is what the Honourable Member means

Sardar Sant Singh: Is it a fact that that very site is in possession of Government now?

The Honourable Mr. R. M Maxwell: It has always been in possession of Government, the question was who should use it

Revision of the Pay of the Indian Civil Service and the Indian Police Service.

†1660. *Mr. Q. N. Muthuranga Mudaliar: With reference to the reply given to starred question No 1159 on 20th September, asked in this House, is the Honourable the Home Member prepared to consider, in view

†*Vide* page 3620 *ante* This question was answered out of its turn at the request of the Member in charge as he was unavoidably delayed.—*Ed.*

of the falling revenues of Government, the advisability of taking up the question of the revision of the pay of the Indian Civil Service and the Indian Police Service?

The Honourable Mr. R. M. Maxwell: I have nothing to add to the information I gave on the 20th September, 1938, in answer to parts (b) and (c) of starred question No 1159 and the supplementaries thereon.

Mr. C. N. Muthuranga Mudaliar: May I know whether the civil and police officers of the same rank in the United Kingdom get the same salaries and allowances as Indian officers get in India?

The Honourable Mr. R. M. Maxwell: Not so far as I am aware The salaries and allowances of officers are determined by the conditions of the service to which they belong.

Mr. S. Satyamurti: May I know whether Government have, since that last answer was given, and in view of the falling revenues of Government,—one reads that customs revenues are falling and railway receipts also are not looking up,—re-examined this question in view of the financial position, present and future, of the Government of India?

The Honourable Mr. R. M Maxwell: Government have not re-examined the question The position is still as I stated then, namely, that the Secretary of State has decided that further examination of the question should be deferred until the conditions of the services come under general review

†**1665***.

MANUFACTURE IN INDIA OF AEROPLANES FOR THE ARMY

1666. *Mr. Manu Subedar: (a) Will the Defence Secretary please state what is the total number of æroplanes in the Air Force in India?

(b) How many were added last year?

(c) What arrangements exist at present for repairs and assembling of these æroplanes?

(d) Have there been any consultations with any firms for the manufacture in India of æroplanes for the Army?

(e) Have the Principal Supply Officers' Committee looked into the availability of material for such manufacture?

Mr. C. M. G. Ogilvie: (a) and (b) It is not in the public interest to answer these parts of the question

(c) The work is carried out at the Aircraft Depot, Drigh Road

(d) I refer the Honourable Member to the reply given by the Honourable the Communications Member to part (c) of his starred question No 1119 of the 31st March, 1938.

(e) No.

Mr. Manu Subedar: Will the Honourable Member say what is the percentage of wastage provided in peace time and the percentage of wastage provided in war time for military æroplanes?

†For question No 1665, *see* pages 3031-32.

Mr. C. M. G. Ogilvie: I do not think I can possibly be expected to answer detailed and technical questions of that kind in answer to a supplementary question.

Mr. Manu Subedar: Is the Honourable Member aware that in Australia a factory is being set up for the production of military aeroplanes?

Mr. President (The Honourable Sir Abdur Rahim) That will perhaps be still harder for him to answer off-hand

Mr. Manu Subedar: Sir, I am only anxious with regard to (e), i.e., whether Government have gone into the question of possibility of manufacturing aeroplanes in this country for defence purposes

Mr President (The Honourable Sir Abdur Rahim) Better put that direct

Mr. Manu Subedar: Have Government considered the possibility of the manufacture of aeroplanes in this country for defence purposes?

Mr. C. M. G. Ogilvie: No, Sir.

Mr. Manu Subedar: Will they set about and have this matter investigated?

Mr. C. M. G. Ogilvie: No, Sir.

Prof. N. G. Ranga: Why not?

Mr. C. M. G. Ogilvie: It would be a waste of time.

Mr. T. S. Avinashilingam Chettiar: What does the Honourable Member mean by waste of time? Does he mean that the question is not of sufficient importance?

Mr. C. M. G. Ogilvie: No; the time will not be usefully employed.

Mr. Manu Subedar: Is it the deliberate policy of Government to always have this country dependent on imported material so far as military planes are concerned?

Mr. President (The Honourable Sir Abdur Rahim) That is a matter of inference.

Mr. Manu Subedar: I want to know whether that is the decision of Government.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can draw his own inference.

Mr. Manu Subedar: I will vary the question. Have Government decided that all requirements of the army in the matter of military aeroplanes will be met from imported material?

Mr. C. M. G. Ogilvie: With great regret, yes.

Seth Govind Das: Is it not a fact that the raw material which is used for making aeroplanes is aluminium and the aluminium is prepared from bauxite which is exported from this country?

Mr. C. M. G. Ogilvie: It is not a question of the availability of raw material which exists, comparatively speaking, in large quantities, but of the setting up of a highly specialised and extremely expensive plant and the training of labour to deal with it and the provision of money for working such a plant or factory and avoiding turning out the small number of planes required at a wholly prohibitive cost

Mr. Manu Subedar: May I inquire whether Government have found any inadequacy with regard to the technical labour required for repair works mentioned in clause (c)?

Mr. C. M. G. Ogilvie: No, Sir.

Mr. Manu Subedar: Then may I assume that they have found the adequate technical labour for that purpose?

Mr. C. M. G Ogilvie: Yes, the Honourable Member may assume that

Mr. K. Santhanam: May I know if it is a fact that His Majesty's Government is subsidising companies in Canada for the supply of aeroplanes?

Mr. C. M. G. Ogilvie: I am afraid the Government of India have no information on that subject

Mr. S. Satyamurti: May I know if the Government of India will initiate a discussion with His Majesty's Government, with a view to doing something in this direction of making this country self-sufficient at least partially in respect of this matter?

Mr. C. M. G. Ogilvie: No, Sir

Mr. Manu Subedar: May I know whether any arrangement has been reached with the proposed Australian company to supply military planes to the Government of India?

Mr. C. M G Ogilvie: I have no information whatever about any Australian company, proposed or otherwise.

CONSIDERATION OF THE QUESTION OF A CITIZEN ARMY AS SECOND LINE FOR THE DEFENCE OF INDIA.

1687. ***Mr. S. Satyamurti:** Will the Defence Secretary please state

(a) whether Government have considered the question of a citizen army as second line for the defence of India;

(b) whether Government have any proposals to strengthen the territorial forces in the country for this purpose; and

(c) what other steps Government have in mind in order to increase the defence strength of India by utilising her manpower freely?

Mr. C. M. G. Ogilvie: (a) and (b) Yes

(c) None.

Mr. S. Satyamurti: With reference to parts (a) and (b), may I know what are the proposals which they have in mind to strengthen the territorial forces in this country, and what is their conclusion on the question of a citizen army?

Mr. C. M. G. Ogilvie: All I can say in answer to that is that proposals for a possible expansion of the territorial army are under consideration, but no conclusion has yet been reached

Mr. S. Satyamurti: With reference to part (a), may I know whether, apart from the territorial forces, there is any consideration by Government of the question of a citizen army for India?

Mr. C. M. G. Ogilvie: No, Sir, there is none

Mr. S. Satyamurti: May I know if Government are satisfied by the response to the territorial forces and by such other considerations in their possession that there is no need for further considering the question of a citizen army for India, apart from the question of the expansion of the territorial forces, to which my Honourable friend referred?

Mr. C. M. G. Ogilvie: I am not quite sure of the bearing of the Honourable Member's supplementary question which seemed to me of great length, but Government have no proposals other than the constitution, retention, maintenance and possible expansion of the territorial forces as a second line army in India

Mr. S. Satyamurti: What are the main lines of expansion of the territorial forces, which Government are thinking of?

Mr. C. M. G. Ogilvie: I am afraid I cannot, as I have already said, state at this stage what the proposals are

Mr. K. Santhanam: With reference to parts (a) and (b) of the question may I know whether Government have placed any proposals before the Chatfield Committee in this behalf?

Mr. C. M. G. Ogilvie: I am not prepared to state what proposals, if any, Government have put forward before the Chatfield Committee.

Prof. N. G. Ranga: How many more people do they expect in the territorial forces in the near future?

Mr. C. M. G. Ogilvie: I cannot possibly inform the Honourable Member.

FALL IN CUSTOMS RECEIPTS.

†1658. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Finance Member state:

(a) whether there has been considerable fall in the receipts on Customs;

(b) what are the articles that have mainly contributed towards this reduction; and

(c) what is the estimated deficit under this head?

The Honourable Sir James Grigg: (a), (b) and (c) I would refer the Honourable Member to the answer I gave on the 15th November to Mr S Satyamurti's starred question No 1266

Mr. T. S. Avinashilingam Chettiar: What is the answer to clause (b)?

The Honourable Sir James Grigg: I would invite a reference to the published returns.

Mr. S. Satyamurti: With regard to the answer to clause (c), I do not want the Honourable Member to be unduly optimistic or pessimistic, but may I know what according to his calculations is the estimated deficit in customs receipts?

The Honourable Sir James Grigg: I honestly cannot calculate because it depends on taking a view as to the future course of trade for the remaining months of the year there are indications that things may be turning a little bit better, but until I can get more definite indications it is really quite impossible to make any calculation

CERTAIN PARTICULARS CONNECTED WITH THE RESERVE BANK OF INDIA.

†1665. *Mr. Manu Subedar: (a) Will the Honourable the Finance Member, please state apart from the statutory and other reports submitted by the Reserve Bank, whether Government asked the advice of the Reserve Bank Board on any economic or financial questions since its inception? If so, on how many and what were those questions?

(b) On how many occasions have Government tendered advice to the Reserve Bank Board? Is such advice tendered directly in correspondence, or, is it done through the official Director representing Government on the Reserve Bank Board?

(c) Was the issue of the exchange ratio the subject matter of any correspondence between the Reserve Bank and the Government of India?

(d) Have Government asked the Reserve Bank not to publish the report of Mr Darling on the co-operative credit institutions at work in India?

(e) Do Government propose to ask the Reserve Bank to consider ways and means for the extension of banking in India?

(f) Have any proposals for the modification of the Reserve Bank Act, been considered by Government?

The Honourable Sir James Grigg: (a) to (f). Communications between Government and the Reserve Bank are confidential For the rest, I

†*Vide* pages 3620 and 3627 *ante* These questions were answered out of their turn at the request of the Honourable Member in charge as he was unavoidably delayed. —*Ed.*

would refer the Honourable Member to my replies to his question No 884 on the 22nd March, 1938, and Mr Satyamurti's question No 1267 on the 15th November, 1938

Mr. Manu Subedar: I do not wish to go behind the confidentiality of the communications, but, with regard to part (e), may I ask whether it is not a fact that when the Reserve Bank was set up it was expected to devise ways and means for the extension of banking in this country, and may I ask what steps Government have taken in order to get the Reserve Bank to make adequate suggestions in this regard?

The Honourable Sir James Grigg: The Honourable Member must be aware that the Reserve Bank have published several brochures on the subject

Prof. N. G. Ranga: With reference to part (d) are we to understand that the Darling Report is not going to be published?

The Honourable Sir James Grigg: I think that is the position I think the figures and facts on which it is based are possibly somewhat out of date Provincial Governments have had the reports and the Reserve Bank had the report before them in issuing its reports on agricultural credit

Mr. Manu Subedar: Is it a fact that that report is not being published, because it is extremely damaging to the position of the Co-operative Credit Department in this country?

The Honourable Sir James Grigg: The Honourable Member is asking me to answer a question which I have only just now answered by a general refusal to answer

Prof. N. G. Ranga: Is it a fact that the Reserve Bank is expected to submit an annual report to the Government of India in regard to its impressions of the state of rural credit in this country and what it is doing to help the supply of rural credit in this country?

The Honourable Sir James Grigg: I do not think there is any question of an annual report They were required under the Act to submit a statutory report which they have now done I think they have since supplemented that report by two or three further reports

Prof. N. G. Ranga: Does that mean that their obligation in so far as the particular Act is concerned is already over, because they have submitted just one report?

The Honourable Sir James Grigg: Their statutory obligation is over but their moral obligation is certainly not over, as they have shown by following up their report.

Mr. S. Satyamurti: With reference to the answer to clause (f), may I take it that the position is that, without any proposals emanating from the Reserve Bank itself, the Government do not propose to take off hand any amendment of the Reserve Bank Act?

The Honourable Sir James Grigg: I think that is generally the position, yes.

TRAINING OF INDIANS AS PILOTS IN THE UNITED KINGDOM.

1668. *Mr. Manu Subedar: Will the Defence Secretary please state

(a) whether the attention of Government has been drawn to the following report from the speech of Sir Kingsley Wood, the Air Minister in the United Kingdom, in the House of Commons on the 11th November, 1938

"He referred to the assistance received in the personnel from the Dominions, declaring that since the expansion, hundreds of young men had come to this country to train as pilots",

(b) whether the Government of India have made any effort to secure the participation by India in all these preparations and they have called for volunteers to learn the work of pilots under the scheme in the United Kingdom;

(c) whether any application has been received by the India Office from Indians in the United Kingdom for being allowed to learn the work of pilots under the scheme now adopted in Britain for creating a large reserve, and

(d) whether any Indians as a matter of fact have been invited or accepted for this work in the United Kingdom?

Mr. C. M. G. Ogilvie: (a) and (b) No

(c) and (d) The Government of India have no information

Mr. Manu Subedar: May I inquire what steps the Government of India are taking for the training of pilots for military purposes in this country and how they compare with similar steps taken in Great Britain and referred to in the speech of Sir Kingsley Wood which I have mentioned?

Mr. C. M. G. Ogilvie: I do not think that I can give any useful comparison between the conditions which are said to have caused Sir Kingsley Wood's speech in England and those which we might consider in India But proposals for the formation of a reserve force, which is an extremely expensive thing, are under consideration

Mr. Manu Subedar: I merely want to know whether the Honourable Member can give us an assurance that adequate steps are taken in order to provide trained military pilots in this country in sufficiently large numbers to take care of our defence

Mr. C. M. G. Ogilvie: In answer to that I can only inform the Honourable Member that pilots are useless without machines and that machines cost a very great deal of money.

Mr. Manu Subedar: My difficulty arises as in a previous question as the Honourable Member refused to say how many machines there were and how many were being obtained May I know in general terms whether adequate machines are being imported and whether an adequate number of pilots is being raised?

Mr. C. M. G. Ogilvie: I am not prepared to answer that question.

INCORPORATION OF CERTAIN EXEMPTIONS IN THE INDIAN INCOME-TAX (AMENDMENT) BILL.

1669. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Finance Member please state whether Government intend to incorporate the subject matters of exemptions mentioned in articles (38) and (40) of paragraph 17 of the Income-tax Manual, in the Income-tax Amendment Bill?

The Honourable Sir James Grigg: *Article (38)* The Honourable Member will have an opportunity of discussing this question in connection with Dr P N Banerjea's amendment to section 9

Article (40) No

ELECTION TO THE AMBALA CANTONMENT BOARD

1670. *Sardar Sant Singh: Will the Defence Secretary please state when the first election for Ambala Cantonment Board was held under Act of 1936, with the following particulars

(i) date for filing nominations,

(ii) date for polling,

(iii) number of seats,

(iv) number of valid nomination papers filed,

(v) number of persons declared elected, and

(vi) number of seats remaining vacant and the reasons for not filling the vacant seats by election?

Mr. C. M. G. Ogilvie: The information required by the Honourable Member is as follows

(i) 16th March, 1938

(ii) No polling was required because there were only four candidates whose nomination papers were declared valid

(iii) Seven

(iv) and (v) Four

(vi) Three, because a by-election in such cases is not provided for in the Cantonments Act, 1924

Sardar Sant Singh: May I know the reasons why only four valid nomination papers were filed when the seats were seven?

Mr. C. M. G. Ogilvie: Because the three other candidates failed to file valid nomination papers.

Sardar Sant Singh: May I know the reasons why so few candidates came forward?

Mr. C. M. G. Ogilvie: I cannot possibly answer that question

Prof. N. G. Ranga: How are the other seats filled, by election or nomination?

Mr. C. M. G. Ogilvie: They will now be filled by nomination in the absence of any provision for election.

Recruitments to Army and Royal Indian Navy and Regulation Ration in the Royal Indian Navy.

1671. *Mr. Manu Subedar: (a) Will the Defence Secretary please state how many men were recruited in the (i) Indian Army, and (ii) Royal Indian Navy, in 1936-37 and 1937-38 respectively?

(b) How many of these were (i) Hindus, (ii) Muslims, (iii) Europeans, and (iv) others?

(c) What is the regulation ration in the Royal Indian Navy for (i) men and (ii) officers?

(d) Is beef part of such ration for (i) men and (ii) officers?

Mr. C. M. G. Ogilvie: (a) and (b) In the Indian Army, 16,470 men were recruited during 1936-37 and 18,826 during 1937-38. Of those, 14,320 are Hindus, 14,172 Moslems, no Europeans and 6,304 others. In the Royal Indian Navy, 132 were recruited during 1936-37 and 242 during 1937-38, of which 27 are Hindus, 280 Moslems, no Europeans and 67 others.

(c) and (d) I lay a statement on the table containing the required information.

Scale of ration articles admissible to officers, warrant officers, ratings (including boys), supernumeraries borne on the books of Royal Indian Marine vessels, electrical artificers and ordnance artificers

When to be issued.	Articles.	Denomination	To Europeans	To Indian Warrant Officers	To Indian ratings (including boys), electrical artificers and ordnance artificers	Remarks
Daily	Biscuit	lb	1	¼	½*	* Biscuit or atta ½ lb may be issued if bread is not obtainable † Rice and/or atta 16 oz in all may be issued. ‡To be issued to all boys under training in the R. I. N. irrespective of their age. Milk will not be issued to R I N. ratings of any age.
	Bread	,,				
	Rice	,,	½	1	††	
	Atta	oz				
	Coffee	,,	2	2		
	Tea	,,	½	½	½	
	Sugar	,,	2½	2½	1½	
	Flour	,,	5		2	
	Raisins	,,	1			
	Rum	gills.	½	½		
	Ghee	oz.	2	2	2	
	Salt	,,	½	½	½	
	Onions	,,	4		4	
	Potatoes	,,	2		2	
	Condiments	,,			½	
	Milk, fresh	,,			10‡	
	Firewood or fuel	As actually required in accordance with size and description of galley.				
Weekly	Vinegar	pint.	½	½		
	Mustard	oz.	½			
	Pepper ground	,,	½			
	Curry stuff			5		

When to be issued	Articles	Denomination	To Europeans	To Indian Warrant Officers.	To Indian ratings (including boys), artificers and artificers.	Remarks.
Daily when procurable and provided the salt meat is not likely to spoil	Fresh meat with bone 17½ per cent	lb	1	1	¾	
	Fresh vegetables	oz	6	8	4	
Daily when fresh meat and vegetables are not issued	Salt meat	lb	1			
	Vegetables when Procurable	„	½			
	Salt fish (a)	oz.		3		(a) See note 4 below.
	Dall	„	2	4		
When procurable as substitute for biscuit	Bread	lb.	1½	1		
When desired in lieu of half gill of rum	Tea	oz	¼	¼		
	Sugar	„	1	1		
Daily for Engineers in lieu of beer in addition to that issued to all the Europeans on board	Rum	gill	½			

NOTE 1.—The term "Fresh meat" includes beef and mutton which will be issued alternately when ships are in port and where beef is available, except in the case of Hindu ratings, to whom mutton will be supplied only, and to others, when in port, mutton may be issued in lieu of beef equivalent in quantity to the cost of 6 ozs of beef At sea mutton may be issued when beef cannot be carried. Fresh fish or poultry in lieu of fresh meat may be supplied at the discretion of the Commander, provided no extra expense to the State is incurred thereby

NOTE 2.—The number of men to whom biscuits and dall were issued during the quarter should be noted in the Quarterly Victualling Account

NOTE 3.—Indian warrant officers and ratings of the Royal Indian Navy, who are accustomed to European food, will be granted, at the discretion of the Commanding Officer of the ship concerned, rations at the European scale laid down in this Appendix except that in the case of ratings—

(i) No rum will be admissible

(ii) Meat will be issued at ¾ lb instead of 1 lb

(iii) Bread will be issued at 1¼ lbs instead of 1½ lbs

(iv) Rice will be issued as 6 ozs instead of 4 ozs

NOTE 4.—Salt fish should only be issued to Indian ratings and boys when fresh meat is not available. The scale of issue will be 6 ozs. to 3 ozs. of fresh meat.

NOTE 5.—Fresh fish, when obtainable, should be issued to Indian ratings and boys, twice a week in lieu of fresh meat.

NOTE 6.—Dall 4 ozs may be issued to Indian ratings and boys daily in lieu of 2 ozs. of onions if desired

NOTE 7.—When fresh vegetables are not obtainable, an additional 2 oz of potatoes may be issued to the Indian ratings and boys.

NOTE 8.—When at sea, milk tinned, liquid evaporated, may be issued to all boys under training in lieu of milk fresh. The scale of issue will be 5 ozs. of milk tinned to 10 ozs. of milk fresh.

NOTE 9.—In case it should be necessary to issue substitutes for any of the provisions above mentioned, the following scale is to be adopted —

	lb	
(i) Biscuit	1	Are to be considered equal to each other
Flour	1	
Rice	1	

NOTE.—Rice may always be issued in lieu of biscuit if desired

	oz	
(ii) Coffee	1	Are to be considered equal to each other
Cocoa	1	
Chocolate	1	
Tea	½	

(iii) The 5 ozs. of curry-stuff to consist of —

	oz			oz
Tamarind	1	or	Chillies	1
Chillies	½		Coriander seed	1
Garlic	½		Turmeric	1
Turmeric	½		Cummin seed	1
Mustard oil	1		Garlic	1
Onions	½			

Mr. Manu Subedar: Is it a fact that on account of beef being a normal part of the rations, Hindu candidates are not coming forward in adequate numbers or continuing after they join?

Mr. C. M. G. Ogilvie: I understand that that is not a fact as, if the Honourable Member will look at the regulation rations, he will see that beef is not issued to Hindus who are supplied invariably with mutton in its place

Mr. Manu Subedar: In view of the figures given, may I know if the figure of 70 per cent of recruits in the army being Muslims as claimed by Mr Jinnah is true?

Mr. C. M. G. Ogilvie: The Honourable Member may look for himself

Sardar Sant Singh: May I know whether the figures include the recruitment for Sikhs and, if so, what is their number in these two years?

Mr. C. M. G. Ogilvie: The figures do include Sikhs, but they have, I am afraid, been placed along with others I should say, however, that the majority of the others were, in fact, Sikhs

RACIAL DISCRIMINATION IN THE MATTER OF PAY, ETC., IN THE ARMY HEADQUARTERS.

1672. *Mr. Manu Subedar: (a) Will the Defence Secretary please state whether it is a fact that Indians having high University qualifications start on Rs. 55 per mensem for clerkships in the Army Headquarters, whereas European clerks (British Other Ranks) start with Rs 300 per mensem without any test by the Public Service Commission?

(b) Is it further a fact that numerous allowances are given to married British Other Ranks clerks in kind or in cash, for which Indian clerks are not eligible?

(c) What is the total cash value of these concessions?

(d) Why is this distinction made and continued?

(e) Which are the offices in the Army Headquarters to which selections have been made from British Other Ranks clerks and to which no Indian clerk has been promoted?

Mr. C. M. G. Ogilvie: (a) I refer the Honourable Member to the reply given by me on the 15th November, 1938, to part (b) of Seth Govind Das's starred question No 1261

(b) Certain allowances are given

(c) Rs 43 p m for single clerks and Rs 73 p m for married clerks

(d) Because the terms and conditions of service for Indian and British Wings of the Indian Army Corps of Clerks are different

(e) The collection of this information would involve an excessive amount of labour It may, however, be stated for the information of the Honourable Member that all appointments in Army Headquarters from Officer Supervisor downwards are open to both British and Indian clerks and no distinction is made, subject to the clerks concerned being efficient and recommended for promotion

Mr. Manu Subedar: Is it a fact, Sir, that considerable discontent exists amongst the Indian clerks of this particular office on account of the extra allowances given to European clerks and the higher places being denied to Indians, though as the Honourable Member said, they are eligible to them?

Mr. C. M. G. Ogilvie: I may say at once that there is not the slightest element of correctness in that statement

Prof. N. G. Ranga: Will Government consider the desirability of discontinuing these special allowances and recruiting all the clerks from amongst Indians themselves in India in view of the fact that Indians have shown themselves capable of discharging much greater responsibilities?

Mr. President (The Honourable Sir Abdur Rahim) These are all arguments

Prof. N. G. Ranga: Then will they at least consider the advisability of discontinuing these special allowances? It is not an argument

Mr. President (The Honourable Sir Abdur Rahim) I say it is an argument

Prof. N. G. Ranga: Sir, we are all interested in seeing that more and more economy should be adopted in all departments... ...

Mr. President (The Honourable Sir Abdur Rahim). I can quite understand that, but this is not the time for discussing questions of that nature.

Mr. M. Asaf Ali: With reference to the answer to part (e) of the question, I understood the Honourable Member to say that these posts are open to Europeans and Indians alike. Can he state the proportion of Europeans and of Indians who are now in the Army Headquarters?

Mr. C. M. G. Ogilvie: I am afraid I can't say that off-hand

Mr. M. Asaf Ali: Even an approximate idea will do quite nicely?

Mr. C. M. G. Ogilvie: I don't think I can give even an approximate idea

CLASSIFICATION OF INCOME FROM FISHERIES FOR ASSESSMENT OF INCOME-TAX IN CERTAIN PLACES IN ASSAM.

1673. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Finance Member please state

(a) whether, in case of assessees who are owners of permanently settled land in District Sylhet (Assam), occupied by fisheries, income from fisheries is classed under "Property" or under "Business" for assessment of income-tax,

(b) whether allowance is given for "Local Rates" paid by the assessee on the fishery land, if not, why not,

(c) whether the "Local Rates" levied by the Provincial Government for the big fisheries is on "area of land" basis or on "the basis of gains", *i e*, the income which the fisheries bring to the landlord assessee, and

(d) whether, in the case of small estates containing small fisheries, the entire estate is assessed to Local Rates on the basis of total area, irrespective of income from fisheries?

The Honourable Sir James Grigg: (a) and (b) The information is being collected and will be laid on the table of the House

(c) and (d) Government of India have no information

EXPENDITURE AND LIABILITIES IN RESPECT OF THE DEFENCE DEPARTMENT.

1674. *Mr. S. Satyamurti: Will the Defence Secretary please state

(a) the expenditure and the liabilities incurred from 1st April to 31st October, 1938, in respect of the Defence Department,

(b) the excess expenditure, so far, over the budgeted grant during that period, and the items under which they were incurred,

(c) how the excess expenditure has been met; and

(d) whether any sanction has been asked for, or obtained from the Finance Department for supplementary grants for this excess of expenditure?

Mr. C. M. G. Ogilvie: (a) The total expenditure from the 1st of April to the 31st of October, 1938, is Rs 3,10,119.

The cost of items up to the 31st of October which were not included in the original budget is Rs 2,406 These items are expected to cost another Rs. 40,480 between the end of October and the end of March

(b) and (c) The budgeted grant is for the whole year, and since the authorised grant for the current year amounts to Rs 5,97,000 no question of excess has yet arisen

(d) The sanction of the Finance Department has been obtained for all expenditure incurred to date The question of a supplementary grant will

be taken up if and when it is known that the original grant for the whole year will be exceeded.

Mr. S. Satyamurti: May I know, Sir, if my friend's answers cover the extra expenditure on the Waziristan operations also?

Mr. C. M. G Ogilvie: No, the Waziristan operations are not financed by the Defence Department

Mr. S. Satyamurti: May I know whether the expenditure and the liabilities incurred in respect of the Waziristan operations are not debited to the Defence Department?

Mr. C. M. G. Ogilvie: To the defence budget, but not to the Defence Department

Mr. S. Satyamurti: Does it mean that the Defence Department does not obtain the money and spend it on all these operations?

Mr. C. M G. Ogilvie: I regret I understood these questions are referring to the Defence Department of the Government of India, these are not debited to the Defence Department estimates

Mr. S. Satyamurti: I want to know whether the Waziristan operations are being conducted by the Commander-in-Chief, who is part of the Defence Department and who is the Chief of the Defence Department of the Government of India?

Mr. C. M. G. Ogilvie: I have endeavoured to explain to the Honourable Member that I interpreted his question as referring to the Defence Department of the Government of India, and not to the defence estimates or even to the Army Headquarters

Mr. T. S. Avinashilingam Chettiar: May I know, Sir, if two Secretaries have been appointed in this Department?

Mr. C M. G. Ogilvie: Two new officers have been temporarily attached to that Department of the rank of Secretary

Mr. T. S. Avinashilingam Chettiar: For what period?

Mr. C. M. G. Ogilvie: The period of one will expire at the end of December, and, of the other, no decision has yet been reached

Mr. T. S. Avinashilingam Chettiar: What are the special activities that are now conducted or what is the special necessity just now for the appointment of these two officers?

Mr. C. M G. Ogilvie: That does not arise out of this question

Mr. T. S. Avinashilingam Chettiar: These are fresh appointments, and we want to know the reasons as to why these are made

Mr. President (The Honourable Sir Abdur Rahim) Not necessarily.

Mr. T. S. Avinashilingam Chettiar: I don't understand what you mean by saying not necessarily It may not be necessary for him to give information, but we are entitled to get this information

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member had asked for the information, and the Defence Secretary has given it.

Mr. T. S. Avinashilingam Chettiar: Sir, in a supplementary question, we are entitled to ask for information on the same subject.

Mr. President (The Honourable Sir Abdur Rahim) Yes, if it arises

Mr. T. S. Avinashilingam Chettiar: Then, say, it does not arise

COST OF WAR PREPARATIONS OWING TO THE RECENT EUROPEAN CRISIS

1675. *Mr. S. Satyamurti: Will the Defence Secretary be pleased to state

(a) the extra expenditure incurred and the staff employed in respect of certain war preparations owing to the recent European crisis,

(b) whether any committee was appointed in this connection, if so, what its personnel and terms of reference were,

(c) the cost so far incurred on such preparations, and what those preparations are, and

(d) what the estimated cost of these preparations is and whether these preparations were made on the initiative of the Indian Defence Department, or at the suggestions of the War Office in England?

Mr. C. M. G. Ogilvie: (a) to (d) It is not in the public interest to reply to this question

Mr. S. Satyamurti: Can't my friend say even the extra expenditure incurred?

Mr C. M. G. Ogilvie: No

Mr. S. Satyamurti: May I know, Sir, if these extra preparations are still continuing?

Mr. C. M. G. Ogilvie: That again is not in the public interest to discuss at this stage

Mr. S. Satyamurti: With reference to the answer to clause (d) of the question, may I know whether my friend claims public interest not to answer the question whether these preparations were made on the initiative of the Indian Defence Department, or at the suggestion of the War Office in England?

Mr. C. M. G. Ogilvie: Yes

Mr. S Satyamurti: Public interest?

Mr. C. M. G. Ogilvie: Yes

PERMANENT LOCATION OF THE ARMY HEADQUARTERS AND OF THE DEFENCE DEPARTMENT IN ONE PLACE

1676. *Mr. S. Satyamurti: Will the Defence Secretary please state

(a) with regard to the policy of Government to retain more and more Government offices throughout the year in Delhi, whether the question of the permanent location of the Army Headquarters and of the Defence Department throughout the year in one place is being considered,

(b) whether Government have come to any conclusion in the matter, and

(c) whether Government have considered the question of retaining permanently the Army Headquarters in Simla in view of the large number of buildings available there for them?

Mr. G. M. G. Ogilvie: (a) No

(b) Does not arise

(c) No

Mr. S. Satyamurti: May I know, Sir, with regard to the answer to part (a) of the question, does the "No" apply to both parts of the question, or it merely means, apart from the policy of the Government to retain more and more offices throughout the year in Delhi, this question has not been taken up by the Government of India?

Mr. G. M. G. Ogilvie: No, the answer is that Government having had regard to the policy of the Government of India to retain more offices in Delhi have not considered the possibility of locating the Army Headquarters and the Defence Department in the same place

Mr. S. Satyamurti: With regard to the answer to part (c) of the question, may I know the reason why Government have not considered this question, in view of the consideration mentioned in the question, that large and imposing arrays of buildings exist in Simla for Army Headquarters?

Mr. G. M. G. Ogilvie: The reason is that the Army Headquarters cannot be entirely divorced from the Defence Department and the Government of India

PROPOSAL TO HOLD A DOMINIONS CONFERENCE IN LONDON.

1677. *Mr. S. Satyamurti: Will the Defence Secretary please state.

(a) whether it is a fact that Mr Bruce, the Australian High Commissioner in London, has cancelled his projected Australian visit in the belief held in official quarters of the possibility that Britain will summon a Dominions Conference in London early in the new year to discuss international affairs and Empire defence;

(b) whether the Government of India have heard anything in respect of this matter, and

(c) whether the Government of India propose to address His Majesty's Government to see that India also is consulted in this matter?

Mr. C. M. G. Ogilvie: (a) Government have no information

(b) and (c) No

Mr. S. Satyamurti: May I know what exactly the Defence Secretary means by saying, in answering question (a), Government have no information, does he mean they have not read the same in the papers, or they have no official information?

Mr. C. M. G. Ogilvie: It means the Government of India are not concerned in the matter in any way, and therefore they have no official information on the subject

Mr. S. Satyamurti: May I ask for further elucidation, Sir Have the Government of India no interest in the discussion on international affairs and Empire defence?

Mr. C. M. G. Ogilvie: I don't see how that arises out of this question.

Mr. S. Satyamurti: Yes, Sir, please read the question, and you will see it is worded thus "whether it is a fact that Mr Bruce, the Australian High Commissioner in London, has cancelled his projected visit in the belief held in official quarters of the possibility that Britain will summon a Dominions Conference in London early in the new year to discuss international affairs and Empire defence' May I know what my Honourable friend means? Does he mean that the Government of India have no concern either in international affairs with which the British Empire is concerned, or in Empire defence?

Mr C. M. G. Ogilvie: The Government of India had no concern with the beliefs said to be held in official quarters They are not held in Indian official quarters If there was such a possibility, the Government of India would undoubtedly have been informed officially At present no such information has reached us

Mr. S. Satyamurti: Will the Government of India address His Majesty's Government, and find out if any such Conference is thought of, and find out fuller information?

Mr. C. M. G. Ogilvie: No, Sir

Mr. S. Satyamurti: Why not, Sir?

Mr. C. M. G. Ogilvie: Because the Government of India will be informed at once if there is such an idea

Mr. S. Satyamurti: Can my Honourable friend tell the House, since India is not treated as a Dominion in many matters, what is the basis on which he comes to the conclusion that India is sure to be summoned to a Dominions Conference?

Mr. C. M. G. Ogilvie: India has always taken part in such Conferences in the past, and in any case, if there was to be such a Conference, we should know about it This is a mere rumour which as far as we are aware has no foundation

PROVINCE OF PANTH PIPLODA

1678. *Mr. Sham Lal (on behalf of Mr Sri Prakasa) Will the Honourable the Home Member state

(a) the date, occasion and circumstances when the Chief Commissioner's province of Panth Piploda was formed,

(b) the area and population of the Province,

(c) if there was any ruling Indian chief or prince of the province before the same was included in British India, and, if so, what were the conditions under which the territory was ceded, and

(d) the exact location of the province, and if the same is marked in any map?

The Honourable Mr. R. M. Maxwell: (a) Panth Piploda was formed as a Chief Commissioner's province with effect from the 1st November, 1928, with the object of providing a sound legal basis for a system of administration for this area

(b) The area is 25 29 square miles with a population of 4,515

(c) The area was ceded to the Honourable the East India Company by the Peshwa in 1817 along with all his territories and rights in Malwa, under Article 14 of the Treaty of Poona of that year

(d) The province is distributed in five blocks interspersed with villages of the Jaora State and surrounded by the States of Gwalior, Indore, Dewas and Jaora It is situated about 25 miles west of Mehidpur railway station on the Bombay, Baroda and Central India Railway It is shown in the Political Map of India

Mr. Badri Dutt Pande: Who created this province? The Secretary of State, the Crown Representative or the Governor General?

The Honourable Mr. R. M. Maxwell: The Secretary of State

Mr. Badri Dutt Pande: What are the receipts and expenditure of this Province? Can the Honourable Member give us any idea?

The Honourable Mr. R. M. Maxwell: The total revenues of the province are about Rs 54,000 Out of this a sum of Rs 11,000 is absorbed by the Khandekar tribute Out of the remaining Rs. 43,000, not less than Rs 12,000 is required for the maintenance of the administration and the balance of Rs 31,000 is distributed among the proprietary Thakurs

TIME TAKEN BY INDIAN CIVIL SERVICE OFFICERS TO BE PLACED IN INDEPENDENT CHARGE OF A DISTRICT.

1679. *Mr. S. K. Hosmani: (a) Will the Honourable the Home Member be pleased to state what time it normally takes an Indian Civil Service Officer to be placed in independent charge of a district either as a Deputy Commissioner, or as a Collector, or as a District Judge?

(b) Is it not a fact as is apparent from Civil Lists, that ordinarily in *seven* years' time, such officers get a change to be so appointed in charge of districts? If so, are Government prepared to consider the advisability of enlarging this period of probation and training from seven to twelve years?

The Honourable Mr. R. M. Maxwell: (a) The strengths of cadres of the Indian Civil Service in all provinces are based on calculations intended to secure that officers should begin to officiate permanently either as Collector, Deputy Commissioner or District and Sessions Judge after completion of the eighth year of service But the rate of promotion is not uniform, and in some provinces officers officiate continuously after six years

(b) No Experience has shown eight years to be more than a sufficient period of training To increase the period of training would also involve an increase in the size of cadres and, therefore, of the cost

LEVY OF DEATH DUTY

1680. *Sardar Mangal Singh: Will the Honourable the Finance Member please state

(a) whether Government contemplate levying death duty in this country, and

(b) when a Bill to that effect is likely to be introduced in the Assembly?

The Honourable Sir James Grigg: (a) and (b) The matter is under examination

Mr. Manu Subedar: May I know whether the Lloyd delegation has already begun work on this subject? I believe that Mr Lloyd was going to be put on special duty

The Honourable Sir James Grigg: The delegation consists of himself and he has certainly begun work, because I have already had sent to me an extremely large and extremely technical memorandum on the subject

Sardar Mangal Singh: May I know whether the Provincial Governments will be consulted in this matter?

The Honourable Sir James Grigg: Of course, that is the whole idea

Sardar Mangal Singh: May I know whether any legislation will be taken in this House or in the Provincial Legislatures?

The Honourable Sir James Grigg: Legislation must be taken in this House under the Government of India Act

Prof. N. G. Ranga: Have any Provincial Governments already asked for the co-operation of the Government of India in getting this particular duty levied?

The Honourable Sir James Grigg: No, not exactly in that way that they asked for co-operation. They have asked the Government of India to explore the question

Sardar Mangal Singh: May I know whether the proceeds of this tax will go to the provinces?

The Honourable Sir James Grigg: The legislation under which the tax is imposed must provide for a scheme of distribution among the provinces

GENTLEMEN CADETS TRAINED AT THE INDIAN MILITARY ACADEMY.

1681. *Sardar Mangal Singh: Will the Defence Secretary please state

(a) how many gentlemen cadets have so far been trained at the Indian Military Academy, Dehra Dun,

(b) how many of them have actually joined the units as Indian commissioned officers,

(c) how many of them have replaced British officers, and

(d) how many of them have replaced Viceroy's commissioned officers?

Mr. C. M. G. Ogilvie: (a) 215 have completed their training excluding Indian States Forces cadets

(b) All of them

(c) Two

(d) 141

Mr. S. Satyamurti: What is the reason why only two of them have replaced British officers?

Mr. C. M. G. Ogilvie: Because these officers have none of them more than 4½ years service and they are still acting as platoon commanders

Mr. S. Satyamurti: Have the Government of India considered any scheme by which, as recommended by the Sandhurst Committee originally, these officers will more and more replace British officers, and not Viceroy's commissioned officers?

Mr. C. M. G. Ogilvie: They will in time entirely replace the British officers and the King's commissioned Indian officers in various regiments

Mr. S. Satyamurti: In what time, will they entirely replace the British officers?

Mr. C. M. G. Ogilvie: The Indian commissioned officers have, I think, the senior of them, only 4½ to five years service Normally 26 years is taken before promotion to Lieutenant-Colonel is reached, but as regards some King's Indian commissioned officers that time should be reached in about six or seven years

Mr. S. Satyamurti: May I take it that, so far as British officers are concerned, it will take 22 years more before these officers begin to replace them?

Mr. C. M. G. Ogilvie: Before the Indian commissioned officers? No, certainly not It will take place when they rise to be company officers or company commanders

Sardar Mangal Singh: With regard to the answer to part (b) of the question, may I take it that so far no Indian commissioned officer has been posted to the Political Department?

Mr. C. M. G. Ogilvie: I cannot see that that arises out of this question

Sardar Mangal Singh: It does arise, whether all of them have been posted to the units There are some Indian officers who have been sent to the Political Department

Mr. C. M. G. Ogilvie: They may be, but they have all joined their units in the Indian army. Some of them have left one unit and gone into another, and for all I know, too, some have gone to the Political Department, but they have at some time or other joined their units

CANDIDATES OFFERING FOR EXAMINATION TO THE INDIAN MILITARY ACADEMY.

1682. *Sardar Mangal Singh: Will the Defence Secretary please state

(a) the number of candidates who offered themselves for examination at the open competitive examination for the Indian Military Academy in 1932, 1933, 1934, 1935, 1936, 1937 and 1938,

(b) the number of those candidates who qualified in these examinations in 1932, 1933, 1934, 1935, 1936, 1937 and 1938,

(c) the number of those candidates who got more than 400 marks in the *viva voce* examination by the interview and record board, but failed to qualify in the written examination; and

(d) the number of those candidates who got more than 800 marks in the written examination, but failed to get 50 per cent. marks in the oral examination by the interview and record board?

Mr. C. M. G. Ogilvie: The information in respect of each year mentioned by the Honourable Member is as follows

(a) 274, 326, 292, 260, 215, 189 and 128

(b) 102, 126, 85, 74, 72, 54 and 21 excluding the October examination, the results of which are not yet known

(c) 2, 5, 8, 8, 7, 7 and 2, excluding the October examination

(d) 12, 33, 81, 51, 31, 42 and 12, excluding the October examination

PROPOSAL TO CONSTRUCT A ROAD CONNECTING SOUTH CHINA WITH BURMA.

1683. *Mr. Brojendra Narayan Chaudhury: Will the Defence Secretary please state:

(a) whether the proposal for building a road to connect South China with Burma has been considered in connection with the eastern defences of India; and

(b) how far the road scheme has progressed?

Mr. C. M. G. Ogilvie: (a) No.

(b) Does not arise.

Mr. Brojendra Narayan Chaudhury: Do Government mean that the road has not been constructed?

Mr. C. M. G. Ogilvie: I think I have answered the question quite clearly

Mr. Brojendra Narayan Chaudhury: Will not the construction of such a road facilitate movement of the army up to the borders of Burma which is close to the borders of China?

Mr. C. M. G. Ogilvie: As I said, the matter has not been considered, and the movement of which army it can facilitate I am sure I cannot say

Mr. Brojendra Narayan Chaudhury: With regard to the construction in China of a road from Tunan to Lashio on the borders of Burma, my question is, have the Government of India considered the effect of the construction of this road on the eastern borders of India?

Mr. C. M. G. Ogilvie: I do not think I can be expected to answer questions about what the Chinese Government have done

CONSIDERATION OF THE QUESTION OF CONNECTING INDIA AND BURMA BY A MOTORABLE ROAD.

1684. *Mr. Brojendra Narayan Chaudhury: Will the Defence Secretary please state

(a) whether the matter of connecting India and Burma by a motorable road has been considered from the military standpoint, and whether the question of connecting the Indian road system to the border of Burma *via* Manipur, has been considered, or will be considered,

(b) whether motorable roads afford easy, quick facilities for movement of troops and are a good substitute for Railways for this purpose, and

(c) whether the Burma border is only about 150 miles *via* Manipur from the nearest point of the Indian road system in Cachar, Assam?

Mr. C. M. G. Ogilvie: (a) Yes

(b) Generally speaking, motorable roads, provided they conform to a certain standard, afford easy facilities for troop movement over relatively short distances

(c) Approximately yes

Mr. Brojendra Narayan Chaudhury: As regards the answer to part (a) of the question, if Government have considered the matter, may I know what conclusion they have arrived at?

Mr. C. M. G. Ogilvie: They have come to the conclusion that at present at any rate, it would be far too expensive a project for our financial resources

Mr. Brojendra Narayan Chaudhury: Was any railway project for con-
12 NOON. necting India with Burma undertaken in the military interest?

Mr. C. M. G. Ogilvie: The project has not been undertaken.

Mr. Brojendra Narayan Chaudhury: Is it a fact that 80 miles of railway was constructed from Chittagong to Dohajari to connect Burma and then the proposal was abandoned? Was it undertaken in the interests of the defence of India?

Mr. C. M. G. Ogilvie: The question of building a motorable road was considered. I am afraid I cannot say anything more than that

Mr. Brojendra Narayan Chaudhury: I am afraid the Honourable Member has misunderstood my question I am asking about railways from Chittagong to Burma, and not about the road

(b) WRITTEN ANSWERS.

SAVINGS DUE TO THE TRANSFER OF CERTAIN BRITISH TROOPS OUT OF THE INDIAN ESTABLISHMENT.

1685. *Mr. T. S. Avinashilingam Chettiar: Will the Defence Secretary state:

(a) the net saving to Indian revenues because of the recent transfer of three units of British troops out of the Indian establishment in the present financial year;

(b) how this saving is proposed to be used, and

(c) whether this saving will revert to the general revenues?

Mr. C. M. G. Ogilvie: (a) About 20 lakhs.

(b) and (c) The saving will reduce the amount of the anticipated deficit in the Defence Services estimates of the current year.

SET BACK TO THE PROCESS OF ECONOMIC RECOVERY.

1686. *Prof. N. G. Ranga: Will the Honourable the Finance Member be pleased to state:

(a) if it is not a fact that there is a serious slump in cotton, fall in prices of ground nut and jute, and increase in the imports of wheat and broken rice, and rice and paddy,

(b) if there has not been a considerable set back to the slow process of economic recovery that was taking place till last March;

(c) if Government have studied the position and considered its causes and consequences, and

(d) what Government propose to do to minimise its rigours in India?

The Honourable Sir James Grigg: The question should have been addressed to the Honourable the Commerce Member.

IMPOSITION OF INCOME-TAX ON AGRICULTURAL INCOMES IN THE CENTRALLY ADMINISTERED AREAS.

1687. *Prof. N. G. Ranga: Will the Honourable the Finance Member be pleased to state:

(a) if it is not a fact that the Bihar Legislative Assembly has passed an Act imposing income-tax on agricultural incomes;

(b) if he has examined the provisions of the Bihar Act and, if so, how the rates of taxation imposed by Bihar Government on agricultural incomes compare with the rates of income-tax imposed on non-agricultural incomes by the Indian Income-tax Act; and

(c) if he is prepared to consider the advisability of applying that Act or passing a similar Act for the centrally administered areas?

The Honourable Sir James Grigg: (a) Yes.

(b) A comparative statement is laid on the table.

(c) No

Statement showing the rates of income-tax prescribed in the current Finance Act and the rates of agricultural income-tax imposed by the Bihar Agricultural Income-tax Act, 1938.

Total income for I. T. Act.	* Rate of income-tax. (Pies in the rupee).	Total income for Bihar Act.	Rate of Agricultural Income-tax. (Pies in the rupee)
Rs. Rs.		Rs. Rs.	
2,000—4,999	Six.		
5,000—9,999	Nine	5,001—10,000	Six.
10,000—14,999	Twelve	10,001—15,000	Seven.
15,000—19,999	Sixteen	15,001—20,000	Eight.
20,000—29,999	Nineteen	20,001—30,000	Ten.
30,000—39,999	Twenty-three	30,001—40,000	Twelve.
40,000—99,999	Twenty-five	40,001—75,000	Fifteen.
		75,001—1,00,000	Eighteen.
1,00,000—and above	Twenty-six	1,00,001—1,50,000	Twenty-two.
		1,50,001—2,50,000	Twenty-four.
		2,50,001—5,00,000	Twenty-six.
		5,00,001—10,00,000	Twenty-eight.
		10,00,001—15,00,000	Twenty-nine.
		Above Rs. 15,00,000	Thirty.

In the case of every company and registered firm, whatever its total income, the rate of income-tax is 26 pies in the rupee.

* In addition to these, a surcharge of 3½ per cent is levied on income-tax and super-tax. In addition to the rates of income-tax, there are rates of super-tax which rise by stages (except in the case of companies) to 75 pies in the rupee.

AGRICULTURAL AREAS IN CANTONMENTS.

1688. *Mr. Badri Dutt Pande: (a) Will the Defence Secretary be pleased to state the total agricultural area at present held in each Cantonment in India?

(b) What is the average rate of income per acre of agricultural land derived by the Military Estates Department in each Cantonment during the last financial year?

(c) Is it a fact that the income received per acre is more than the average Provincial revenue per acre?

(d) Is it a fact that Cantonment Agricultural lands are not let out directly to tillers of soil, but are given to middlemen, known as contractors, for short periods?

(e) Is it a fact that actual tillers of soil are liable to ejectment on every change of a contractor?

(f) Do Government grant any *taccavi* loans to cultivators?

(g) Are any remissions of rent given to actual cultivators of soil during bad years?

Mr. C. M. G. Ogilvie: (a), (b) and (c). The time and labour involved in collecting the required information would be incommensurate with the value of the results

(d) and (e) Agricultural lands in cantonments are leased out under the Cantonment Land Administration Rules, 1937, and the tenure of the holders is governed by the terms of the leases executed under these rules

(f) No.

(g) Government recognises the lessees only, and remissions of rent are granted to them when it is considered that the circumstances of the case justify such a course

SEPARATION OF BRITISH CAVALRY BAZAR AND INFANTRY BAZAR FROM THE AMBALA CANTONMENT.

1689. *Mr. Badri Dutt Pande: (a) Will the Defence Secretary be pleased to state whether it is a fact that the British Cavalry Bazar and British Infantry Bazar of Ambala Cantonment are going to be separated from the Cantonment area and handed over to the civil municipality?

(b) Is it also a fact that recently the Northern Command called for some plans for the Cantonment Board Office of Ambala with a view to effecting such a separation?

(c) Is it a fact that non-official public opinion has not been consulted in effecting the separation of these bazars?

(d) What steps do Government propose to take to obtain the opinion of non-official elected members of the Cantonment Board, Ambala, and the municipality of Ambala Sadar, before effecting any separation?

Mr. C. M. G. Ogilvie: (a) and (b). The question of the exclusion of certain areas from the Ambala Cantonment is under consideration and no decision has yet been reached.

(c) and (d). Public opinion will be consulted in due course, in accordance with section 4 of the Cantonments Act, 1924, if it is decided to exclude any area from the Cantonment.

SEPARATION OF SADAR BAZARS FROM CANTONMENT AREAS.

1690. *Mr. Badri Dutt Pande: (a) Will the Defence Secretary be pleased to state whether it is a fact that it is proposed to separate a large number of Sadar Bazars of various cantonments in India from the Cantonment areas?

(b) Is it a fact that Lieutenant-Colonel Dowland has been deputed by Government to effect separation of bazar areas from cantonments?

(c) Do Government propose to consult the non-official public opinion regarding the scheme of separation of each bazar from the cantonment? If so, at what stage?

Mr. C. M. G. Ogilvie: (a) The question is under consideration of Government.

(b) No

(c) If and when it has been provisionally decided by Government that any area should be excised from a Cantonment, the necessary action will be taken under sub-section (*1*) of section 4 of the Cantonments Act, 1924.

PAYMENT OF HOUSE ALLOWANCES TO EXECUTIVE OFFICERS IN CANTONMENTS.

1691. *Mr. Badri Dutt Pande: (a) Will the Defence Secretary be pleased to state whether it is a fact that house allowance to cover rent of bungalows occupied by Executive Officers for their personal residence, out of Cantonment funds is neither allowed by the Act nor the rules framed thereunder?

(b) Is it also a fact that after the Amendment Act, the Executive Officers in some cantonments have debited house allowance to Cantonment Funds?

(c) Is it a fact that the Inspecting Officers (now styled as Deputy Directors) have sanctioned the payment of such allowances?

(d) What steps do Government propose to take to arrange the refund of house allowances paid so far out of Cantonment Funds and stop such future payments?

Mr. C. M. G. Ogilvie: (a) No Under the Cantonments Executive Officers Service Rules, a house allowance may be granted by the Board with the previous sanction of the Central Government

(b) to (d) The Boards in some cantonments with the sanction of the Officer Commanding-in-Chief, the Command, rented accommodation for the residence of their Executive Officers and charged them 10 per cent. of their pay, meeting the balance from the Cantonment Fund This was done under a misapprehension that they possessed such power under section 117 of the Cantonments Act Necessary instructions have been issued to clarify the position, and for the amounts paid to be refunded Government are, however, prepared to consider individual cases in cantonments where it is difficult for the Executive Officer to obtain suitable accommodation within his means

EXEMPTION FROM INCOME-TAX OF THE INCOME OF CERTAIN INDIGENOUS HILLMEN IN ASSAM.

1691A. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Finance Member please state.

(a) with regard to Article (36) of paragraph 17 of Part III of the Income-tax Manual, the reason behind exempting income of indigenous hillmen,

(b) whether the hillmen of the Khasi hills district or of the municipality of Shillong, which includes non-British territories, are subject to income-tax;

(c) whether Government intend to remove the exemption from hillmen of at least, the Jowai sub-division and the Garo hills, and

(d) whether there are "Hillmen" in other parts of Assam who are not exempted from Income-tax?

The Honourable Sir James Grigg: (a) The exemption was granted because an attempt to assess these hillmen might lead to undesirable complications.

(b) The Khasi hills district is not included in the exemption nor is the Indian Income-tax Act applicable to non-British territories.

(c) No.

(d) Government have no information

MILITARY FORCES STATIONED IN ASSAM.

1691B. *Mr. Brojendra Narayan Chaudhury: Will the Defence Secretary please state

(a) whether, within the last two years, any additions have been made in the forces stationed in Assam; if so, at what stations and how many and of what class, and the reasons therefor;

(b) whether any new expenditure has been incurred on building or extension of military stations; if so, where and how much;

(c) whether any additions of the description given in part (a) have recently been made, if so, the nature of the additions and the reason;

(Assam Rifles is included in the connotation of the terms 'forces' and 'military' in this question),

(d) whether anything of the nature mentioned in parts (a) and (b) is contemplated in the near future; if so, the reasons;

(e) the number of combatant forces now stationed in Assam; of these, how many are Gurkhas;

(f) whether Gurkhas are largely recruited from those settled in Assam; and

(g) the distinction between a Nepali and a Gurkha, how one is sorted out from the other in recruitment?

Mr. C. M. G. Ogilvie: (a) So far as the Assam Rifles are concerned, during the last two years there has been no major change in their composition and the buildings connected with that force. As regards the military forces, the replies are as follows:

As a result of the Quetta earthquake in 1935, it was decided for administrative and economic reasons, to locate in Shillong four Gurkha training companies which were previously located in Baluchistan.

(b) Yes Accommodation for four Gurkha training companies, and for the families of two Gurkha battalions, normally located in non-family stations, is being provided at Happy Valley, Shillong, at an estimated cost of Rs 22,05,264 The work is in progress and is expected to be completed by November, 1939

(c) No

(d) No further increase to the garrison is contemplated.

(e) The active units of the Indian Army located in Assam are two Gurkha battalions

(f) No.

(g) All residents of Nepal are Nepalis and are commonly known as Gurkhas, but Gurkhas settled in India as British subjects are not Nepalis. Both are recruited

THE INDIAN INCOME-TAX (AMENDMENT) BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim): The House will now proceed with the consideration of the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee. Clause 9, as amended, was before the House, and the amendment under consideration was amendment No. 246* by Dr Banerjea The Chair understands that two more amendments have now been circulated, one by Mr. Chambers and Mr Sheehy, and the other by Dr Banerjea. What does Dr Banerjea propose to do with his amendment?

Dr. P. N. Banerjea (Calcutta Suburbs· Non-Muhammadan Urban): I want to withdraw my amendment.

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

Mr. President (The Honourable Sir Abdur Rahim). There are now two amendments in respect of the same matter. The Chair understands that the one that the Government propose to move has a very large measure of support The Chair will allow that to be moved

Mr. S. P. Chambers (Government of India Nominated Official) Sir, I move

"That in part (*iii*) of sub-clause (*a*) of clause 9 of the Bill, to the proposed clause (*viii*) there be added .

'or where the property is let out in parts that portion of the net annual value, after deducting the foregoing allowances appropriate to any such part which is proportional to the period during which such part is wholly unoccupied' "

*"That in part (*iii*) of sub-clause (*a*) of clause 9 of the Bill, in the proposed clause (*viii*), after the words 'the property is wholly' the words 'or where the property is let out in parts, partly' be inserted"

I understand that that meets the wishes expressed yesterday evening and if so, I have nothing further to add.

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

"That in part (iii) of sub-clause (*a*) of clause 9 of the Bill, to the proposed clause (viii) there be added .

'or where the property is let out in parts that portion of the net annual value, after deducting the foregoing allowances appropriate to any such part which is proportional to the period during which such part is wholly unoccupied' "

Dr. P. N. Banerjea: The substance of this amendment is the same as my amendment, and I have no intention to go against it. I support it in that form.

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

"That in part (iii) of sub-clause (*a*) of clause 9 of the Bill, to the proposed clause (viii) there be added :

'or where the property is let out in parts that portion of the net annual value, after deducting the foregoing allowances appropriate to any such part which is proportional to the period during which such part is wholly unoccupied'."

The motion was adopted.

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

"That sub-clause (*b*) of clause 9 of the Bill be omitted "

Under the present Act, the words are

"Provided that, where the property is in the occupation of the owner for the purposes of his own residence, such sum shall, for the purposes of this section, be deemed not to exceed ten per cent of the total income of the owner "

By the deletion of this clause the annual value of a house is to be considered for the purposes of income-tax and if a person happens to receive by inheritance a large building in which he is living and his income may be nothing, in that case even though he has got no income he will be liable to income-tax. That is not the proper way of taxing a person who happens to live in a large house which he has inherited and this provision should be retained

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

"That sub-clause (*b*) of clause 9 of the Bill be omitted "

Mr. J. F. Sheehy (Government of India · Nominated Official): Government are not prepared to oppose this amendment.

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

"That sub-clause (*b*) of clause 9 of the Bill be omitted."

The motion was adopted.

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

"That clause 9, as amended, stand part of the Bill"

The motion was adopted.

Clause 9, as amended, was added to the Bill.

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

"That clause 10 stand part of the Bill"

Qazi Muhammad Ahmad Kazmi: Sir, I move.

"That in part (ii) of sub clause (b) of clause 10 of the Bill, in the proposed proviso, all the words beginning with the words 'in any case for any interest' and ending with the words 'or tax has been deducted under section 18, or' be omitted"

In proposing this amendment, I would draw the attention of the House to page 16 of the comparative list. The principle enunciated by the present Act is that any interest or any salary that is paid without British India will not be allowed to be deducted as expense from the income, unless the tax has been paid on that amount or the tax has been deducted under section 18 So what we want is that either the person who receives that interest or salary, without British India, should pay the tax on it or the person who is paying it will have to pay the tax on it if the tax is not deducted under section 18. Now this principle had to find a place in about five places One, you will find it on page 16. Then again on page 9 we find under section 10, sub-section (*a*)

"any allowance in respect of a payment which is chargeable under the head 'Salaries' if it is payable without British India and tax has not been paid thereon nor deducted therefrom under section 18"

We again find a reference to it on page 23 in clause 12, sub-clause (*e*) and clause 12, sub-clause (*c*) Then again the same principle is to be found in section 9 on page 14 My idea is that instead of enunciating the same principle in various provisions of the Bill, it must be enunciated as a definite principle in a definite section and I have made a proposal which stands in my name in the list as No 294, in which I say that:

"whoever pays any sum of money such as salaries, interest on securities or on other loan not being a loan issued for public subscription before the 1st April, 1938, for which allowance is given in calculating the income under sections 9, 10 and 12 of the Act to a person not resident in British India shall not get an allowance for such a sum or sums under the said sections unless tax has been paid on such sum or deducted under section 18"

If we incorporate this one section, then we shall be able to delete the repetition of this particular principle in five different places in the Act which only adds to the confusion. I may also submit that yesterday I had moved an amendment as regards the words "without British India" as meaning as a person not resident in British India The clause I am suggesting now says "a person not resident in British India", but this can be suitably amended in such a form as to say that the interest is payable without British India So it is only for the sake of simplification I think that this, along with the other clauses, may be omitted and they should be consolidated in one section as section 12-B That is the reason that I am moving this amendment No. 254 for the omission of this clause. I am not opposed to this on principle but I say that this clause, along with the other clauses which repeat the same

principle, should be consolidated in one place and should not be interspersed throughout the whole Act.

Mr. President (The Honourable Sir Abdur Rahim). Amendment moved

"That in part (ii) of sub clause (*b*) of clause 10 of the Bill, in the proposed proviso, all the words beginning with the words 'in any case for any interest' and ending with the words 'or tax has been deducted under section 18, or' be omitted."

Mr. S. P. Chambers: Sir, I oppose this amendment although it is only a drafting amendment. The first point I would like to draw the attention of the House to is that the Honourable Member said that yesterday he moved an amendment under No 236 but, according to my recollection and according to my record, he did not move that amendment and, therefore, these other amendments become I won't say irregular but somewhat inconsistent May I first ask whether amendment No 236 was moved and passed by this Assembly; if not, the Honourable Member may wish to withdraw his motion

Mr. President (The Honourable Sir Abdur Rahim) It was not moved

Mr. S. P. Chambers: May I ask whether the Honourable Member in these circumstances would prefer to withdraw the amendment under No 254?

Qazi Muhammad Ahmad Kazmi: Not moving that amendment would not mean that this is inconsistent with not moving it—because I may just explain that what I want is the consolidation of the principle If it is consolidated, the other thing will go away of itself The thing is repeated in five places, if I did not move the deletion of it in one place, I have a right to move the deletion with regard to the remaining four places

Mr. S. P. Chambers: I will deal then with the drafting point that the Honourable Member has made His intention is to take this principle as it is called from five places and to put it in one place, which I think is a very desirable thing if it can be accomplished without upsetting the general scheme of the Act, but the scheme of the Act is not to allow any deduction from the total income in respect of interest or other payments which are allowable but to make specific deductions in each section from nine to twelve for those sums which are to be allowed It is, therefore, necessary I think to provide specifically in each section which sums should be allowed and which sums should not be allowed. The manner in which, if we attempt to group them together, the matter becomes obscure in the end is I think made clear in the Honourable Member's amendment under No. 294 He says there, "whoever pays any sum of money such as salaries, interest on securities or on other loans" Now, I submit that "any sum of money such as salaries" in a general clause which is intended to relate to a number of other clauses is not so clear in a taxing statute as to state specifically under each section exactly what we want to allow or do not want to allow. For these reasons I oppose the amendment.

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

"That in part (ii) of sub-clause (*b*) of clause 10 of the Bill, in the proposed proviso, all the words beginning with the words 'in any case for any interest' and ending with the words 'or tax has been deducted under section 18, or' be omitted "

The motion was negatived

Babu Baijnath Bajoria (Marwari Association Indian Commerce) Sir, I move

"That in part (ii) of sub-clause (*b*) of clause 10 of the Bill, in the proposed proviso, after the words 'deducted under section 18' the words 'or in respect of which there is an agent in British India who may be assessed under section 43' be inserted."

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved·

"That in part (ii) of sub clause (*b*) of clause 10 of the Bill, in the proposed proviso, after the words 'deducted under section 18' the words 'or in respect of which there is an agent in British India who may be assessed under section 43' be inserted."

The Honourable Sir James Grigg (Finance Member) As this is consequential on a previous amendment which the House has already accepted, I am quite agreeable, if the House so desires, that this should be accepted.

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

"That in part (ii) of sub-clause (*b*) of clause 10 of the Bill, in the proposed proviso, after the words 'deducted under section 18' the words 'or in respect of which there is an agent in British India who may be assessed under section 43' be inserted."

The motion was adopted

Mr. K. Santhanam (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) Sir, I move

"That in part (ii) of sub-clause (*b*) of clause 10 of the Bill, in the proposed proviso, for the word 'firm' the words 'an unregistered firm' be substituted "

I think, Sir, that the general word 'firm' has no meaning in this particular place, because, on page 35 of the Bill, we find that

"(*a*) in the case of a registered firm, the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed."

Again, under section 16, they have given a formula for determining how to allocate the profits of a registered firm among the partners Therefore, as a registered firm is not itself assessed, as the formula for dividing the profits among the partners of the registered firm is prescribed, there is no meaning in stating here that the interest paid to a partner of the firm should not be included There is no meaning at all here for the word 'firm' which can have its application only to an unregistered firm I do not want to make an elaborate explanation of it, but even now it can have application only to an unregistered firm, and I only want to make it precise and, therefore, I move my amendment

Mr. President (The Honourable Sir Abdur Rahim). Amendment moved.

"That in part (ii) of sub-clause (*b*) of clause 10 of the Bill, in the proposed proviso, for the word 'firm' the words 'an unregistered firm' be substituted."

Mr. S. P. Chambers: Sir, I oppose this amendment. I think the Honourable Member and I are in the same position in that we want the

same result Here, again, the amendment is a drafting amendment. The intention is this and I think when I have explained it it will be clear that the words do, in fact, carry out this intention. First, the whole of the profits of a registered firm have to be ascertained and, in arriving at the whole of those profits, all interest paid to the partners of that registered firm is disallowed Then, having disallowed that interest, the assessment is not made on the firm but the profit, including the interest, is then divided up between the partners and assessed on each of the partners of the registered firm separately Well, to arrive at the gross figure to be divided, we must disallow the interest payable to the partners Therefore, we require in this proviso the word 'firm' to include a registered firm, so that we may divide the gross amount and not the net amount I think the only effect of the amendment which has been moved is that the interest would be given as a deduction to the firm and then the interest would have to be assessed on the partners receiving the interest as a separate source of income under section 12, and that, I think, is a much more cumbersome manner of dealing with it than the manner provided, that is to say, to take the total profits of the firm whether those profits have been divided as salary or interest and having arrived at that total profit, it can be then be divided in accordance with the terms of the partnership deed I submit that the clause carries out that effect

Mr. K. Santhanam: Sir, I do not want to press my amendment and I beg leave of the House to withdraw it

The amendment was, by leave of the Assembly, withdrawn

Maulvi Abdur Rasheed Chaudhury (Assam Muhammadan) Sir, I beg to move.

"That part (iii) (*a*) of sub-clause (*b*) of clause 10 of the Bill be omitted."

Sir, the written down value has been substituted in this Bill in place of the original cost for the purpose of calculation of depreciation The existing system of calculating the depreciation on the original first value has been going on for the last 17 years, and the Department and the assessees are both accustomed to this system of calculation In the new system, which has not been explained yet, the proportion of the depreciation has not yet been fixed So, it is very difficult to understand what the position of the amount of depreciation will be under the new system in comparison with the old system In the general discussion, only one point has been made clear, and it is this that if the depreciation of a year is not covered by the profit of that year, then it can be carried over to succeeding years This point has been made clear. But, Sir, what is the difference between the written down value and the original cost, so far as the calculation of depreciation is concerned, has not been explained thoroughly I take an example to explain what I have got in my mind Take, for instance, an assessee who has purchased a second-hand machinery for Rs 300. Under the existing system, he will be allowed a depreciation of 5 per cent or Rs. 15 a year, and the Department and the assessees are both accustomed to this calculation. Now, let us apply the written down value system to it. Let us suppose that that machinery was purchased in the year 1930 and, during the course of the past eight years, a sum of Rs. 120 at the rate of Rs. 15 per annum had already been allowed us depreciation. Now, what I understand by this written down value is that the original cost of Rs. 300 minus Rs. 120 already allowed as depreciation will be the written down value..

[Maulvi Abdur Rasheed Chaudhury.]

Now, Sir, the proportion of this depreciation has not yet been fixed in this Act Now, if, for instance, five per cent is allowed as written down value, then it makes a little difference, but if the proportion is more than five per cent or less than five per cent then it makes a great deal of difference If the percentage of depreciation allowed is, say, at the rate of 10 per cent, then it will continue only till the year which is arrived at by dividing 280 by 28 That is, ten years That is, at the end of 10 years, the depreciation will end In other words, the Income-tax Department will not give any depreciation to the machinery at the end of 10 years That means that at the end of 10 years, this machinery will have to be discarded and a new one will have to be purchased It is certainly not advantageous to the Indian industry Then, Sir, if the depreciation is less, say two per cent, it will affect the industries at the worst, because, the older the machinery the higher the expenses required to keep it in proper working order If the depreciation is allowed at two per cent, on the written down value, then the machinery cannot be kept in proper working order with this depreciation So the industry will suffer

Another point which Mr Chambers raised while speaking on the general discussion is that it is very difficult to calculate the depreciation on the original cost basis He apparently meant that the calculation of depreciation on written down value will be much simpler I for myself do not see how it will be simpler At present five per cent depreciation allowed is very simple to calculate Take, for instance, if 2½ per cent. or three per cent is allowed as depreciation on the written down value of Rs 280. Then, it will be much harder to calculate at the rate of 2½ per cent on Rs 280 than at five per cent on Rs 300 I do not understand how it will be simple Then, again it has not been explained who will keep this depreciation value· whether the Income-tax Department or the assessee If this account is maintained by the Department it will be a very cumbersome method, and it will add a good deal to the work of the Department If it is to be kept by the assessee, that means he will have to keep a regular establishment of clerks, record room, and so on, which the assessee cannot afford The whole matter is going to be complicated by changing the system of original cost to written down value In this connection, I should like to read what the Indian Chambers in their Memorandum said·

"We learn that the excessively high rates required by the adoption of this basis may not be allowed The only result will be that the aggregate allowance made on account of depreciation under the inadequate rates will fail to cover the total depreciation in value undergone by the assets Nothing more can be so ruinous to industry as such a contingency"

So, Sir, the more I look at it from our point of view the more I find that the written down value system will be a very complicated system which will not be so much to the advantage of Indian industry as the original cost system is Sir, I move

Mr. President (The Honourable Sir Abdur Rahim)· Amendment moved.

"That part (iii) (a) of sub-clause (b) of clause 10 of the Bill be omitted"

Mr. Bhulabhai J. Desai (Bombay Northern Division· Non-Muhammadan Rural) Sir, I wish to explain the position of the Select Committee in this matter lest there should be any misunderstanding about it. The provisions of this Bill in so far as they affect the depreciation have

undergone a considerable amount of alteration during the course of the discussion in the Select Committee, and I have no desire to repeat what I said on a previous occasion during the course of the general discussion. But lest there should be any misunderstanding, I beg leave to say a few words in reference to what fell from my Honourable friend, Mr. Abdur Rasheed Chaudhury. It is not denied that if, as a mere matter of rule of thumb and simplicity, the proportion of the original cost is easy to work That I do not at all deny At the same time, I must confess that if the machinery worth, say, Rs 100 depreciates in a year's time for which ten rupees are allowed, in the next year it will be a depreciated article and not the original article, so that, from the assets point of view, I cannot possibly deny the correctness of the method of written down value as to how much you should allow for the first and the subsequent years. As was stated during the course of the Select Committee and, later on, in the House, that there the rates would be so fixed as would not work any hardship As regards what my Honourable friend said about the difficulty of getting the machinery and the cost of keeping the machinery in order as it goes on depreciating, I may point out that there is a certain amount of misapprehension about it Of course, any ordinary repair does not come into this at all It is the replacement value which is the objective of allowing depreciation I am also aware that from the point of view of pure mathematics—I do not see my Honourable friend, Dr. Sir Ziauddin Ahmad, here—it is true that as the written down value becomes less and less, you do not get to the same result so quickly as you would in the case of the ordinary simple method, we shall say five per cent each year or at the end of 20 years, you get 100 per cent This is the other safeguard which my friend the industrialist will remember There is a provision in the Bill whereby supposing you come to a stage where it is not worth while repairing at all and you sell it as a scrap, then the difference between the then written down value and the value of the scrap is also allowed Therefore, the net result of this, in my humble submission, is that though the system of calculation might be simpler, there is no real or substantial loss to the industry I do not deny that probably the other one gives them an opportunity of setting aside sufficient sum of money or perhaps a slightly less period of time than he is giving to day That, I do not for a moment deny, but, on the whole, between the two proposals which were put forward, we had to come to some agreement, and I confess that the agreement in the light of the explanation that I have given is one which I commend to the House

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

"That part (iii) (*a*) of sub-clause (*b*) of clause 10 of the Bill be omitted"

The motion was negatived.

Mr. Manu Subedar (Indian Merchants' Chamber and Bureau Indian Commerce): Sir, I beg to move:

"That in clause 10 (*b*) of the Bill, to part (iii) (*a*), the following words be added at the end:

'This provision shall not come into force until the 1st April, 1940'"

I do not wish to detain the House long over this amendment. The Honourable the Finance Member will recognise that this is not a mangling amendment and it does not go counter to the understanding in the Select

[Mr. Manu Subedar]

Committee As a matter of fact it only seeks to carry out explicitly what is provided implicitly in the Select Committee's Report I will read from that Report which says:

"Government have given us an assurance that the new rates consequent on the changes from the cost basis to the written down basis will be discussed with the interests concerned before they are fixed and that the new provisions will not be brought into operation until the rates have been so fixed"

Now, Sir, as the Finance Member himself mentioned in his speech, the fixing of these rates is not a simple matter It is a long schedule which affects all classes of goods They will affect the two additional items which the Select Committee have now included The working life of every kind of asset is not the same, and while it is not possible to exhaust them all, the income-tax authorities have to fix the rates in respect of different types of machinery in different industries working under different conditions and with different kinds of assets. This, Sir, is going to take a considerable amount of time and my submission in moving this amendment is that while this is being done, the old system should continue In any case it will continue probably much beyond the period which I am urging I am urging up to the 1st April, 1940, but it is quite probable that it may continue a year beyond, in which case we shall look to the assurance signed by Sir James Grigg that until the rates are definitely fixed in consultation with the industries the new system will not be brought into vogue.

Now, Sir, another advantage of interposing this period is that those who are not familiar with this type of system of working out figures will get a little breathing time when they will have to work out the running of the plant of perhaps 15 or 16 years earlier, and all this will entail on their part a considerable amount of research and activity, and I think it is only fair that this period should be allowed Sir, I make bold to say that the Finance Member is not going to lose any money by the provision which I am urging and I, therefore, trust that he will accept this amendment Sir, I move

Mr. President (The Honourable Sir Abdul Rahim) Amendment moved.

"That in clause 10 (*b*) of the Bill, to part (iii) (*a*), the following words be added at the end

'This provision shall not come into force until the 1st April, 1940' "

Sir H. P. Mody (Bombay Millowners' Association Indian Commerce) Sir, I desire to support this amendment The original provisions in the Bill were strongly objected to by industrialists because they sought to substitute the present system, which had worked very well on the whole, by a new system which it was anticipated might present considerable difficulties in working I am free to confess, however, that the Select Committee has greatly improved upon the provisions as they were embodied in the Bill That does not mean that we prefer even the improved provisions of the existing system. But we recognise the improvement, and all that we say is that we must be given some time for adjusting matters to the new system It is very difficult, in practice, to arrive at the written down value of a particular piece of machinery, and

I anticipate that the Income-tax Departments in the various provinces will have to get together with industrialists and come to some sort of arrangement for assessing new units. The value at which machinery stands in our books has been based upon the system as it has obtained for all these years. Now, it may be that particular pieces of plant will have to be assessed in a particular sort of way under the new system That is all going to take a very considerable time and it will be also a matter for discussion with the income-tax authorities If you bring these provisions into effect immediately one result will be that you will be, in effect, giving a retrospective effect to one particular provision in the Bill; and in view of the considerable difficulty which will be experienced in working the new system I hope Government will be prepared to consider this amendment favourably After all it is not asking for much; we are just asking for time to adjust our books and put them into proper order and see that the various calculations which have got to be made in order to conform to the new system can be made with some sort of accuracy, and can be depended upon to be fair both to the Income-tax Department and to the assessees Sir, I support the amendment.

The Honourable Sir James Grigg: Sir, as far as I understand it, there are two questions at issue here, and two quite distinct questions One is, the undertaking given by Government that the new rates should in no case be fixed and brought into operation until they had been discussed with the interests concerned The other point is a very different point and I understand both Honourable Members to raise this second point that books and machinery accounts are kept on the prime cost basis and that they have to record every individual piece of machinery as there is no block machinery account Therefore, arriving at the written down value is a matter of some little research and so, in order that the books may be got on to the proper basis, the provision should be postponed anyhow As far as the first point is concerned, certainly I have every intention that the pledge that I gave should be maintained, that these new rates, under the new system, shall not be introduced until the proposed rates have been discussed with the interests concerned I propose in any case to give an assurance that if it became clear that that involves a postponement of the operation of this particular provision in the year, I will introduce an amendment to that effect in the Council of State But I gather that is not enough There is a question of getting the books altered and the Honourable Members want a postponement anyhow. I think there is a good deal to be said for that I am advised, however, that the amendments which are down on this subject are not suitable for doing that, and what I suggest to Honourable Members is that they should not press their amendments here and now. In return for that I will give an undertaking that a suitable amendment shall be introduced if not here then in the Council of State. If Honourable Members are prepared to accept that assurance and withdraw their amendments I should be grateful

Mr. Bhulabhai J. Desai: Sir, I may point out to my Honourable friend that the amendment which is now under discussion and the next amendment standing in the name of Mr. B. Das cover everything that is wanted, because, in so far as this amendment is concerned, it only seeks to postpone the operation of the method of written down value to be employed by a year. As to the next amendment also, we have come to an agreement on

[Mr. Bhulabhai J Desai]

that question Anything that is not provided for up to 1939 was to be taken as the basis and be added to the next year's depreciation, and on that the percentage was to be taken Therefore, the second amendment deals with the unprovided for depreciation That also will be postponed by a year, but the result of both these amendments would be to exactly carry out what my Honourable friend desires; and, instead of a promise, I would rather have the fulfilment

The Honourable Sir James Grigg: I am not a draftsman, and even if these amendments are in themselves in the most perfect of all possible forms, I understand that other amendments are required in addition, and in what place the other amendments come I am unable to say All I say is that the principle is accepted, and I will undertake in some place or other to see that it is done

Mr. Manu Subedar: I am thankful to the Honourable the Finance Member for the assurance, and, in view of that assurance, I beg leave of the House to withdraw this amendment

The amendment was, by leave of the Assembly, withdrawn

Mr. B. Das (Orissa Division Non-Muhammadan) Sir, I will not move my amendment in view of the assurance, but I hope the Honourable Member will consult my Leader if he moves that in the other House

The Honourable Sir James Grigg: I will give that assurance too

Babu Baijnath Bajoria: Sir, I move

"That in part (*iv*) of sub-clause (*b*) of clause 10 of the Bill, after the provisos to the proposed clause (*viii*) the following further proviso be added:

'Provided also that in no case however the loss or profit computed in the circumstances above stated would be taken into account if the provisions of section 26 (*2*) are applicable thereto' "

I would like to draw the attention of the House to the proviso to clause (c) of sub-section (*5*) in sub-clause (*c*) of this clause where it is provided that the actual cost to the assessee will be the actual cost to the person succeeded in the business, profession or vocation In view of that proviso, I think it is desirable that the predecessor seller should not be taxed on the excess value received for his plant and machinery or should not be allowed to deduct his loss arising out of such a sale if the successor buyer is to be allowed depreciation only on the cost of the seller It is just to make the two provisions uniform and on the same basis that this amendment should be accepted

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

"That in part (*iv*) of sub-clause (*b*) of clause 10 of the Bill, after the provisos to the proposed clause (*viii*) the following further proviso be added:

'Provided also that in no case however the loss or profit computed in the circumstances above stated would be taken into account if the provisions of section 26 (*2*) are applicable thereto' "

Mr. S. P. Chambers: Sir, I oppose this amendment, not in principle but because I think here again the words of the Bill already carry out the intention, and I do not think the Honourable Member intends anything else Section 26 (*2*) of the Act, which is referred to in the amendment,

deals with succession and the section is worded so that each person whether he is in partnership or not is assessed in respect of the actual profits or losses which he himself incurs If he makes a profit he is assessed in respect of that profit; if he makes a loss he and only he under the carry forward of losses section can carry forward the loss For that reason I cannot, for the moment, see that this amendment has any effect at all. I think the intention is already carried out

Babu Baijnath Bajoria: In view of the explanation given by the Honourable Member, I would beg leave of the House to withdraw the amendment

The amendment was, by leave of the Assembly, withdrawn

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot Non-Muhammadan Rural) Sir, I move:

"That after part (*v*) of sub-clause (*b*) of clause 10 of the Bill, the following new part be inserted and the subsequent parts be re-numbered accordingly

'(*vi*) after clause (*viia*) the following clause shall be inserted, namely:

'(*viib*) any expenditure (not being in the nature of capital expenditure) made definitely for the benefit of the employees or the dependants of those employees;' "

By this clause I want that money spent for the benefit of employees of an industrial concern should be allowable as a deduction It is already allowed in a certain measure under sub-clause (*ix*) where it says·

"any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits or gains"

Such expenditure is to a certain extent already allowed, but there is a lacuna in practice I read from the Income-tax Manual In that, curiously enough, if a whole school or a whole hospital is established by an employer and if money is spent in pursuance of that hospital or school, the money is allowed, but if an employer contributes towards the expenditure of a hospital which attends to the employees of his own concern, it is not allowed Para. 64 of the Manual says

"No contributions towards expenditure incurred by outside bodies which may benefit the employees of a company or firm incidentally with members of the general public, should be allowed, such as contributions for the support of clubs, recreation grounds, religious institutions, dispensaries, hospitals, schools and the like If, on the other hand, an assessee maintains a school or a dispensary solely for the benefit of his employees reasonable expenditure on the upkeep of such an institution should be allowed as a working expense"

This matter has been referred to in the Income-tax Enquiry Committee's Report and they have found that this lacuna should be removed They say:

"Para 64 (iv) of the Income-tax Manual lays it down as a principle that whilst expenditure for the maintenance by an employer of a hospital, school, etc, provided by him solely for the benefit of his employees is allowable, no allowance is to be made for contributions by an employer for the benefit of his employees to outside bodies providing similar services There seems to us to be no justification for this distinction and we recommend that payments made by employers definitely for the benefit of their employees or the dependants of those employees should be allowed, with of course the exclusion of subscriptions to such bodies for capital purposes."

If I may explain from actual experience I come from an industrial area—Coimbatore—where there are many mills, big and small But few mills have the capacity and monetary convenience to establish separate hospitals by themselves for the convenience of their employees. They can at best only contribute towards hospitals which cater to the convenience

[Mr T. S Avinashilingam Chettiar.]

of their employees and I do think that this recommendation of the Income-tax Enquiry Committee should be accepted and this amendment seeks only to put it into law Sir, I move

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

"That after part (v) of sub-clause (*b*) of clause 10 of the Bill, the following new part be inserted and the subsequent parts be re-numbered accordingly :

'(*vi*) after clause (*viia*) the following clause shall be inserted, namely .

'(*viib*) any expenditure (not being in the nature of capital expenditure) made definitely for the benefit of the employees or the dependants of those employees;' "

The Honourable Sir James Grigg: Sir, I think the Honourable Member has drawn a wrong inference from the passage in the Inquiry Committee's Report to which he has referred My reading of that paragraph is, not that welfare expenditure is not allowable under the law, so that the law should be amended, but that an unusually narrow interpretation of the law has been adopted in practice by the Income-tax authorities, and the recommendation was that instructions should be issued that the Income-tax officers should adopt a more generous attitude I can assure the Honourable Member that any general welfare expenditure for the benefit of employees is allowed, and if there is any doubt about that I am quite willing to remove the doubt or to make the assurance doubly sure, by repeating the instructions The Honourable Member goes on and carries it a little further Any expenditure made for the benefit of the employees or the dependants of the employees . . .

1 P.M

Mr. T. S. Avinashilingam Chettiar: All the words were taken wholesale from the Report of the Income-tax Enquiry Committee

The Honourable Sir James Grigg: But the wording in a general recommendation is not necessarily the same as a legal document, and as far as the last words—'of the dependants of those employees' are concerned, I think the amendment would go a little too far and cover expenditure which ought not to be allowed Contributions towards family pensions and that sort of thing should be covered by an authorised superannuation fund, and such contributions are allowed if they are made to an approved superannuation fund, but I don't think we ought to go beyond that in the matter of expenditure set aside for the dependants of employees I hope after that explanation the Honourable Member will not press his amendment

Mr. N. M. Joshi (Nominated Non-Official) Sir, I would like to support this amendment In India the employers are not very keen to set apart funds of this nature, but if there are any, I should like to encourage them by supporting this amendment. I don't understand what the Honourable the Finance Member said about not making allowance for monies spent for the dependants of the employees I do not know why that should not be done There are occasions when the dependants of employees need help, and that help should be given by the employees He said that allowance can be given if the funds are registered or recognised or some such thing I am in favour of registered funds, but if the funds are not registered, why should not allowance be given if the money is contributed to recognised funds in an honest manner? I, therefore, support this amendment, and I hope the House will accept it

The Honourable Sir James Grigg: Does the Honourable Member mean, would we allow expenditure on the education of children, for providing schools for the children of workmen, and so on? That would certainly be allowed . . .

Mr. N. M. Joshi: Pensions for widows?

The Honourable Sir James Grigg: So long as the contributions are made to an approved fund, but the wording of the mover would cover contributions to a fund which is not an approved fund, and, therefore, I think the words are too wide As far as the real needs are concerned, they are fully met under the existing law, but they have been rather narrowly observed in practice, and I give him and the House the assurance that the practice shall be liberalised

Sir Cowasji Jehangir (Bombay City Non-Muhammadan Urban): Sir, there are many companies and individuals who have not got these recognised funds, but who would like to give pensions to the widows of their employees and such cases are not rare Pensions are given to widows for very meritorious services rendered by the employees so that the widows may be maintained during the minority of their children Does the Honourable the Finance Member mean to tell me that that would be excluded? It is not excluded till now . .

The Honourable Sir James Grigg: No, all I say is that contributions towards unapproved funds would be included under this amendment I could not give a complete list of what is included or excluded. All I say is the wording goes further than is wise and that everything allowable can be given under the existing law, and we will take steps to see that it is observed liberally

Mr. President (The Honourable Sir Abdur Rahim) Does the Honourable Member want to say anything?

Mr. T. S. Avinashilingam Chettiar: Sir, I beg leave of the House to withdraw the amendment

The amendment was, by **leave of the Assembly**, withdrawn.

Mr. Sami Venkatachelam Chetty (Madras: Indian Commerce) Sir, I move:

"That in part (*vi*) of clause 10 (*b*) of the Bill, for the proposed clause (*xi*) the following be substituted :

'(*xi*) such sum in respect of bad and doubtful debt as is determined in the following manner .

(*a*) in respect of bad debt, whenever the debt arose, there shall be deducted so much of the debt as is discovered in the accounting period to have become bad;

(*b*) in respect of a doubtful debt, whenever the debt arose, there shall be deducted so much of the debt as is estimated in the accounting period to have become irrecoverable :

Provided that where in any accounting period a deduction under this section is to be made as regards any particular debt and a deduction has, in any previous accounting period, been allowed in respect of the same debt, the appropriate reduction shall be made in the deduction to be allowed in the accounting period in question :

Provided further that if any amounts received or credited on account of any such debt exceed the amount of the debts as reduced by the deductions allowed under the foregoing provisions, the excess received or credited in any accounting period shall be treated as a receipt of the business in that period;'."

[Mr Sahi Venkatachelam Chetty]

Sir, let me at once tell the House that this amendment is an actual reproduction of the recommendation of the Codification Committee's Report. It will be readily conceded that one of the greatest causes of irritation between the Income-tax Department and the assessees is with regard to the calculation of bad and doubtful debts The same has been referred to in the Income-tax Inquiry Report in para 35. The irritation arises from the fact that the assessing officer is given unlimited powers in regard to the calculation of bad and doubtful debts Assessees look for some improvement in this matter, but they find to their disappointment that the modifications made by the Select Committee go to strengthen the powers of the income-tax officers For instance, if you compare the provision made in the amending Bill and that in the Select Committee's Report, you will see that the powers given to income-tax officers have been enlarged, particularly with reference to the debt being incurred in respect of that part of his business in which the debt has been shown in a previous year That is to say, according to my understanding, if any amount has been lost in one particular kind of business, it is only when an assessee profits in that particular line of business, it will be taken into account, and not with regard to the other lines of business that the assessee may be carrying on And also there are a few more words introduced in respect of banking and money lending business particularly It is said that "bad and doubtful debts incurred in that part of the business, and in the case of an assessee carrying on a banking or money-lending business, such sum in respect of loans made in the ordinary course of such business as the income-tax officer may estimate to be irrecoverable" The implication of those words, that is to say, "made in the ordinary course of such business", in respect of a banking or money-lending business is not clear I cannot understand in what extraordinary course an extraordinary debt can be incurred in respect of money-lending or banking business, and it is a matter which requires explanation from the Government Also, as I said, if the power of determination whether a particular debt or part of a debt is bad or irrecoverable is entirely left to the assessing officer, the chances are that the assessing officer will err more on the side of severity than on the side of leniency It may also be said that the assessee will return his debt in his own favour But it has been stated in the Expert Committee's Report, now that you have provided for the losses to be spread over a number of years, the matter is not one which would be as severe as it would otherwise have been. But the same argument may be stated in favour of the assessee If an assessee has over-estimated the debt, it can be discovered by the examination of his account books in a later period Therefore. there is no chance of the assessee escaping by bloating up his bad debts or irrecoverable debts in a particular year, except perhaps to the extent that he might try to come to be assessed on a lower grade of taxation than otherwise, but that is a small difference, and it is just to avoid that kind of thing that we ought not to give large powers to a person who has no means of knowing whether a particular debt is bad, doubtful or irrecoverable, at any rate, no greater means of knowing the situation than the assessee himself. In matters of this sort it is desirable that the assessee must be entrusted with some confidence in regard to the estimation of bad and irrecoverable debts of his own concern I am sure that the Government who are now perhaps anxious to remove the causes of irritation between the Department and the assessee will comply with their own promises by allowing the figures that may be given by the assessee to be accepted by the Department, because

there is no chance of the amount escaping tax since it has got the power of reopening the assessment in a number of years, and also finding out whether a particular debt has become really irrecoverable by a successive examination of the accounts. There is also no scope for the assessee to appeal against such calculations, because no appeal can lie with regard to the findings of fact, and if the assessing officer says that a particular duty is not a bad debt in his opinion, there is no chance for the assessee to appeal against it. Having regard to these circumstances, I desire that this amendment should be accepted.

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

"That in part (*ii*) of clause 10 (*b*) of the Bill, for the proposed clause (*xi*) the following be substituted .

'(*xi*) such sum in respect of bad and doubtful debt as is determined in the following manner

(*a*) in respect of bad debt, whenever the debt arose, there shall be deducted so much of the debt as is discovered in the accounting period to have become bad ;

(*b*) in respect of a doubtful debt, whenever the debt arose, there shall be deducted so much of the debt as is estimated in the accounting period to have become irrecoverable

Provided that where in any accounting period a deduction under this section is to be made as regards any particular debt and a deduction has, in any previous accounting period, been allowed in respect of the same debt, the appropriate reduction shall be made in the deduction to be allowed in the accounting period in question .

Provided further that if any amounts received or credited on account of any such debt exceed the amount of the debts as reduced by the deductions allowed under the foregoing provisions, the excess received or credited in any accounting period shall be treated as a receipt of the business in that period;' "

Mr S P. Chambers: I oppose this amendment, and I think I had better separate the various points made by the Honourable Member so as to clear the issue First of all, there is the question of who should decide whether a debt is bad or not—who should estimate? That I think is the most important point made by the Honourable Member. I think there is less in that point than there appears to be at first sight.

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member may continue his speech after Lunch

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

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

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Mr. S. P. Chambers: I was explaining that there were distinct points made by the Honourable Member on this amendment which is numbered 265. The first was the question as to who should estimate the debt to be bad or doubtful. The Bill, as at present before the Assembly, leaves that to the income-tax officer and it is suggested by the Honourable Member, as I understood him, that this gives him more discretion and more power than he had before. In the absence of any specific provision for the allowance of bad debts, bad debts are allowable and the only person who can

[Mr S P Chambers]

estimate it is the person making the assessment, that is to say, the income-tax officer To that extent, therefore, there is no difference between the existing law and the proposed law The proposed law makes specific what was inherent in the old law Then, as to whether the income-tax officer ought to have that power, I suggest that as there is a right of appeal to the Assistant Commissioner and then in future, if the proposals for a tribunal are accepted, to a tribunal, there is very little in this point that the income-tax officer has been given excessive powers Somebody must estimate the debt and the proper person, I suggest, is the income-tax officer The only other person, of course, who can estimate the debt would be the assessee and the intention is, of course, that in the case where a debt is doubtful the assessee will estimate the extent to which it is doubtful and the income-tax officer will then see to what extent he can accept that estimate when he is making the assessment but the amendment is worded in a manner which would make it necessary, I think, for the income-tax officer, in every case, to accept the estimate of the assessee and that, I submit, is quite improper It amounts to asking the assessee how much tax he wants to pay Part (a) of the amendment reads

"In respect of bad debt, whenever the debt arose there shall be deducted so much of the debt as is discovered in the accounting period to have become bad "

"As is discovered in the accounting period" clearly means "as is discovered by the assessee in the accounting period", because the income-tax officer does not see this matter until the assessment is being made which of course is in the following year. That wording, apart from the objection that it gives the assessee the right to fix the amount of bad debt as high or as low as he likes, is also defective in that it suggests that in both cases [in (a) it is "discovered" and in (b) it is "estimated"] the discovery or the estimate is to be done in the accounting period That is not, I think, even the intention of the mover I think what he really means is that so much of the debt as is bad in the accounting period or as is doubtful in the accounting period, not that the estimate or discovery should be made in the accounting period As worded, it is the estimate which is made in the accounting period and not the debt which is bad in the accounting period That is merely a drafting point but at the same time, apart from drafting, there is this further objection that if the question of estimating a debt to be bad is made a question of fact, which has been done by the assessee in an accounting period, that would preclude the income-tax officer from exercising any judgment whatever and would also preclude the appellate authority from revising anything that the income-tax officer may have done on that point That is the important point I think on the question of estimating the position is not so severe as the Honourable Member imagines There is the right of appeal and if either the income-tax officer or the assistant commissioner fails to apply his mind to the facts, then, there would be a right of reference to the High Court on the ground that the decision was taken without evidence. So, I think the assessee's interests are fully safeguarded in the original clause

Then, the next point made by the Honourable Member was that the wording of the clause of the Bill is obscure. For that reason, I had better explain the wording in detail The words of the clause are

"When the assessee's accounts in respect of any part of his business, profession or vocation are not kept on the cash basis . . "

Then, there should be allowance for bad debt. That part of the clause is intended to prevent a double allowance, where it would arise if the assessee's books are kept on the cash basis Perhaps I can give an illustration. If a merchant who is selling goods is being assessed on the amount he receives from his customers, then no question of bad debts arises and if one deducts from the amounts he actually receives the amounts of debts which he does not receive, we have a double deduction, because we have not included in the receipts or in the income of the business that part of the debt which has subsequently been proved to be bad For that reason where books are kept on the cash basis it is not necessary to have an allowance for bad debts, because when the debt is bad the allowance comes in automatically in the non-inclusion of what otherwise would have been a receipt when the money did actually come in

Then, there is a specific addition made in the Select Committee and the words are underlined in the Bill.

"incurred in respect of that part of his business, and in the case of an assessee carrying on a banking or money lending business, such sum in respect of loans made in the ordinary course of such business"

Mr. Sami Vencatachelam Chetty: In respect of that part of his business?

Mr. S. P. Chambers: If he has several businesses, he may keep part of his books in cash and part on a mercantile basis, as I understand is the common practice in the south of India We are saying that in respect of that part which is kept on the mercantile basis and not on the cash basis, an allowance for bad debts shall be given In respect of that part which is kept on cash basis, no allowance shall be given

Mr. Sami Vencatachelam Chetty: It does not refer to different lines of business?

Mr. S. P. Chambers: The words are quite clear That part of his business means that which is kept on the cash basis Banking and money lending are entirely different matters and have nothing whatever to do with the words 'any part of his business' Where a money lender keeps his books on the cash basis, then we have a set of circumstances which is very different from the circumstances which arise in the case of a man who merely sells goods and whose receipts from the sale of goods constitutes his sole income In the case of a money lender he may bring the interest in on a receipts basis and in respect of that interest clearly no bad debt could be allowed because as in the case of the ordinary merchant the receipts do not include such part of the interest as has not in fact been received But over and above that it is necessary to provide for loss in such cases, not only for the loss of interest but for the loss on the loan on the capital sum itself In other businesses loans and capital sums are not allowable deductions In the case of a bank or money-lending business, these loans or other sums represent part of what might be called trading stock of the business so that in the case of the money lender even if he keeps his books on the cash basis, allowance must be made for so much of the loans as proved to be irrecoverable For that reason these additional words are necessary I think I have met the chief points made by the Honourable Member Sir, I oppose the motion

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

"That in part (vi) of clause 10 (b) of the Bill, for the proposed clause (xi) the following be substituted

'(xi) such sum in respect of bad and doubtful debt as is determined in the following manner

(a) in respect of bad debt, whenever the debt arose, there shall be deducted so much of the debt as is discovered in the accounting period to have become bad,

(b) in respect of a doubtful debt, whenever the debt arose, there shall be deducted so much of the debt as is estimated in the accounting period to have become irrecoverable

Provided that where in any accounting period a deduction under this section is to be made as regards any particular debt and a deduction has, in any previous accounting period, been allowed in respect of the same debt, the appropriate reduction shall be made in the deduction to be allowed in the accounting period in question

Provided further that if any amounts received or credited on account of any such debt exceed the amount of the debts as reduced by the deductions allowed under the foregoing provisions, the excess received or credited in any accounting period shall be treated as a receipt of the business in that period,' "

The motion was negatived

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor Non-Muhammadan Rural) Sir, I beg to move

"That in part (vi) of sub-clause (b) of clause 10 of the Bill, in the proposed clause (xi), for the word 'incurred' occurring in the fifth line, the words 'due to the assessee' be substituted"

Sir, in the same clause which makes allowances for bad and doubtful debts, there is an error which has crept in and the language used there is not happy

"when the assessee's accounts in respect of any part of his business, profession or vocation are not kept on the cash basis such sum in respect of bad and doubtful debts incurred in respect of that part "

If "incurred applies to the word "sum", it is not quite proper On the other hand the word has crept in on account of the last words "doubtful debts" in the place of the word "incurred" I, therefore, should like to introduce the words "due to the assessee" in which case it will apply to the sum which has gone in advance and which also relates to "such sum" which comes later on This is purely formal with a view to clearing some doubts that might arise otherwise Sir I move

Mr. Deputy President (Mr Akhil Chandra Datta) Amendment moved

"That in part (vi) of sub-clause (b) of clause 10 of the Bill, in the proposed clause (xi), for the word 'incurred', occurring in the fifth line, the words 'due to the assessee' be substituted"

The Honourable Sir James Grigg: Government have no objection, if the House desires, to accept this amendment.

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

"That in part (vi) of sub-clause (b) of clause 10 of the Bill, in the proposed clause (xi), for the word 'incurred', occurring in the fifth line, the words 'due to the assessee' be substituted"

The motion was adopted

Mr. J. F. Sheehy: Sir, I beg to move

"That in part (vi) of sub-clause (b) of clause 10 of the Bill, in the proviso to the proposed clause (xi), after the word 'debt', wherever it occurs, the words 'or loan' be inserted' "

Sir, this amendment is consequential on the change made by the Select Committee in sub-clause (xi) of sub-section (2) of section 10 of the Act. The Select Committee has, in addition to the allowances to be made for bad and doubtful debts, made an allowance for irrecoverable loans in a banking or moneylending business and consequent on that change this change which we propose now should be made in the proviso which as amended provides

"that if the amount ultimately recovered on any such debt or loan is greater than the difference between the whole debt and the amount so allowed, the excess . "

This is merely a consequential amendment Sir, I move

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

"That in part (vi) of sub-clause (b) of clause 10 of the Bill, in the proviso to the proposed clause (xi), after the word 'debt', wherever it occurs, the words 'or loan' be inserted' "

The motion was adopted

Dr. P. N. Banerjea: Sir, I beg to move

"That in part (vi) of sub-clause (b) of clause 10 of the Bill, after the proviso to the proposed clause (xi) the following further proviso be added :

'Provided further that if at the time a debt or loan proves bad or doubtful the business to which the said debt or loan relates is no longer in existence the assessee is to be allowed to set it off against profits of other business or incomes under other heads in accordance with section 24'."

Sir, the present rule is that bad debt claims can only be maintained during the continuity of particular business, but if the business ceases to exist then bad debt claims cannot be maintained in respect of that business There ought not to be this distinction and the grievance which has been a long standing one should now be removed.

Mr. Deputy President (Mr. Akhil Chandra Datta) Amendment moved :

"That in part (vi) of sub clause (b) of clause 10 of the Bill, after the proviso to the proposed clause (xi) the following further proviso be added :

'Provided further that if at the time a debt or loan proves bad or doubtful the business to which the said debt or loan relates is no longer in existence the assessee is to be allowed to set it off against profits of other business or incomes under other heads in accordance with section 24' "

Babu Baijnath Bajoria: Sir, I rise to support this amendment At the present moment, there is a practice which is a very bad practice that as long as a certain business is continued then bad debts relating to that business may be allowed. But when that business is closed, then the bad debt relating to that business is not allowed to be carried forward. I do not understand how the closing of a business makes the debt bad or good When the business is closed, then the bad debt becomes worse still because it becomes much more difficult to realise the bad debt then Sir, in my opinion it is a very long standing grievance and this amendment will give the required relief I commend this amendment for the acceptance of the House.

Mr. S. P. Chambers: Sir, I have to oppose this amendment also. The Honourable Member, I think, almost answered himself by saying he did not see why a loan of such a kind should not be carried forward The answer clearly is—why carry forward separately one expense of a business distinctly from any other expense? If I incur other expenses, why can't I carry those forward Elsewhere in this Bill there is a proposal to carry forward losses of business and I suggest that debts whether they are bad or doubtful are really on exactly the same footing as any other expenses If the losses should be carried forward and if this House passes any amendment to carry forward the losses where the business has been discontinued, then, of course, to the extent the debts are bad they will be carried forward also, otherwise, I suggest that we only allow in arriving at the profits from any source the expenses incurred in earning the income from that source and that when a source of income has been finally extinguished, any further losses are losses of capital and cannot be allowed because there is no business or no specific item of income against which they should be allowed I oppose the motion

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

"That in part (*vi*) of sub-clause (*b*) of clause 10 of the Bill, after the proviso to the proposed clause (*xi*) the following further proviso be added:

'Provided further that if at the time a debt or loan proves bad or doubtful the business to which the said debt or loan relates is no longer in existence the assessee is to be allowed to set it off against profits of other business or incomes under other heads in accordance with section 24'."

The motion was negatived

Mr. Badri Dutt Pande (Rohilkund and Kumaon Divisions Non-Muhammadan Rural) Sir, I beg to move

"That in sub-clause (*c*) of clause 10 of the Bill, in the proposed sub-section (*5*), for the words 'or books' a comma and the words 'books or scientific apparatus and surgical equipment' be substituted".

Sir, my amendment is plain enough In the long list of allowances from pages 86 to 89 of the Income-tax Manual the words 'scientific apparatus and surgical equipment' are not to be found The doctors are experiencing great difficulty because in paragraph 2(iii) of rule 8 optical instruments are included but surgical and scientific apparatus are not so included The position is that some Income-tax officers make an allowance under Rule 2—machinery plant or furniture—of five per cent, but other Income-tax officers, who are very strict, do not make any allowance for them Surgical instruments are highly susceptible to damage and, I am told, that they become useless after two or three operations. Sir, I want to say one thing about this matter which is rather serious An Income-tax officer went in this very city to a very talented doctor for medical advice The doctor examined him and then the Income-tax officer asked him what his fee was The doctor said, "My fee is so much." The Income-tax officer paid his fee there and then When the doctor went to the Income-tax officer's court, he said in the open court: "No Income-tax officer pays a fee, so you will not get any allowance, now it is my turn to assess you" That was the damaging statement which he made in the open court, here in this very city So, I think that these words ought to be inserted in this list of allowances, and I commend my amendment to the House

Mr. Deputy President (Mr Akhil Chandra Datta) Amendment moved

"That in sub-clause (c) of clause 10 of the Bill, in the proposed sub-section (5), for the words 'or books' a comma and the words 'books or scientific apparatus and surgical equipment' be substituted"

Mr. Husenbhai Abdullabhai Laljee (Bombay Central Division Muhammadan Rural): Sir, I rise to support the amendment but before I do so I would certainly appeal to the Leader of the Opposition to tell us kindly whether some understanding or undertaking in the Select Committee or otherwise has been arrived at with regard to this clause because I find that a very important amendment that was moved by my friend, Mr. Manu Subedar, who represents a most important constituency and which was seconded by my friend, Sir Homi Mody, was withdrawn

The Honourable Sir James Grigg: Will the Honourable Member allow me to explain the position?

Mr. Husenbhai Abdullabhai Laljee: I am very sorry I cannot allow the Honourable Member to interrupt me because I am very serious about this question

Mr. Bhulabhai J. Desai: On a point of personal explanation, Sir. My Honourable friend is entirely under a misapprehension I am sorry he was not present

Mr. Husenbhai Abdullabhai Laljee: I was present

Mr. Bhulabhai J. Desai: Then I am afraid he did not understand why it was withdrawn because it was distinctly understood that the principle for which those two amendments stood was accepted by the Government All that they pointed out was that the particular form in which it was there stated was such that it required correction and they have given a definite undertaking to this House that an amendment carrying out the principle would actually be moved by them

Mr. Husenbhai Abdul'abhai Laljee: I understood that very well at that time and I repeat again that it will be much better in the interests of the House and in the interests of the general public that an understanding that may be arrived at must be disclosed and before a Member of his own Party is asked to withdraw, the Honourable the Leader of the Opposition should make it quite clear whether he wants that amendment to be moved or not I ask in all earnestness whether the Mover of the present amendment will be asked later on to withdraw it or whether further discussion will be allowed. I quite agree with all the arguments that have been advanced by my friend, Mr Badri Dutt Pande, in regard to the surgical instruments but I do not agree with him and with many other Honourable Members when they level their charges against the Income-tax officers and their staff as they do. These Income-tax officers do their duty very well indeed and I am really proud of them because they do their duty so conscientiously even against the public opinion At the same time, I do want that they may be told that what is intended is an honest way of finding out the taxes. That is all I wish to say and I support the amendment moved by my Honourable friend.

Qazi Muhammad Ahmad Kazmi: Sir, I rise to support the amendment of Mr Badri Dutt Pande, not on the grounds mentioned by my friend, Mr Husenbhai Laljee, but directly and to that I want to add a complaint of the legal profession that books are allowed, but the journals are not allowed

The Honourable Sir James Grigg: Not the *Hindustan Times*?

Qazi Muhammad Ahmad Kazmi: That is a newspaper. I am talking about legal journals I want that the law journals may also be included in this list There is another amendment which stands in my name and it will not be proper to move two amendments separately If the Government is agreeable to put in the law journals and the law reports also, then it will be sufficient to meet the needs both of the medical profession as well as the legal profession.

Mr. J. F. Sheehy: In regard to journals, in so far as they are in the nature of books they are allowed under the amendment, but, 3 P.M. in so far as they are not books they are not a proper subject for depreciation

Qazi Muhammad Ahmad Kazmi: I may just explain I am referring to those law reports which contain decisions of High Courts

Mr. J. F. Sheehy: We think that is covered by "books" As regards the amendment of Mr Pande, we shall raise no objection to it provided he is prepared to substitute a comma for the word "or"

Mr. Badri Dutt Pande: I accept that

Mr. M. S. Aney (Berar Non-Muhammadan) Every law book becomes obsolete within three years, and so the rate of depreciation also should be carefully considered

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

"That in sub-clause (*c*) of clause 10 of the Bill, in the proposed sub-section (*5*), for the words 'or books' a comma and the words 'books, scientific apparatus and surgical equipment' be substituted"

The motion was adopted

Dr. P. N. Banerjea: Sir, I beg to move

"That in sub-clause (c) of clause 10 of the Bill, in clause (*b*) of the proposed sub-section (*5*), for the word 'allowable' the word 'allowed' be substituted."

This word "allowable" was substituted by the Select Committee for the word "allowed" which existed in the original Bill, and this is a reactionary proposal so far as the assessees' interests are concerned The object of my amendment is to enable the assessee to claim depreciation in the subsequent year in case he fails to claim it during the year Sir, a claim for depreciation is a reasonable claim and if through unintentional omissions or through his inability to compute the amount of depreciation he does not claim in a particular year he should not be debarred from claiming it in the subsequent year. Therefore I urge that the word "allowed" be substituted for the word "allowable". Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta): Amendment moved·

"That in sub-clause (c) of clause 10 of the Bill, in clause (b) of the proposed sub-section (5), for the word 'allowable the word 'allowed' be substituted."

Mr S. P. Chambers: Sir, I oppose this amendment If the Honourable Member will look at the proviso to sub-clause (b) he will see that to the extent that any depreciation has not actually been allowed relief is given in the proviso, that is to say, to the extent to which that depreciation relates to the year prior to the first day of April, 1939 That I think deals with all the depreciation for past years where there is any legitimate claim to an allowance, because in such a case the allowance was not effectively made owing to the absence of profits There are other cases in which the allowance is not effectively made for depreciation, but in these cases. I submit, that no allowance should be made and we should not put the assessee in a better position than the assessee who has furnished particulars and claimed a depreciation in the proper year. To the extent that we should carry forward depreciation it is provided for both in this proviso and also in the carry-forward of losses section The amendment which the Honourable Member has now moved would have the effect of allowing a person to claim, in a later year, depreciation on a larger sum because he failed to comply with the rules in the earlier years. And that I submit is quite a wrong conclusion in this matter because it would mean that an assessee could, if he chose or if he found it suitable, fail to claim the depreciation in years in which his profits were low and wait until the year in which his profits were much higher and then claim the depreciation on the higher amount in a subsequent year. In other words, this amendment would put a premium on the dishonest or doubtfully honest assessee at the expense of the honest assessee For that reason I oppose the amendment

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

"That in sub-clause (c) of clause 10 of the Bill, in clause (b) of the proposed sub-section (5), for the word 'allowable' the word 'allowed' be substituted"

The motion was negatived

Dr. P. N. Banerjea: Sir, I beg to move

"That in sub-clause (c) of clause 10 of the Bill, in clause (c) of the proposed sub-section (5), for the words 'applicable to the assets' the words 'actually allowed to the assessee on the assets' be substituted "

The clause, as it stands at present, takes it for granted that an assessee has been allowed depreciation on certain assets even if he may not have claimed an allowance in the past for some reason or other As I urged in the previous case I think that if depreciation has not actually been claimed and allowed the assessee should get it in a subsequent year, and this would be very fair and equitable Sir, I move

Mr. Deputy President (Mr Akhil Chandra Datta) Amendment moved·

"That in sub-clause (c) of clause 10 of the Bill, in clause (c) of the proposed sub-section (5), for the words 'applicable to the assets' the words 'actually allowed to the assessee on the assets' be substituted "

Mr. S. P. Chambers: Sir, I oppose this amendment, and I do so on exactly the same grounds that I opposed amendment No. 278 and for that reason I have nothing further to add

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

"That in sub-clause (c) of clause 10 of the Bill, in clause (c) of the proposed sub-section (5), for the words 'applicable to the assets' the words 'actually allowed to the assessee on the assets' be substituted "

The motion was negatived

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

"That clause 10, as amended, stand part of the Bill "

The motion was adopted

Clause 10, as amended, was added to the Bill

Clause 11 was added to the Bill

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

"That clause 12 stand part of the Bill "

Maulvi Abdur Rasheed Chaudhury: Sir, I move

"That in part (a) of sub-clause (b) of clause 12 of the Bill, after the word 'assessee' the words 'not including supervision or inspection expenses necessary for earning such income, gain or profit' be inserted."

Sir, the object of my amendment is that personal expenditure should not be included in the return of income Honourable Members are quite aware that in order to earn some income or gain, it is absolutely necessary that a close supervision is exercised over all operations I was under the impression that inspection charges were legitimate expense for the purpose of assessing to income-tax, but a case just occurs to my mind in which year before last one income-tax officer refused to allow a certain railway fare to be allowed for inspecting factories lying at a distance of some fifteen miles from his headquarters This is a very technical subject, and it is very difficult to be absolutely sure about the matter, but I think that such expenditure which is absolutely necessary for earning a particular source of income, such as a railway or a motor fare should be allowed for I would, therefore, propose that my amendment be adopted. Sir, I move.

Mr. Deputy President (Mr Akhil Chandra Datta): Amendment moved

"That in part (a) of sub-clause (b) of clause 12 of the Bill, after the word 'assessee' the words 'not including supervision or inspection expenses necessary for earning such income, gain or profit' be inserted "

Mr. J. F. Sheehy: Sir, I oppose this amendment I can assure the Honourable Member who has moved the amendment that railway fare, incurred for the purpose of business, is allowable and if the income-tax officer disallows it, he is wrong The Honourable Member's amendment does not add anything to what the new section already gives The section says that such income, profits and gains should be computed after making allowance for any expenditure not being of the nature of capital expenditure incurred solely for the purpose of making or earning such income, and the Honourable Member's amendment is going to exclude supervision or inspection expenses necessary for earning such income. That is not better than the wording of the section as it already stands, and for that reason I oppose the amendment

Maulvi Abdur Rasheed Chaudhury: Sir, my doubt has now been removed, and I would beg leave of the House to withdraw my amendment.

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

Mr. Deputy President (Mr Akhil Chandra Datta) Amendment No. 282.*

Babu Baijnath Bajoria: Sir, I have given notice of a similar amendment to Mr Kazmi's this morning I was under the impression that Mr Kazmi would move his, but I now find that he is not moving it So I would like to move mine

Mr. M. S. Aney: On a point of order, Sir, I really want to understand the meaning of the word "notice" with regard to amendments Is notice intended with reference to the nature of the subject-matter which is to be discussed before the House, or is it intended to know who is the man that is going to discuss the question? I find that the rule is being interpreted with a view to debar men from bringing up amendments for discussion of which due notice has been given by other Members If the subject-matter is known then a sufficient time has already been given to the Honourable Member to consider the matter and to come prepared with what they have to say As the matter has been before the Honourable Member for a sufficiently long time as required by the rules, I do not think it would be proper to rule out the amendment on the ground that sufficient notice has not been given I, therefore, submit that you will kindly consider this point before giving a ruling

Mr. Bhulabhai J. Desai: It is entirely a matter for your discretion and surely nobody can complain that on this particular matter Government is taken by surprise It would be straining the rule rather too much to say that merely because another man gave notice of this that therefore this man should not have an opportunity

The Honourable Sir James Grigg: Sir, I submit that it is of importance as to what is the name that stands behind the amendment For example, there are border-line cases in which if the amendment is put down in the name of one Honourable Member, Government might wish to refuse it, if it were put down in the name of another Honourable Member, then Government might want to promise to consider it or to accept it, and I suggest that the mere question of "notice to Government" does not entirely dispose of the question

Mr. S. Satyamurti (Madras City Non-Muhammadan Urban) Sir, the very argument of the Honourable the Finance Member, I submit, is in favour of notice being waived, without regard to personalities No Government ought to be given, by a ruling of the Chair, power to refuse to discuss a matter, not on the merits of the amendment, but on the merits of the person moving the amendment; I think this House is entitled to protection at your hands. The Standing Order says that unless two days' notice has been given of any amendment, any Member may object, and if he does, it is for the Chair either to suspend or not to suspend the Standing Order, and my submission is that this amendment has been given ample notice of.

*"That part (b) of sub-clause (b) of clause 12 of the Bill be omitted."

[Mr. S. Satyamurti.]

Every section of this House knows what it is about, and simply because one Member does not move it and another Member wants to move it, it is not right that this should not be allowed I am not saying anything on the merits now. I am merely asking that no bad precedent be set in this House for the Government Member to say that "if A moves it, we will accept it, and if X will move it, we will not accept it". I, therefore, beg of you to suspend the Standing Order

Sir Cowasji Jehangir: Sir, if the contention put forward by the Honourable the Finance Member be correct, that Government are influenced by names of the movers and not by the merits of the case, then I submit that, if the ruling is to be that the mover is to be the important factor and not the amendment, the Honourable the Finance Member ought to lay on the table of the House the names of Honourable Members who are in his good graces and whose amendments he will accept or consider Then, this House would be in a better position to move amendments to Bills Therefore, Sir, I rise at this stage before you give a ruling If your ruling happens to be that the mover is to be the most important factor, then you will also rule that such a list as I have suggested be put on the table of the House

Mr. Deputy President (Mr Akhil Chandra Datta) Mr Bajoria wants to move an amendment identical in terms and substance with amendment No 282 It is objected to on the ground that the particular amendment in the name of Mr Bajoria was not given notice of two clear days before It has been argued on the one side that the name is quite immaterial, as to who the Honourable Member is who gives notice, and it is argued that the matter and substance of the amendment is the real material consideration On the other side, it is argued that the name is also material

Mr. M. S. Aney: That was said humorously

Mr. Deputy President (Mr Akhil Chandra Datta) The Chair does not know whether this contention has been put forward seriously If it is seriously put forward, then the Chair is definitely of opinion that the name is absolutely immaterial The Standing Order on the subject does not make any reference to the name of the Member it only says and that for very good reason that it should not spring a surprise upon any portion of the House and, therefore, notice should be given of the matter of the amendment The Chair has been asked to suspend the Standing Order, but the Chair should think it is not a question of suspending at all That question has not arisen on this occasion It arises only when notice is not given, but in this case, notice has already been given as regards the amendment to be moved, only not in the name of this particular Honourable Member. The Chair, therefore, holds that Mr Bajoria's amendment is quite in order

Babu Baijnath Bajoria: Sir, it may be that I am flogging a dead horse anyway let me see whether I can make it rise again. I beg to move

"That part (*b*) of sub-clause (*b*) of clause 12 of the Bill be omitted."

This is an important amendment It seeks to delete sub-clause (*b*) of section 12 (*8*) which reads·

"no allowance shall be made on account of
any interest chargeable under this Act which is payable without British India . . . ."

I do not understand why if a person in British India borrows money from a person outside British India—say from an Indian State—and pays interest on that, he will not be allowed to deduct the amount so paid from his assessable income It may be argued that I should deduct income-tax from the person to whom I am paying interest, but, probably, if the amount of interest is too small and if it is not chargeable to income-tax, then how will the party to whom I am paying interest agree to the deduction of the income-tax from that amount? It will also restrict credit It will also restrict my powers of borrowing from a market where I can get money at the cheapest possible rate Suppose I can get money from Bikaner or Travancore at three per cent and suppose people in Calcutta or Bombay will not advance any money at less than five or six per cent, why should I be restricted from borrowing?

An Honourable Member: You are not restricted

Babu Baijnath Bajoria: I am restricted to this extent that I will have to pay income-tax I know there is no provision forbidding me to borrow, but it amounts to this that I will have to pay income tax on the interest on the amount which I borrow So, I think that in the ordinary course of business, if I borrow from any party and it is a *bona fide* transaction, that interest should be allowed to be deducted Sir, I move

Mr. Deputy President (Mr Akhil Chandra Datta) Amendment moved

"That part (*b*) of sub-clause (*b*) of clause 12 of the Bill be omitted"

Mr. S. P. Chambers: Sir, I oppose this amendment and I would first like to draw the attention of the House to the fact that precisely the same point was raised on clauses 9 and 10 In particular, if one looks at amendment No 236 on clause 9, the same amendment was moved by Mr Kazmi there and was rejected by this House

Sir Cowasji Jehangir: That was on drafting grounds this is on merits

Mr. S. P. Chambers: It is exactly the same point and if it is the wish of the House I will repeat the explanation which I gave then and that was just this, that where a source of income in British India is assessed in British India and payment is made out of that by way of interest, if the contract is made in British India, then the other provisions of this Bill, in particular the provisions of clause 19, provide that tax shall be deducted If the contract is made outside British India then no tax can be deducted and it would be a very simple matter to avoid tax on income which really arises in British India by arranging for the contract to be made outside British India, and, therefore, we propose that in each of these clauses—9, 10 and 12—where the assessee makes a contract outside British India then the interest payable under such a contract shall not be allowed as a deduction In effect we say that this income arises within British India even if it is ultimately payable to a non-resident and, therefore, some tax should be paid upon it and it is for the payer of the interest to see that matters are so arranged or rather not so arranged that tax escapes on this income arising in British India and therefore we have provided that where the contract is made outside British India no allowance shall be made in computing the income of the payer under clauses 9, 10 and 12 For these reasons I oppose the amendment.

Mr. M. S. Aney: Sir, it is somewhat anomalous to understand this As a matter of fact, on the one hand the law proceeds on the basis that even profits made outside British India should, in some form or other, be included in the income-tax for taxation, but if, on the other hand, there are certain liabilities to be met outside British India for income made in British India, they should be excluded for the purpose of income-tax When you don't allow any interest which is paid out of British India to be calculated, you are in a way not allowing me to take into account the liability I have got to meet outside British India, and yet, if I make some profit in British India on the capital borrowed from outside, there are provisions here to take them into account for the purpose of taxation It is a tax on gross profits and not on net profit or income Sir, it is really a very anomalous position I think the House should look at the question more carefully and I hope that it will easily see that there is more logic in admitting an amendment like this than rejecting it summarily

Mr. J. F. Sheehy: Sir, I may say that interest on money borrowed outside British India for the purpose of business outside British India does not come under this clause, because it is not interest chargeable under this Act

Mr. M. S. Aney: What difference does it make between interest on sums borrowed outside British India or borrowed in India for purpose of business in India

Mr. J. F. Sheehy: Only interest chargeable will be disallowed

Sir Cowasji Jehangir: Sir, the point that Mr Bajoria has raised is a very simple one which Mr Aney has emphasised The point is this, namely, if a man is resident in India and does business in India, and for purposes of business, he borrows money in England and does business with it here, and if there is a profit out of that business which is conducted on that borrowed money, then you will charge income-tax on it, but you will give no allowance in business for the monies borrowed, because it is borrowed outside British India The point of the Government is quite simple. It is, that if monies are used in India for which interest is paid, that interest should be chargeable to income-tax, you should be able to get your income-tax on the amount borrowed outside India and used in India That is a very legitimate object of Government, I admit, but at the same time, it appears to me it would work as a hardship on the assessee He borrows money and pays interest on it, you don't allow anything for that interest, because he has borrowed it outside British India If he makes a loss on that business, it is his loss, if he makes a profit on the business from the monies borrowed from outside British India, you will charge him income-tax on his profits. Sir, it does seem rather hard when you look at it from that point of view. Monies are borrowed outside British India for business to be done in British India, and up to now all allowance was made as if that money had been borrowed in British India, and the interest that you paid on that borrowed money was given credit to in your business accounts made for income-tax purposes To deprive the assessee of that privilege in the future does appear to be rather hard It never struck me in that light before. I frankly admit it It strikes me now that that is a hardship. You try to get hold of the income-tax and you also try to grab the income-tax on the interest of that money which does not belong to a resident in India, but you handicap the assessee who is a resident in India and out of whose profits you live;

the very existence of income-tax is from profits made by people on their business I think it is a point worth considering, and I would ask the Honourable the Leader of the Opposition to devote his mind to that aspect of the case, because there may be a large number of firms who may be hit hard, firms who may be doing business and making profits in India and paying income-tax on those profits, but those profits are due to monies borrowed from outside British India

An Honourable Member: And borrowed at a lesser rate

Sir Cowasji Jehangir: Yes, and you will be cutting your nose to spite your face Under these circumstances, I do think that the matter requires further consideration

The Honourable Sir James Grigg: Sir, the point is quite a simple one. If a man in Timbuctoo lends money to a business man in India, the interest on that money arises in India, and it should be taxed, but if the owner or the receiver of the interest is abroad, it may not be possible to get at him and tax him, so that we make the borrower the agent for deducting the tax, and the machinery of doing it is not to allow him this deduction in his accounts If he borrows in India, the question does not arise, because we can get at the receiver of the interest, but if he happens to be a receiver abroad, we cannot get at him and a good deal of interest would be lost. If you like to say that this is an inducement to people not to borrow abroad, it certainly is, and it is intended to be so

Sardar Sant Singh (West Punjab Sikh) Sir, I fail to understand the explanation of the Honourable the Finance Member on this point Let us take the illustration which the Honourable Member has given, and let us suppose that a man living in Timbuctoo is an Indian, and let us also suppose that the present accrual basis scheme continues If I borrow money from Timbuctoo from an Indian, the Finance Member proposes to charge income tax on an accrual basis from the Indian living in Timbuctoo and yet he without giving credit to me proposes to charge income-tax from me as well

The Honourable Sir James Grigg: You don't charge a tax on the interest in Timbuctoo on an accrual basis, but on the interest paid in India on the arising basis

Sardar Sant Singh: Then the accrual basis should go On the one hand you keep to this on an accrual basis, you are charging on the incomes of residents living abroad; on the other hand, when the same thing is borrowed from those persons, you charge income-tax to them Why should you not allow the income-tax to be deducted in the case of people who borrow money from those persons?

Then, the second point which is not clear is this If the money is to be borrowed in India at a higher rate of interest and if one can get money at a cheaper rate from abroad, the Income-tax Department stands to gain by the larger amount of income-tax that it realises from the profits of the amount borrowed I really cannot follow the logic of those people, unless the logic is of the Jew who wants to get money either way without losing anything from his own pocket

Mr. Bhulabhai J. Desai: Mr Deputy President, in view of the observations made by my friend, Sir Cowasji Jehangir, I owe it to the House to explain what I understand by this irrespective of what the Honourable the Finance Member said, and why I think there can be no hardship in this matter The deduction which is not allowed is this,—any interest chargeable under this Act which is payable without British India, in other words the interest which is not allowed to be deducted is chargeable under this Act, but on which tax is not paid There are two classes of cases in which interest is chargeable here, and on which it is possible to collect the tax We know the case of a non-resident foreigner under section 43, but that applies to the case of a business connection or an agency But suppose there is an isolated loan, you may not be able to catch the man, that is to say, the debtor in India,—to make him an agent for the purpose of compelling him to pay a tax on interest which accrues here All that is intended to be discouraged by this is that interest arises here, but the arrangement is such that, notwithstanding the fact that it is a taxable thing in India, it is evaded by an arrangement by which alone it is chargeable here It is payable outside, and I don't see how we can encourage such a thing In such a case the only thing is this, that inasmuch as it accrues here, if the terms of the loan are such that the debtor will deduct the tax and pay it here, but that interest should not be hit by this Act . .

Sardar Sant Singh: Supposing that fellow is taxed by the Indian Government

Mr. Bhulabhai J. Desai: The issue is a very narrow one Normally, if the case falls within clause 45,—supposing as it happened in the Desmond case in Hongkong, they have formed a company in Hongkong for the purpose of lending money in India The terms of the loan are, each debtor to be lent through the bank in Hongkong, interest is to be paid in Hongkong and the loan to be repaid in Hongkong, the idea being that even though a crore of rupees worth of interest was accruing in India every year, we could not catch it, because it was a non-resident foreigner In that particular case the Privy Council held that, though the debtor cannot be said logically on the construction of the Act to be the agent of the creditor so as to compel him to pay the tax on it, they strained the words "business connection" and thereby made him pay the tax This is a classic case which everybody knows What is intended by this particular section is to discourage this practice—that a man borrows money from outside, enabling the outsider not to pay the tax even though inasmuch as the interest accrues here, in all fairness he ought to pay the tax Therefore, he wants to get advantage of better terms of loan, so arranged that, though the income arises here, it is not taxable I submit, there is no hardship in not allowing such interest

Babu Baijnath Bajoria: But if the amount of interest is not taxable?

Mr. Bhulabhai J. Desai: That has nothing to do with this The point is that the income is taxable I am not talking of the assessee being taxable The interest certainly is taxable

Babu Baijnath Bajoria: If it is only 500 or 1,000?

Mr. Bhulabhai J. Desai: That is not the issue. The true issue is, the words are, income accruing or arising in British India. Supposing you borrow from Bikaner, then interest accrues here, but you so want to arrange with the Bikaner man that he won't pay tax Therefore, you will say, inasmuch as you are not paying tax, give me two annas less rate of interest Why should such interest escape?

Mr. Husenbhai Abdullabhai Laljee: I cannot agree with the Leader of the Opposition inasmuch as I do believe that there are many classes of business, and the most important is the class where there are mills owned by people in India but who work them in Indian States They borrow from the Indian State and there they pay their interest to those businesses or the States who pay money Take a mill which has been built for ten lakhs of rupees, and suppose that they have obtained Rs 10 lakhs from the Maharajah of the place at a rate of five per cent They have to pay Rs 50,000 to him and suppose the profit is about a lakh of rupees. Is my Government going to tax me for 50,000 or a lakh? That is the instance with regard to the amount that I have to pay to the other side, and should I be taxed again here in India to the tune of double the amount of what I have really earned? Furthermore, as my Honourable friend, Sir Cowasji, has pointed out, we ought to encourage

An Honourable Member: Borrowing from a foreign country?

Mr. Husenbhai Abdullabhai Laljee: Nobody is going to lend you We have to depend upon Indian States to give money for our enterprise in India, and if really we are able to make money and if we do not get those facilities in our own part of British India, why should Government not induce them That is why I say it is a very wrong impression existing in ourselves that we have got all the industries and the only thing is to get as much money out of us as possible

Dr. P. N. Banerjea: May I make a suggestion? If this amendment which was moved by my Honourable friend, Mr Bajoria, be not acceptable to the Government, will the Government agree to insert a provision like amendment No 257 which was accepted by the Government That will remove a part of the difficulty This would be a consequential amendment and no notice would be required

Mr. K. Santhanam: I just want to point out that my Honourable friend, Mr Laljee, has made a mistake If interest accrues outside British India to a non-resident it is not interest chargeable and, therefore, the question does not arise at all It is only when interest accrues either in India or to a resident outside India, it comes under the mischief of this clause Therefore, his case is not covered and he need not be afraid of the particular case he has referred to I am sorry that he does not care to follow the proceedings and then he says that we have entered into a compromise with the Government (Interruption) The Honourable Member takes the privilege of making remarks against us and he must be prepared for a retort He ought not to make any such remarks Whenever we agree with Government or we withdraw our amendments, we do so solely in public interest, without any fear or favour.

Mr. Husenbhai Abdullabhai Laljee: I alluded to two points. My Honourable Member has replied to one and to the other he has not. He has left it incomplete

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

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

"That part (*b*) of sub-clause (*b*) of clause 12 of the Bill be omitted"

The motion was negatived

Dr. P. N. Banerjea: I thought the Honourable Member agreed to accept my suggestion

The Honourable Sir James Grigg: A suggestion was made, if I may say so not in a condemnatory sense, quite irregularly, that as the amendment was unacceptable we might accept an amendment similar in terms to amendment No 257 which was accepted by us There is no amendment on the paper and no notice has been given Therefore, it requires your consent for it to be moved.

Mr. President (The Honourable Sir Abdur Rahim) Have you got the amendment here?

The Honourable Sir James Grigg: No An amendment similar to amendments Nos 240 and 257. The preliminary words require alteration

Mr. M. S. Aney: Very many words will have to be changed

Dr. P. N. Banerjea: But the substance is the same

The Honourable Sir James Grigg: The suggestion is that in this clause we should put in a provision exactly like the provision which was inserted in clauses 9 and 10 by those two amendments I said, subject to the permission of the Chair and the House, if the Honourable Member handed in an amendment applying those words to the appropriate places, I personally saw no objection to it, but I think the Honourable Member has to hand in an amendment with appropriate words

Mr. President (The Honourable Sir Abdur Rahim) Unless the amendment is circulated, the Chair cannot allow it to be moved now Next one.

Mr. H. S. Town (Nominated Non-Official) Sir, I move

"That to part (*c*) of clause 12 (*b*) of the Bill, the following words be added: 'unless it is paid out of income not brought into or received in British India'."

This is to deal with the case of the employee of a branch office of an Indian concern, if the branch office is in an Indian State. Such salary is earned totally outside British India, and is paid out of profits earned totally outside British India If we go on to the accrual basis the profits of the business will be taxed in British India and it is possible to argue that the salary is paid out of funds which eventually find their way into British

India. I submit that it is unfair to tax such an employee on his salary. It might be argued, however, that the salary is earned from employment totally outside British India, and, therefore, is not subject to taxation under this Act but that is very far from clear and I suggest that the addition of these words will make it perfectly clear that such salary is not taxable. Sir, I move.

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

"That to part (*c*) of clause 12 (*b*) of the Bill, the following words be added 'unless it is paid out of income not brought into or received in British India'."

Mr. S. P. Chambers: I oppose this amendment because I think the words in the clause do, in fact, have the effect which my Honourable friend wishes The important words are "any payment which is chargeable under the head salaries" Now, the payment of salary to a person employed outside British India in respect of work outside British India is not a payment which is chargeable under the head salary It is only where a payment is made to a person abroad in respect of service within India that the payment is a payment chargeable under the head salaries. This subsection can apply only in such circumstances Therefore, the amendment which the Honourable Member seeks to make is wholly unnecessary because the type of case which he wishes to exclude is excluded by the terms of the original clause as drafted I oppose this amendment

Mr. H. S. Town: Sir, I beg leave of the House to withdraw my amendment

The amendment was, by leave of the Assembly withdrawn

Mr. K. Santhanam: Sir, I move

"That in sub-clause (c) of clause 12 of the Bill, in the proposed sub-section (3), for the words 'an allowance in respect of depreciation' the word 'allowances' be substituted "

This amendment has to be read with amendment No 289. It provides that where machinery is let on hire the person who lets it shall be entitled not only to depreciation allowance but all the other allowances with reference to annual repairs, insurance premia and obsolescence. I hope that the object of the amendment is so clear that no further explanation is necessary Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved

"That in sub-clause (*c*) of clause 12 of the Bill, in the proposed sub-section (3), for the words 'an allowance in respect of depreciation' the word 'allowances' be substituted "

Mr. J. F. Sheehy: Government propose to raise no objection to this amendment and the amendment which comes after it

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

"That in sub-clause (c) of clause 12 of the Bill, in the proposed sub-section (3), for the words 'an allowance in respect of depreciation' the word 'allowances' be substituted."

The motion was adopted.

Mr. K. Santhanam: Sir, I move:

"That in sub-clause (c) of clause 12 of the Bill, in the proposed sub-section (3), for the word and letters 'clause (vi)' the word and letters 'clauses (iv), (v), (vi), (vii)' be substituted."

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

"That in sub-clause (c) of clause 12 of the Bill, in the proposed sub-section (3), for the word and letters 'clause (vi)' the word and letters 'clauses (iv), (v), (vi), (vii)' be substituted"

The motion was adopted

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

"That clause 12, as amended, stand part of the Bill"

The motion was adopted.

Clause 12, as amended, was added to the Bill

Clause 13 and clause 14 were added to the Bill

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

"That clause 15 stand part of the Bill"

Mr. J. F. Sheehy: Sir, I move.

"That in clause 15 of the Bill, in clause (a) of the proposed sub-section (2), for the words 'the amount which he is entitled to receive from the firm' the words 'his share in the profits and gains of the firm computed in the manner laid down in clause (b) of sub-section (1) of section 16' be substituted"

The object of this amendment is to bring section 15 into line with section 16 as amended by clause 17 (a) (i) (b) of the Bill, where we say

"when the assessee is a partner of a firm then, whether the firm has made a profit or a loss his share (whether a net profit or a net loss) shall be taken to be any salary"

Thus, we define a partner's share. We now wish to put the same definition in clause 15 also Sir, I move

4 P M

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

"That in clause 15 of the Bill, in clause (a) of the proposed sub-section (2), for the words 'the amount which he is entitled to receive from the firm' the words 'his share in the profits and gains of the firm computed in the manner laid down in clause (b) of sub-section (1) of section 16' be substituted"

The motion was adopted

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

"That clause 15, as amended, stand part of the Bill."

The motion was adopted

Clause 15, as amended, was added to the Bill.

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

"That clause 16 stand part of the Bill."

Mr. K. S. Towa: Sir, I beg to move.

"That in clause 16 of the Bill, before sub-clause (*a*) the following sub-clause be inserted, and that sub-clauses (*a*), (*b*) and (*c*) be re-lettered accordingly

'(*a*) In sub-section (*1*) of section 15 for the words 'by an assessee in respect of any sums paid by him to effect an insurance on his own life or on the life of his wife or in respect of a contract for a deferred annuity on his own life or on the life of his wife', the words 'in respect of any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of a wife or husband of the assessee' shall be substituted' "

Sir, this is a very minor change The Bill as it stands appears only to allow an insurance premium paid by a husband on his own life or that of his wife If a wife pays out of her own separate income the premium on a policy insuring the life of her husband, she will not be given the allowance The amendment seeks to give such allowance

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved

"That clause 16 of the Bill, before sub-clause (*a*) the following sub-clause be inserted, and that sub-clauses (*a*), (*b*) and (*c*) be re-lettered accordingly

'(*a*) In sub-section (*1*) of section 15 for the words 'by an assessee in respect of any sums paid by him to effect an insurance on his own life or on the life of his wife or in respect of a contract for a deferred annuity on his own life or on the life of his wife', the words 'in respect of any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of a wife or husband of the assessee' shall be substituted' "

Mr. S. P. Chambers: Sir, I oppose this amendment Sir, I am afraid the grounds of my opposition are somewhat vague at the moment, because the amendment, as it appears on the agenda, does not relate to the right clause. I cannot quite see where it is intended to go I must oppose it because I do not know precisely what must happen to it All I can say is that first of all I can see in it no such restrictions to one-sixth of the total income or to Rs 6,000 or Rs 12,000 in case of a Hindu undivided joint family which appeared in the original section If the Honourable Member would first of all by way of explanation say exactly where this is intended to go, I will be able to say whether I accept it or oppose it As it is tabled, it definitely appears to be out of order If the Honourable Member will kindly explain where it should go, I might then be allowed to continue my speech.

The Honourable Sir James Grigg: I might perhaps read out the section as it is proposed to be amended.

"The tax shall not be payable in respect of any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of a wife or husband of the assessee "

That is the clause as it is now proposed to be amended,

"or as a contribution to any Provident Fund to which the Provident Funds Act, 1897, applies "

Mr. S. P. Chambers: If my Honourable friend intends that by his amendment, I have no objection to it I understand that the intention is that this should form part of sub-section (*1*) of section 15 of the Act and not as tabled in the agenda as an additional sub-section.

Mr. K. Santhanam: I wish to know if the Government are accepting this amendment or opposing this amendment If the Government are opposing it, I want to speak in support of this amendment.

Mr. S. P. Chambers: The Government are accepting it and not opposing it

Mr President (The Honourable Sir Abdur Rahim) The question is

"That in clause 15 of the Bill, to sub-clause (*a*) the following be added :

'And for the words 'by an assessee in respect of any sums paid by him to effect an insurance on his own life or on the life of his wife, or in respect of a contract for a deferred annuity on his own life or on the life of his wife' the words 'in respect of any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of a wife or husband of the assessee', shall be substituted' "

The motion was adopted

Maulvi Abdur Rasheed Chaudhury: Sir, I move

"That in sub-clause (*b*) of clause 15 of the Bill, the words 'one-sixth of the total income of the assessee, or', wherever they occur, be omitted "

Under the existing Act, the provision for an allowance on premium paid for life insurance is to an amount which is not to exceed one-sixth of the total income. This amended clause is retaining this provision, and, in addition, is adding another alternative, namely, Rs 6,000 or whichever is less Now, Sir, it is apparently meant that those whose income is over Rs 30,000 will have this allowance and none else This would mean that the concession which is given by one hand is taken away by the other. If an allowance is to be given, it should not be limited to those persons whose income is over Rs. 30,000 I would like to see that this allowance is given to those persons who are not so rich as to have an income of Rs 30,000. That is why I have proposed that the words "one-sixth of the total income of the assessee, or" should be omitted That is to say, the maximum allowances given in respect of the life insurance premiums should not exceed Rs 6,000

Sir, I move

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved

"That in sub-clause (*b*) of clause 15 of the Bill, the words 'one-sixth of the total income of the assessee, or', wherever they occur, be omitted "

The Honourable Sir James Grigg: Sir, I oppose this amendment on grounds of public policy The Honourable Member proposes to give an allowance for insurance premia in respect of premia paid up to a maximum of Rs 6,000 a year, whatever the salary of the insurer Now, Sir, though I am all in favour of encouraging thrift by means of insurance policies, I do not think we should overdo it, and in this case we may give a definite inducement to a man to over-insure himself at the expense of his current expenditure and in an extreme case envisaged by the Honourable Member you will have a man subscribing the whole of his income by insuring himself and having nothing to keep himself alive I am all in favour of looking towards posterity but not to this extent Besides, there is another objection to it. If he does all that and pays an enormous insurance premium and starves himself to death, the mortality rate would go up enormously and the burden on insurance companies will become so heavy that the premia will have to go up and they will all go bankrupt.

Mr President (The Honourable Sir Abdur Rahim) The question is

"That in sub-clause (*b*) of clause 16 of the Bill, the words 'one-sixth of the total income of the assessee or', wherever they occur, be omitted"

The motion was negatived

Qazi Muhammad Ahmad Kazmi: Sir, I move

"That sub-clause (*c*) of clause 16 of the Bill be omitted"

The reason for moving this amendment is that there is a certain system of calculation which is given in this clause and it happens to be the same system which is given in clause 17(*3*), and the words are quite different. So, it is not advisable to have in one Act the same system given in two different words in two different places For this reason, I move the deletion of this sub-clause

Mr President (The Honourable Sir Abdur Rahim) The question is

"That sub-clause (*c*) of clause 16 of the Bill be omitted"

The motion was adopted

Mr. Suryya Kumar Som (Dacca Division Non-Muhammadan Rural) Sir, I beg to move

"That in sub-clause (*c*) of clause 16 of the Bill, "

Mr. President (The Honourable Sir Abdur Rahim) Sub-clause (*c*) has been omitted, and, therefore, the Honourable Member cannot move his amendment

Mr. Suryya Kumar Som: But, Sir, my amendment is not confined to sub-clause (*c*) only

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member wishes to omit the first part of his amendment and move the second part?

Mr. Suryya Kumar Som: Yes, Sir

Mr. President (The Honourable Sir Abdur Rahim) In that case, the Honourable Member should begin his amendment thus

"After the proposed sub-section (*4*), the following sub-section be inserted : etc"

Mr. Suryya Kumar Som: Sir, I move

"That after sub-clause (*b*) of clause 16 of the Bill, the following sub-clause be added, namely

'(*c*) after sub-section (*3*), the following sub-section shall be added

'(*4*) In computing the total income of an assessee the following allowances shall be made :

(*i*) an allowance of one-sixth of the income received by the assessee from salaries or business, profession or vocation subject to a maximum of Rs 1,800;

(*ii*) an allowance of Rs 1,000 in the case of every married person,

(*iii*) an allowance of Rs 120 in respect of each child of the assessee,

(*iv*) an allowance of Rs 100 in respect of each dependant maintained by the assessee :

Provided however that when two assessees are husband and wife the allowances shall be claimed and allowed only in respect of either of them at the option of the officer' "

[Mr. Suryya Kumar Som.]

Sir, I am moving this amendment, although I am not very sanguine about its result, because there is a strong feeling in the country with regard to this matter At the consideration stage of this Bill, this matter was referred to by many speakers, and whether it is carried or not, I will voice the public opinion on this matter Now, Sir, we hear that, of all the taxes in the world, income-tax is the most equitable one. In my childhood, I was surprised to hear this and I could not understand it at all I thought it was a very iniquitous tax, because the Government take away a part of what I earned by my own exertions. As my knowledge expanded, I began to feel that that statement was quite right and income-tax is the most equitable tax in the sense in which it is assessed in European countries where the State takes a part of the excess income of an individual or of a family, that is, leaving aside a sufficient margin for the maintenance of the family including wife, children and dependants. And, if there is any excess, a portion of it is claimed by the State for its own necessities There, in England, and other civilised countries, it is so arranged that the national economy, health and culture are not affected in the least So that much allowance is made for the maintenance of the family, for educational expenses, and for good food which is necessary to keep the health of the family After leaving aside that amount in the hands of the assessee, a part is taken from the excess Therefore, in that sense, it may be said to be an equitable tax Then, Sir, in the present debate, I have found the Finance Member and others on the Treasury Benches referring to the English law when replying to our arguments, particularly in the case of foreign income of Indian residents But I only find that they apply that English analogy only when it suits them and fly away from it when it does not suit them This is an example of that In England, we find that in the very first instance one-sixth of an assessee's income is exempted from his gross income and the limit is to the extent of £250, *i.e.*, about Rs 3 250 is at once exempted Then, I find that for a married man the exemption is £225, or Rs 2,925 Then, for the first child

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member need not go into all these figures of other countries He should deal with the figures in the amendment and justify them

Mr. Suryya Kumar Som: But on the basis of the figures in other countries

Mr. President (The Honourable Sir Abdur Rahim) That is not relevant

Mr. Suryya Kumar Som: Then, how can I justify my argument? However, I will give the purport of it.

Mr. M. S. Aney: Sir, I submit that, in developing his argument on a point like that, you will, I think, be pleased to hold that the argument that similar things exist in other countries is a proper one. Of course, *if he goes into unnecessary details, he would be out of order.*

Mr. President (The Honourable Sir Abdur Rahim): He will be perfectly justified in referring to the fact that in other countries similar allowances are given, but as to what figures would be proper for this country,

the Chair does not think the analogy of other countries would apply. He can show that the figures in the amendment are the proper figures for India

Mr. M. S. Aney: He is showing the categories under which allowances are made As regards the figures, he will come to them later on

Mr. President (The Honourable Sir Abdur Rahim) He can justify the figures given in the amendment

Mr. S. P. Chambers: Sir, on a further point of explanation, it might be of interest to the House to know that the figures which the Honourable Member has given are not the figures current in the United Kingdom at the present time Those are about ten years old

Mr. Suryya Kumar Som: If I am wrong in my figures, that will be an advantage But I challenge my Honourable friend to prove that these are wrong, because I am reading from a book on income-tax in England which was published in 1937

Now, Sir, I am saying that in England a very large amount is exempted at the initial stage, and then large sums are allowed for wife, married man, children, etc And I submit that that is also the case in America That is, in two of the most civilized countries, these allowances are given Moreover, if you compare the conditions of the people in England and America with those of this country, which is the poorest country in the world, I think it is doubtful whether income-tax should be levied in a country like this But here the Finance Member says he must have four or five crores of rupees more Yesterday he opposed an amendment on the ground that its acceptance would mean a loss of 15 or 16 lakhs That was the only argument Then, what is the use of going through so many clauses? Why do you not realise money as the frontier people do? That is the spirit in which this Bill at this stage has been introduced, and the only argument advanced is "we want money, we must get something, and you must give us money" Sir, in this country also where we pay income-tax, we should be granted these allowances This is not kindness done to the men It is because the patriots of those countries, who are responsible for the health and improvement and development of their country, are at the helm of the Government there, they take special care for the promotion of all social amenities, education, good health, good culture, and they set aside sufficient money for all these beneficent purposes So, whether the income-tax is collected at a higher or at a lower rate, that does not touch the national economy and the social economy at all Unfortunately here as regards those who manage this taxation, their intention is quite the opposite, and no provision like this has been made here You have cited many examples of United Kingdom practice in order to stop our mouth, but why do you fight shy of introducing those other things into this country? Sir, this is a very reasonable prayer and the country has been feeling it for the last half a century whenever income-tax has been discussed in the country-side. Why should not allowances be given for our children, as in other countries? Sir, it is for this reason that I move this amendment, and I move it with full confidence, and because I feel very strongly about this, I leave it to my friends. With these observations, I move my amendment

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

"That after sub-clause (*b*) of clause 16 of the Bill, the following sub-clause be added, namely

'(*c*) after sub-section (*3*), the following sub-section shall be added:

'(*4*) In computing the total income of an assessee the following allowances shall be made

(*i*) an allowance of one-sixth of the income received by the assessee from salaries or business, profession or vocation subject to a maximum of Rs 1,800,

(*ii*) an allowance of Rs 1 000 in the case of every married person,

(*iii*) an allowance of Rs 120 in respect of each child of the assessee,

(*iv*) an allowance of Rs 100 in respect of each dependant maintained by the assessee

Provided however that when two assessees are husband and wife the allowances shall be claimed and allowed only in respect of either of them at the option of the officer "

The Honourable Sir Nripendra Sircar (Law Member) Sir, I asked my Honourable colleague, the Finance Member, whether I was to oppose or to support this amendment I was told by him that if I supported this amendment I should be very violently dealt with Well, I cannot, therefore, help opposing this amendment but I would like to show to the House that this amendment would have suited me very well indeed

In the interests of a public cause I have got to make some private disclosures Now I first get Rs 1,800 under 4 (*1*),—and then, an allowance of Rs 1,000 in case of every married person Well, having committed, the wisdom or folly of marriage, I gain another thousand rupees I am not sure—although that is an irrelevant inquiry from my point of view—whether it means a thousand rupees for each marriage, that is, if I have four wives, I get Rs 4,000, but not having that advantage, I get only Rs 1,800 and a thousand rupees on the strength of my marriage —although that is a very old event Then I get an allowance of Rs 120 in respect of each child Kind Providence has blessed me with eight and I get Rs 1,000 straight off there, and as regards an allowance of Rs 100 in respect of each dependant maintained by the assessee, well, I have not recently taken any census of the number of dependants but including aunts, sisters-in-law and widows of dismissed servants and so on, I put them at a very conservative figure of about fifty I get Rs 5,000 there, and I think in the end, if this is allowed, I shall be in a position not only not to pay an income-tax but to ask for payment from the State! That is why I said, Sir, that it is with very mingled feelings that I am opposing this amendment Then apart from other lighter matters which will be dealt with by my Honourable friend, Mr Chambers, and my Honourable friend, Sir James Grigg, I have some very serious matters to place before the House

Now, it is said that there will be an allowance of Rs 120 in respect of each child of the assessee That raises a very difficult problem as we are situated in India I have been reading in the papers very harrowing accounts of what will happen to us on account of over-population We are now 353 million and it is estimated that in 1941 we shall be somewhere near four hundred million and what with the pressure on the land and our little income, and so on, I have been really very much depressed at this idea of increasing population Some think this will be a direct

encouragement to an increase of population and that is a very serious matter for consideration. Then, as I work it out, it seems to me that no limits are given, there is no elasticity, what is given has got to be given and Rs 1,000 must be given in each case, there will be Rs 120 for a son, and so on Now, it might very well be that although a man's total income is Rs. 2,000 he will be allowed a deduction of something like Rs 4,000 That is the position. As I said, I would have very much liked to support this amendment but I am prevented from doing that, and that being the case, I strongly oppose it

Mr. Brojendra Narayan Chaudhury (Surma Valley *cum* Shillong: Non-Muhammadan) Sir, I had no mind to intervene in this debate but the high politics introduced by the Honourable the Leader of the House in this debate, *viz* , the over-population or the under-population of India and the evils and the remedies, is my reason for intervening now Sir, I have been noticing in this House a tendency to exaggerate the effects of over-population, and I am afraid it seems to me there is in this House some sneaking sympathy for birth control I think, Sir in a matter of this kind where you are going to discuss the manner of levy of an income-tax, we might very well come down from high skies to *terra firma* and leave aside such big questions

Now, I come to the real issue, *viz* , whether the man who lives in single blessedness or the man who lives with one wife, having no children at all or the man who has got two children or the man who has got three, four or even eight children, like my Honourable friend, the Leader of the House, or even ten children like myself should all be treated alike in the matter of levy of income-tax We have heard a lot in this House and rightly about legislating in such a way that the incidence or pressure of tax might fall equitably on all That is, according to their circumstances—not only of the income but also of the minimum necessary expenditure We must take that into consideration—the minimum necessary and obligatory expenditure of feeding and clothing children and legal dependants because that expenditure diminishes the ability to pay A man who gets an income of Rs 5,000 and has minimum necessary expenditure of only Rs 1,000 is in a much better position to pay more than a man who has got the same income, but has increased minimum necessary expenditure By this amendment the Honourable the Mover is asking for nothing more than the consideration of the principle of ability to pay I am not at one with him as regards the details but there are several similar amendments which the House might consider Particularly, while we are going to tax the undivided Hindu family in lump at the higher rate on its aggregate income the adoption of what is called the "family allowances" will give some relief to the big joint family though I do not say that it will go as far as may be necessary. The hardships in the case of the undivided Hindu family have been admitted in the Enquiry Committee's report The only argument that the three worthies of the department of Central Revenues think it worth while to advance is that "it will greatly reduce our income". I would like the House to remember that the Bill we are considering is not a taxation measure The taxation measure is the Finance Act. If you want more money then you manipulate the Finance Bill in such a way as to get more for less money as is desired Here, in this amendment, the only thing we have to consider is whether the necessary minimum expenditure of a man is going to be taxed and whether the burden will be felt similarly by all This is more or less a matter of

[Mr. Brojendra Narayan Chaudhury.]

psychology I would request the House to be sympathetic towards the married man as against the single man and the man with a large family as against both It is not a concession, but bare justice

Sardar Sant Singh: Sir, the speech of the Honourable Leader of the House reminds me of a statement made on oath by a witness in a case in which I myself was an accused During those martial law days a witness came into the witness box and deposed that when addressing the public on the Rowlatt Act I was supposed to have said that by the Rowlatt Act the Government was going to impose a tax on the birth of every child, on marriages and on the death of every person I never thought that such a thing would be believed by the presiding officer, but to my great astonishment I found that the presiding magistrate in his conviction order actually wrote that I did say those things Therefore it is no wonder that today we find the Leader of the House saying that if these exemptions are allowed there is a danger of over-population in India However the question should not be taken so light-heartedly The amendment involves as a matter of fact two principles

Sir Cowasji Jehangir: How many children have you got? Tell us that

Sardar Sant Singh: The amendment involves two distinct questions One is the question of policy Does the income-tax depend upon the ability to pay or on gross income without regard to the ability to pay? A single person getting an income of Rs 2,000 and a married person blessed with half a dozen children having the same income do not have the same ability to pay That is the point involved in this amendment The question is, is this Legislature prepared to accept the principle underlying this amendment or not? The second point is what allowances should be given if the principle is accepted As regards the question of principle I will submit that if we are to compare the system of income-tax in other civilised countries of the world we find that the principle has been accepted by all civilised countries Naturally the question arises, why should not the same principle be accepted in the case of India?

An Honourable Member: You mean civilised governments?

Sardar Sant Singh: I mean civilised countries with civilised governments The Mover of this amendment Mr Surya Kumar Som, has read from some book relating to the system as it now prevails in the United Kingdom and has shown that the principle has been accepted there I would certainly like, and the country would like, the Finance Member to state the reasons why he is not prepared to extend the same principle to this country, which he enjoys the benefit of in his own country When he goes back to England I do not suppose he will leave behind his wife and children here he is going to get the exemptions there from his income and may I ask him why he does not extend the exemptions to this country? Is it self-abnegation for himself or is it that a little sacrifice on his part makes us pay much more than he will ever pay while in this country? Really the question of principle is more important than the question of calculation as to what rate is to be given We were certainly entitled to be enlightened by the members of the Select Committee on this point as to why this principle was not accepted at the time they were discussing this matter in committee This question must have cropped up there and some light should have been thrown in the

report as to why this principle was not accepted by the members of the Select Committee. I think the Select Committee owed it to us . . . .

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member cannot criticise what happened in Select Committee

Sardar Sant Singh: I am only criticising the Report, not the Select Committee. I think the Report ought to contain all the contentious matters It is due to the House that some explanation should be given as to why a certain principle was not accepted by them

Mr. President (The Honourable Sir Abdur Rahim) The proceedings of the Select Committee are not before the House and we do not know whether this question was discussed there or not

Sardar Sant Singh: May I explain myself, Sir? What I mean is that there is a Report appended to the Bill as it has emerged out of the Select Committee I think it is due to the House and to the country at large that that Report should contain the considered opinion of the members of the Committee on this subject, and as there is no such opinion given in the Report on that point, I only wish to say that the country did expect the Report to contain something about it

It is a matter known to everybody that the whole of the income-tax paying population has been agitating for the acceptance of this principle. Why should this principle be over-ridden? That is a point which requires a good deal of light to be thrown upon before the House can go against the principle

As regards the calculation part of it, there may be a difference of opinion as to what amount should be conceded and how many allowances should be given According to this amendment, the proposals are not very terrifying .

Mr N. M. Joshi: Let us have a vote on the principle, and not on the details

Sardar Sant Singh: But unfortunately the principle and the details go together The details may be wrong, but I should like my friend, Mr Joshi, to place before the House correct details, and we will accept them Therefore, after examining these details, this is what I find An allowance of one sixth of the income received by the assessee from salaries up to a maximum of Rs 1,800, or if a person having an income of Rs. 2,000, the exemption of Rs 300 will be given to him Then an allowance on Rs 1,000 in the case of a married person would mean Rs. 90 a month, an allowance of Rs 20 in respect of each child assessed, which would be only about Rs. 10 a month, and an allowance of Rs 100 in respect of each dependant maintained by the assessee Here again the question of a dependant has been ridiculed by the Honourable the Leader of the House The word dependant has been defined in several rulings in the United Kingdom. Dependant does not mean merely the person to whom you extend your charity or hospitality Dependants mean people who have no source of income or who are near relations and are entirely dependent on you for their livelihood. Therefore, the word is used in a limited sense, and as such, if a person is *bona fide* maintaining a dependant, a widowed sister or a brother's widow, certainly that person loses a part of his income in having to maintain them, and his savings are reduced. Therefore, my submission is that this amendment should be accepted, and I support it

The Honourable Sir James Grigg: Sir, I am in a fortunate position in that, unlike my Honourable colleague on my left, on both interest and principle, I can go forward in opposing this amendment. I have no children and no dependants in India Therefore, I should get little benefit out of this clause, and, therefore, I can the more easily oppose it There are, or were, two points of order which I might have raised on this clause, and I ought to have taken them The first is that under section 141 of the Government of India Act the consent of the Governor General is required to an amendment which varies a tax in which the provinces are interested and there is no doubt, in this particular case, the amendment will cost a very great deal of money, and, therefore, will reduce the amount of revenue which goes to the provinces Perhaps I may be regarded as being out of time in raising that point of order now But there is another one, and it is this,—this Bill does not seek to lay down the scale of taxation, and this amendment is, if I might say so, more appropriate to the Finance Bill when it can be considered in relation to the scale as a whole

But, Sir, the main reason why this amendment is unacceptable is that it would cost a great deal of money and reduce our revenues That is the most potent argument

Then, Sir, on the merits of the case, the differentiation of family circumstances is much larger in the United Kingdom than it is here, and there is a highly developed tax machine so that the system of family allowances can be made to adapt the circumstances of individuals taxed to the tax they pay In this country it is not possible, and perhaps I will give two reasons, one of which I will read from the report of the Income-tax Inquiry Committee's Report It is a short paragraph

"It has been urged that the domestic circumstances of the married assessee should be taken into account in determining the amount of tax payable by him This, as a measure of differentiation, would be comparatively ineffective since the married state is the general rule in India, and the proportion of unmarried assessees is not great enough to justify the complications that would be involved in an attempt to differentiate in favour of the remainder "

An Honourable Member: What page is that?

The Honourable Sir James Grigg: It is at page 15

"Further, unless the total yield of tax were to be seriously diminished, it would be necessary to counter-balance the concession of the various allowances claimed by increasing the rates of tax with the result that the principle of differentiation would be little more honoured than at present"

Sir, I submit that in the main the adoption of the slab system for the step system does as much as we can hope for in India in the way of adapting to circumstances of individuals the tax imposed Apart from that, family circumstances are so varied that I very little doubt that in its present state the income-tax machine is not capable of coping with a complicated system of allowances It would require very great strengthening of the staff, the cost of collection will be enormous, and in the end the rates of tax will have to be increased very much Sir, for this variety of grounds, I am afraid I must oppose the amendment

Some Honourable Members: Sir, the question may now be put.

Mr. President (The Honourable Sir Abdur Rahim): The House stands adjourned till tomorrow.

The Assembly then adjourned till Eleven of the Clock on Friday, the 2nd December, 1938

LEGISLATIVE ASSEMBLY.

Friday, 2nd December, 1938.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

ADMISSION FEE PAID BY POSTMEN, ETC, FOR EXAMINATION FOR APPOINTMENT TO THE CLERICAL CADRE.

†1692. ***Mr. Abdul Qaiyum:** Will the Honourable the Communications Member please state

(a) whether postmen have to pay any admission fee for examination for appointment to the clerical cadre;

(b) whether porters and Railway Mail Service staff have to pay a similar fee for examination for the posts of sorters,

(c) if so, what is the amount of such fees, and

(d) whether Government propose to consider the desirability of abolishing such fees?

The Honourable Sir Thomas Stewart: (a) and (b) Yes

(c) Rs 7

(d) No

HOUSE ALLOWANCE GRANTED TO POSTMEN, ETC.

†1693. ***Mr. Abdul Qaiyum:** Will the Honourable Member for Communications please state

(a) what is the house allowance granted to postmen, lower grade and Railway Mail Service staff of the first and second class offices;

(b) the house allowance of such staff in the third class offices; and

(c) whether Government are prepared to raise the amount mentioned in parts (a) and (b) to Rs 8 and Rs 5 respectively?

The Honourable Sir Thomas Stewart: (a) and (b) House rent allowance to which the Honourable Member presumably refers is granted not on the basis of first and second class offices but to the staff employed in certain expensive localities, and the amount of allowance is fixed for the different classes of staff on the merits of each case with reference to local conditions. For particulars of such allowances I must refer the Honourable Member to Appendix 10 to the Manual of Appointments and Allowances of Officers of the Indian Posts and Telegraphs Department, a copy of which is in the Library of the House.

(c) No.

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

RESERVE MAINTAINED FOR POSTMEN, ETC.

†1694. *Mr. Abdul Qaiyum: Will the Honourable Member for Communications please state

(a) whether any reduction was effected in the number of postmen and lower grade staff in 1931;

(b) whether a 18 per cent reserve staff is maintained in the clerical staff,

(c) if so, whether any reserve is maintained for postmen and lower grade staff, if not, why not,

(d) what is the beat of a postman in mileage in the plains and in the hills, and

(e) whether the above limits are being observed in practice; if not, whether Government propose to take steps and see that the rules are strictly observed?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) A leave reserve staff is maintained for the clerical establishment but the percentage varies with the different cadres.

(c) No, because substitutes for postmen are readily found from amongst qualified members of the lower grade staff and substitutes for lower grade staff are found without difficulty from outsiders

(d) No standard mileage is laid down for the plains and for the hills. Postmen are required to walk at least ten miles a day and to attend at least eight hours' a day on duty Their beats are generally fixed so as to ensure the observance of these provisions

(e) Government have no reason to believe that the rules on the subject are not being correctly observed The second part does not, therefore, arise

DESIRABILITY OF HAVING SURETIES INSTEAD OF WITNESSES WHILE DELIVERING MONEY ORDERS AND INSURED ARTICLES.

†1695. *Mr. Abdul Qaiyum: Will the Honourable Member for Communications please state whether Government have considered the question of desirability of having sureties instead of witnesses to attest the fact of delivery of money orders and insured articles? If not, the reasons therefor?

The Honourable Sir Thomas Stewart: The question of having sureties instead of witnesses has been considered but rejected as impracticable.

ASSIGNMENT OF REASONS ON TRANSFERS OF POSTMEN, ETC.

†1696. *Mr. Abdul Qaiyum: Will the Honourable Member for Communications please state

(a) whether postmasters and superintendents are bound to assign and write out reasons when transferring postmen and members of lower grade staff; and

(b) if not, whether it is proposed to amend the rules suitably to make this obligatory?

The Honourable Sir Thomas Stewart: (a) and (b). No.

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

SEASON STAFF EMPLOYED IN THE POST OFFICES IN THE HILLS DURING WINTER.

1697. *Mr. Abdul Qaiyum: Will the Honourable Member for Communications please state

(a) whether the season staff employed in the post offices in the hills get any pay in the winter months;

(b) whether they get any travelling allowance on resuming duty;

(c) whether it is not possible to absorb them in the plains during off-season;

(d) whether such lower grade staff and postmen are given warm uniforms and raincoats while on duty; if not the reasons therefor;

(e) whether post office clerks get compensatory allowance in the hills and Frontier allowances; and

(f) whether allowances mentioned in part (e) are given to postmen, lower grade staff and Railway Mail Service staff in such areas; if not, why not?

The Honourable Sir Thomas Stewart: (a) Yes, if employed during the winter months.

(b) No.

(c) Not all of them and not always

(d) Yes, where the local climatic conditions warrant it The latter part of the question does not arise

(e) Post office clerks get compensatory allowances at some hill stations and at some frontier stations The particulars of the allowances are given in Appendix X of the Manual of Appointments and Allowances, a copy of which is in the Library of the House

(f) Compensatory allowances are given to postmen, lower grade staff and Railway Mail Service staff wherever considered justified

ACCIDENTS ON RAILWAYS.

1698. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Railway Member state

(a) how many Railway accidents have occurred in the last three months;

(b) how many of them have been due to negligence of Railway servants; and

(c) how many of them are due to sabotage; and what steps have been taken in the matter?

The Honourable Sir Thomas Stewart: With your permission, Sir, I propose to reply to this and Mr. B N. Chaudhury's question No 1705 together.

I would refer the Honourable Members to the statements published as Appendix D of the Railway Board's report for 1936-37, Vol. II, a copy of which is in the Library of the House. It will be seen therefrom that the total number of accidents, both major and minor, on railways exceeded 19,000 The figures for the compilation of these statements are submitted to the Railway Board annually by all Railways: those for 1937-38 have

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

been received and the statements in connection therewith are in the press at present Figures for the current year will not be received until some time about August, 1939

The labour involved in compiling the particulars asked for on other points will be entirely disproportionate to any use to which the information could be put Each accident forms the subject of a special investigation and these in which there are fatalities are further enquired into by the police and in more serious cases by magistrates also Suitable disciplinary action is taken in each case against railway employees found responsible Government have no reason to believe that the number of accidents now occurring indicates any abnormality

Mr. T. S. Avinashilingam Chettiar: About this matter, the Honourable Member has referred to a publication which is yet in the press and which has not been given to us, but I asked for these figures some time ago.

The Honourable Sir Thomas Stewart: I made it a point to get the figures which are in the press, but there is a very considerable list and I hope the Honourable Member will accept my statement that they show no material variation from the figures of the two previous years

Prof. N. G. Ranga: What is the exact position? Is it not a fact that the number of major accidents has increased since last year? This is with reference to part (b) of question No 1705

The Honourable Sir Thomas Stewart: The total figures are these·

1935-36	.	...	..	... 19,214
1936-37	.		.	19,288
1937-38	...	.	..	.. 18,910

So, actually, there has been a decrease in the total number of accidents

Mr. T. S. Avinashilingam Chettiar: May I ask whether Government have gone into the matter of these accidents and can they say how many of them were due to negligence on the part of the railway servants and how many were due to sabotage?

The Honourable Sir Thomas Stewart: If the Honourable Member will refer to the statements which I have quoted he will see there is an elaborate analysis of the causes of accidents running into 24 items As far as I can see, in the latest year there has been no variation from the proportions that existed in the previous years.

Prof. N. G. Ranga: What is the actual position in regard to the major accidents? Is it not a fact that they have increased during this year?

The Honourable Sir Thomas Stewart: It is perfectly true that there have been two or three accidents which have been rather more calamitous than normal, but that, taken in relation to a total of 19,000 is not a great increase There is no statistical basis for any such suggestion as the Honourable Member is making.

Seth Govind Das: Have there been such serious accidents before also or is it only recently that they are taking place?

The Honourable Sir Thomas Stewart: There have been very disastrous accidents before both in this country and elsewhere.

Seth Govind Das: Have they taken place in recent years?

The Honourable Sir Thomas Stewart: Yes, Sir, in recent years

Mr. K. Santhanam: With reference to part (b) of the question, may I know if Government have come to a conclusion about the recommendation of the Central Advisory Committee for Railways that there should be a judicial inquiry whenever a fatal accident takes place?

The Honourable Sir Thomas Stewart: As the Honourable Member is aware, the recommendations of the Central Advisory Committee are under consideration

Mr. K. Santhanam: Some time back the Honourable Member said that the recommendation of the Central Advisory Committee was under consideration and what I want to know now is whether Government have come to a conclusion on that?

Mr. President (The Honourable Sir Abdur Rahim) It does not arise out of this It is a different matter

ADVERTISEMENT OF POSTS BY THE DIVISIONAL SUPERINTENDENT, HOWRAH

†**1699. *Mr. Muhammad Nauman:** (a) Is the Honourable Member for Railways aware of the fact that the Divisional Superintendent, Howrah has not always observed the following rule in recruitments, permanent or temporary, during the period from the 13th December, 1934, to the 30th September, 1938, and that he has made his own classification of advertisement and non-advertisement posts

> "All vacancies, temporary or permanent, in the lowest or intermediate grades should be advertised in the press", and

(b) Is it a fact that there is no post which can be classified as technical and that the Railway Board has made no rule for the classification of advertisement and non-advertisement posts for the purpose of new recruitments?

The Honourable Sir Thomas Stewart: (a) For the relevant rule on the subject, I would refer the Honourable Member to rule 68 of the Rules for recruitment and training of non-gazetted staff on State-managed Railways, a copy of which is in the Library of the House Government understand that the precedure laid down in this rule is being observed on the Howrah Division of the East Indian Railway.

(b) There are a number of technical subordinate posts The procedure laid down in the rule referred to above applies to the recruitment made to all posts, technical or otherwise.

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

LIST OF APPROVED CANDIDATES MAINTAINED ON THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

†1700. *Mr. Muhammad Nauman: (a) Is the Honourable Member for Railways aware that a system of keeping waiting lists of approved candidates without prior notification in advertisements is being maintained on the East Indian and the Eastern Bengal Railways?

(b) If the reply to part (a) be in the affirmative, will the Honourable Member state the reasons for such arrangements, and will he lay on the table lists of approved candidates for all services on the East Indian and the Eastern Bengal Railways in 1938?

The Honourable Sir Thomas Stewart: (a) The position on both the Eastern Bengal and East Indian Railways is that vacancies are at first advertised and after the Selection Committee have interviewed the likely candidates, a certain number are selected by the Committee and their names are kept on an approved list from which future vacancies are filled.

(b) The reason for this practice is to avoid the necessity of advertising on each separate occasion when a vacancy arises As regards the second part, Government have no information, and they do not propose to collect it as the time and labour involved in its collection will not be justified by the results to be obtained

RULES FOR DETERMINATION OF SENIORITY ON RAILWAYS.

†1701. *Mr. Muhammad Nauman: Will the Honourable Member for Railways be pleased to place on the table the rules regarding determination of seniority in different departments on Railways?

The Honourable Sir Thomas Stewart: The General Managers of Railways have full powers to deal with questions of seniority of non-gazetted staff and Government have laid down no rules regarding these Government have framed certain rules to guide them in the fixation of initial seniority of gazetted staff on the State-managed Railways, but these rules are for official use only.

CONSTRUCTION OF A RAILWAY LINE CONNECTING MYSORE AND COIMBATORE.

1702. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Railway Member state:

(a) whether Government have received replies from the Mysore Government over the matter of the construction of railway line connecting Mysore and Coimbatore; and

(b) if so, in what stage is the negotiation between the two Governments in this matter?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) The Mysore Government have agreed to meet the cost of necessary surveys required to be carried out

Mr. T. S. Avinashilingam Chettiar: May I know how long it will take to finish the survey?

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

The Honourable Sir Thomas Stewart: That is a technical question and I am not competent to answer it.

Mr. M. Ananthasayanam Ayyangar: What is the gauge of that railway? Is it narrow or broad or metre gauge?

The Honourable Sir Thomas Stewart: I should say it is probably metre gauge. As far as I know, that is the prevailing gauge in that part of the country.

Mr. M. Ananthasayanam Ayyangar: Is it going to be a light railway as there is one in the Mysore State?

The Honourable Sir Thomas Stewart: The metre gauge is not narrow gauge

Mr. T. S. Avinashilingam Chettiar: After the survey is finished and I presume there is no difficulty about it, may I ask whether Government have come to a conclusion to construct this railway?

The Honourable Sir Thomas Stewart: Obviously I cannot come to a conclusion until the survey has been carried out

PROVISION OF MOVEABLE STEPS TO COMPARTMENTS AT GOALUNDO STATION ON THE EASTERN BENGAL RAILWAY.

1703. ***Mr. Brojendra Narayan Chaudhury:** Will the Honourable the Railway Member please state

(a) whether moveable steps are provided for boarding and getting down from the broad gauge trains at Goalundo station, Eastern Bengal Railway, if so, whether the convenience is confined to certain classes of passengers,

(b) whether steps are provided for (i) third class males (ii) third class females, (iii) intermediate class males (iv) intermediate class females;

(c) the height of the floor of the compartments from the ground of the station which has no platform of any kind, is it five feet or so;

(d) the reasons for supplying steps to upper class male passengers;

(e) whether in practice steps are supplied to sick and infirm passengers, male and female of all classes, whether there is any general order to that effect and whether the order is always complied with;

(f) whether it is a fact that next to Sealdah, Goalundo has the heaviest passenger traffic in the entire Eastern Bengal system being the terminus of the Padma river services and the gate to East Bengal and beyond;

(g) what would be the cost of supplying steps to all compartments;

(h) whether the grievances of lower class passengers about non-supply of steps have been brought to the notice of the administration by members of the Advisory Committee by petitions direct to traffic officials or by ventilating in the press;

(i) whether there is any officer in this and other railways especially entrusted to collect information about public complaints against railways from the newspapers,

(j) if the reply to part (i) above be in the negative whether Government are prepared to consider the advisability, convenience and economy of having such officers, and

(k) whether this and other Railways have publicity officers?

The Honourable Sir Thomas Stewart: (a) and (b) Yes, for first and second class passengers and for women only, in intermediate and third classes.

(c) Yes, about 5 ft., but running board steps are provided which reduce the distance by 3'-1" in some types of stock and by 2'-8" in others

(d) The higher fares paid

(e) Yes Step ladders are supplied for sick and infirm passengers on request There are no general orders on the subject

(f) No

(g) Rs 1,200 approximately, but this would also involve the posting of extra staff to place and remove the ladders at the time of arrival and departure of trains

(h) Yes

(i) The Publicity Officer does this on the Eastern Bengal Railway. I have no information in regard to the practice on other railways

(j) This is a detail of administration which Government must leave to Railways to settle for themselves

(k) There is a Publicity Officer on the Bombay, Baroda and Central India, Bengal Nagpur, Eastern Bengal, Great Indian Peninsula and South Indian Railways I have no definite information at present in regard to other railways

Mr. Brojendra Narayan Chaudhury: Is the Honourable Member aware that Indians, whose physique is not strong as a class, find it difficult to board the trains even with the help of the foot-board steps which are at a distance of three feet as mentioned by the Honourable Member?

The Honourable Sir Thomas Stewart: Sir, I do not think that the physical differences between Indians and others are so pronounced as to render it any more difficult for them to get into the trains

Mr. Brojendra Narayan Chaudhury: Is it usually easy to board the trains when the steps of running boards are three feet apart?

The Honourable Sir Thomas Stewart: I think it is entirely reasonable to think so judging by the experience we have had of the inhabitants even of the Honourable Member's part of the world

Mr. Brojendra Narayan Chaudhury: Will the Honourable Member kindly advise that the steps of his office should be three feet high?

Prof. N. G. Ranga: May I know if this particular figure of Rs. 1,200 is the non-recurring cost to provide for these steps?

The Honourable Sir Thomas Stewart: That is quite true.

Prof. N. G. Ranga: In view of the great convenience that the steps will provide for the passengers and the great inconvenience experienced for want of them, may I know why Government are not willing to provide this convenience when it costs Rs. 1,200 non-recurring

The Honourable Sir Thomas Stewart: If the Honourable Member had listened to my answer carefully, he would have realised that apart from this original expenditure on steps, there would be recurring expenditure on the employment of staff.

Prof. N. G. Ranga: Is it not a fact that on this particular platform there are always porters available and they can be made use of for this particular purpose?

The Honourable Sir Thomas Stewart: From remarks made in this House, it would appear that porters are always so much otherwise engaged that they certainly would not have time to attend to the steps

Prof. N. G. Ranga: Will Government consider the advisability of sending this question and answer and the supplementaries to the Local Administration and the Local Railway Advisory Committee?

The Honourable Sir Thomas Stewart: I will send a copy of the questions and answers to the local administration

NON-ACCEPTANCE OF SERVICES OF VOLUNTEERS OF SOCIAL SERVICE ORGANISATIONS DURING KRISHNANAGAR MELA.

1704. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state

(a) whether the services of volunteers of various social service organisations were accepted for regulating pilgrim traffic on the occasion of the Choramani Joga at Sealdah station and what the Railway Administration reported about their conduct and service,

(b) whether it is a fact, as stated in the *Anandabazar Patrika* of 28rd Kartik (dated 7th November, 1938), that the offer of service of volunteers was rejected at Krishnanagar station, and

(c) whether it is a fact, as stated by the correspondent, that three women pilgrims were run over and killed at Krishnanagar by a Navadwip train, and that the railway authorities made no special arrangements for regulating ignorant and rustic pilgrims?

The Honourable Sir Thomas Stewart: (a) Yes The General Manager of the Eastern Bengal Railway states that they were generally helpful

(b) No

(c) I understand that while a rake of empty vehicles was being placed on the platform of Krishnanagar City, a large crowd rushed to entrain resulting in one woman falling under the wheels of a carriage and being killed. Two other women were knocked down and trampled on by the

crowd One of them was killed and the other died subsequently The matter is being investigated by the Police and the Railway Administration.

Mr. Brojendra Narayan Chaudhury: May I know whether any special arrangements were made for regulating the ignorant pilgrims on the platforms?

The Honourable Sir Thomas Stewart: Yes, Sir. Arrangements are made but there are limitations to what a limited staff can do in this direction

Mr. Brojendra Narayan Chaudhury: The Honourable Member said 'No' in reply to part (b) Do I understand that the services of the volunteers were accepted?

The Honourable Sir Thomas Stewart: In reply to part (b) I said 'No'

Shrimati K. Radha Bai Subbarayan: Will Government consider the desirability of including a few women on the staff at these stations on special occasions of this kind to help women passengers?

The Honourable Sir Thomas Stewart: That is a suggestion that I am prepared to consider

ACCIDENTS ON RAILWAYS

†1705. ***Mr. Brojendra Narayan Chaudhury:** Will the Honourable Member for Railways please state

(a) the number of fatal railway accidents since the beginning of the Railway year;

(b) the number for the corresponding period of last year,

(c) of these in part (a) above, for how many accidents railway employees have been found responsible, and what is the number of such employees found responsible,

(d) of these responsible, how many have been prosecuted and with what results, and

(e) how many have been dismissed, and how many fined?

RECOMMENDATION OF THE ASSAM BENGAL RAILWAY FOR RETRENCHMENT OF TWO DOCTORS.

1706. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state.

(a) whether it is a fact that in the Assam Bengal Railway the appointments of the higher officers and promotions are subject to the approval of the Railway Board;

(b) whether there has recently been retrenchment in the medical staff in the Assam Bengal Railway in which two doctors were retrenched;

†For answer to this question, see answer to question No. 1698.

(c) whether the Railway Board accepted the recommendation of the Railway Administration or made any alteration,

(d) whether candidates for the higher appointments in the Assam Bengal Railway sometimes interview the Railway Board or the Members of the Board, and

(e) if so, for what purpose?

The Honourable Sir Thomas Stewart: (a) The reply is in the negative

(b) Government were informed demi-officially in April, 1938, by the Agent and General Manager, Assam Bengal Railway, that he was submitting proposals to his Home Board for the reorganisation of the Medical Department which would reduce the cadre of Medical Officers from five to three

(c) Does not arise in view of the reply to part (a) above.

(d) No.

(e) Does not arise

Mr. Brojendra Narayan Chaudhury: Is it a fact that the railway authorities recommended Dr Sen and Dr Ghosh for retrenchment, but the Railway Board advised that Dr Morgan should be retrenched instead of Dr Sen, and that Dr Sen was retained?

The Honourable Sir Thomas Stewart: I made it perfectly clear in my answer that the Railway Board are in no way concerned with the appointments on this railway

Mr. Brojendra Narayan Chaudhury: The Honourable Member said that the Agent reported to the Railway Board demi-officially I want to know whether the Railway Board gave any advice or approval officially or demi-officially

The Honourable Sir Thomas Stewart: Any advice or any communication on this matter that may have come from the Railway Board or from any individual on the Railway Board must have been of an entirely private character and had no official significance at all

Mr. Brojendra Narayan Chaudhury: Are the Members of the Railway Board allowed to have these private relations with the railway authorities?

The Honourable Sir Thomas Stewart: The members of the Railway Board are approachable by railway officers as well as by Honourable Members like my friend

Mr. Brojendra Narayan Chaudhury: Is it desirable in the public interests?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can decide that for himself.

INVITATION TO THE AFGHAN MINISTER OF COMMERCE FOR DISCUSSIONS ON ECONOMIC PROBLEMS.

1707. *Mr. T. S. Avinashilingam Chettiar: Will the Foreign Secretary state.

(a) whether Government have extended an invitation to the Afghan Minister of Commerce for the purpose of terminating the discussions on economic problems, which have been in progress between the two Governments,

(b) what are these economic problems over which discussions have been going on, and

(c) whether a settlement has been reached, if so, what are the particulars of the settlement?

Sir Aubrey Metcalfe: (a) The invitation is to afford opportunity for an exchange of views on these problems

(b) and (c) The attention of the Honourable Member is invited to the latter part of the reply given by me on the 10th November, 1938, to parts (b) to (d) of Mr S Satyamurti's question bearing No 1210A

Mr. T. S. Avinashilingam Chettiar: Apart from the commercial treaty, may I know what are the economic problems? May I ask for details of that?

Sir Aubrey Metcalfe: I have already stated that it will not be in the public interest to give details at the moment

Mr. T. S. Avinashilingam Chettiar: I want to know about the economic problems about which discussion is pending between the Afghan Government and the Government of India I do not think the Honourable Member means that there is anything which should not be divulged to this House on that matter

Sir Aubrey Metcalfe: I do mean that

Mr. Badri Dutt Pande: Was the Honourable Member invited by the Afghan Government or did he go of his own accord?

Sir Aubrey Metcalfe: I have already answered that more than once.

PAY AND ALLOWANCES OF CERTAIN STAFF ON RE-INSTATEMENT ON THE EAST INDIAN RAILWAY

†1708. *Shaikh Rafiuddin Ahmad Siddiquee: (a) Is the Honourable Member for Railways aware of the fact that a Hindu Permanent Way Inspector, discharged and re-instated at Dinapur, and one Hindu Travelling Ticket Examiner, discharged at Allahabad and now working at Howrah, and a third Hindu Assistant Booking Clerk, Burdwan (deceased), were on re-instatement (on account of acquittal by the Appellate Court) given full pay and allowance for the period they remained under discharge orders in accordance with Fundamental Rule 54(a)?

(b) If the reply to part (a) be in the affirmative, will the Honourable Member state why a Muslim Travelling Ticket Examiner, Howrah, was not given full pay and allowance on his re-instatement from the 9th March, 1936, for the period from 1st October, 1933, to 8th March, 1936, during which period he was discharged from Moradabad Division?

The Honourable Sir Thomas Stewart: I am obtaining information and will lay a reply on the table of the House in due course

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

GRIEVANCES OF MUSLIMS IN THE DIVISIONAL OFFICE, QUETTA.

†1709.*Shaikh Rafiuddin Ahmad Siddiquee: Will the Honourable Member for Railways be pleased to state how far the telegram from the Secretary, Muslim Railway Employees Association, Quetta, reproduced below, is based on facts

"Muslim strength in Personnel Branch already insignificant in Divisional Office, Quetta, being reduced gradually against Railway Boards orders Only one Muslim Grade 3 Clerk employed in Personnel Proper being transferred to Bills though senior Non-Muslim junior Grade 3 clerks being retained thus jeopardising Muslim interests Another Muslim Grade 3 transferred Bills Transportation. Accord justice. Copy Col Carson, Noverca, Lahore and Divrail Quetta"?

The Honourable Sir Thomas Stewart: Government have not seen the telegram referred to by the Honourable Member, but I may mention that the existing instructions to railway administrations are to see that there should not be a preponderance of any one community in the Establishment Branches of railway offices I am, however, sending a copy of the question to the General Manager, North Western Railway, for such action as he may consider necessary

MUSLIM CLERKS IN THE DIVISIONAL OFFICE, QUETTA.

†1710. *Shaikh Rafiuddin Ahmad Siddiquee: (a) Will the Honourable Member for Railways be pleased to state the total number of clerks, according to communities, in different grades sanctioned in the Divisional Office, Quetta, North Western Railway?

(b) Will the Honourable Member state the designation, pay, grade and duties in sections of Muslim clerks in Divisional Office, Quetta?

The Honourable Sir Thomas Stewart: (a) and (b) I lay a statement on the table showing the total number of clerks sanctioned for the Divisional Office, Quetta, North Western Railway

As regards the second part of part (a) and part (b) I am obtaining information and will lay a reply on the table in due course.

Statement showing the total number of clerks in different grades sanctioned for the Divisional Office, Quetta, North Western Railway.

Grades.	Number.
VII	1
VI	..
V	1
IV	6
III	15
II	42
I	39
Total	104

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

PROMOTION OF MUSLIM UPPER SUBORDINATES ON RAILWAYS.

†1711. *Shaikh Rafiuddin Ahmad Siddiquee: (a) Will the Honourable Member for Railways be pleased to state how many Muslim Upper Subordinates have been promoted to Lower Gazetted service on all Railways since the introduction of that service?

(b) Is it a fact that very few Muslim Upper Subordinates have been promoted so far on any Railway?

(c) If the reply to part (b) be in the affirmative, will the Honourable Member be pleased to state the designation, pay, grade, Railway in previous service and the designation, pay, upper grade and Railway, in the present service?

The Honourable Sir Thomas Stewart: I am obtaining information and will lay a reply on the table of the House in due course

CONFERENCES OF STATION DIRECTORS OF THE ALL-INDIA RADIO.

1712. *Mr. Manu Subedar: (a) Will the Honourable Member for Communications please state how many conferences of Station Directors of the All-India Radio have taken place since the 1st January, 1937?

(b) What is the expenditure incurred in travelling, living allowances, and other ways?

(c) Have Government considered the proposal of creating quality programmes at the four main stations and of relaying them to the subsidiary stations?

(d) Can a rough estimate of the possible savings from such a measure be given?

(e) Have Government considered the possibility of relaying European music and talks from the British Broadcasting Corporation with a view to saving the expenses incurred on similar music and talks in this country?

The Honourable Sir Thomas Stewart: (a) Seven

(b) The total cost of the last conference was Rs 1,150 approximately. The figures for other conferences are not readily available

(c) Government propose to install receiving centres at all stations of All-India Radio and to make as much use of relayed programmes as is practicable.

(d) Not yet

(e) Yes In fact this is already being done in respect of talks where the equipment is available. Other programmes are also relayed when practicable and desirable.

Mr. Manu Subedar: My object is to help the Department with suggestions. May I enquire whether extended use cannot be made with regard to relaying of music from B. B. C. to this country?

The Honourable Sir Thomas Stewart: Yes, Sir. We trust it may be possible to do so but there are very substantial difficulties to be met. In the first place, there is the time factor. The time of relay from Daventry

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

is not always a convenient one for Indian purposes In the second place, we are confronted, with a very serious difficulty in that there are many items relayed which are subject to copyright, and we could only relay them at considerable expense. I am very grateful to the Honourable Member for his suggestions.

Prof. N. G. Ranga: What is the object of this conference and why is it that so many conferences were held within a short period of one year and six months?

The Honourable Sir Thomas Stewart: Conferences are held once a quarter so that it may be possible to co-ordinate the various programmes that are broadcast from various stations in India This is part of the technique of broadcasting.

Mr. M. Ananthasayanam Ayyangar: May I know if Government of their own accord are going to establish receiving sets in various places and that they have been refusing permission for municipal corporations to have receiving sets?

The Honourable Sir Thomas Stewart: I think the Honourable Member is under a misapprehension When I say "receiving station", I do not mean a universal broadcaster It is a technical device for taking in the waves at the local stations, so that they may be relayed therefrom

Mr. S. Satyamurti: With reference to the answer to clause (c) of the question, may I know whether Government have considered, or will consider, the evolving of high-class Indian music at certain specified centres and relaying them, instead of having second-rate and third-rate music at every station, which really offends the taste of connoisseurs of Indian music?

The Honourable Sir Thomas Stewart: The Honourable Member's suggestion is an admirable one, in my opinion

Mr. S. Satyamurti: Will Government consider it?

The Honourable Sir Thomas Stewart: Certainly.

PROPOSAL TO EXTEND CERTAIN LINES ON THE BENGAL AND NORTH WESTERN AND EASTERN BENGAL RAILWAYS.

†1712. ***Babu Kailash Behari Lal:** Will the Honourable Member for Railways be pleased to state

(a) if it is a fact that Saharsa Dauram Madhipura Branch line on the Bengal and North Western Railway is going to be extended up to Budham Ghat;

(b) if there is any proposal to extend the Saharsa Dauram Madhipura Branch line of the Bengal and North Western Railway up to Murliganj; and

(c) if it is a fact that Murliganj branch line of the Eastern Bengal Railway is going to be extended up to Budham Ghat?

The Honourable Sir Thomas Stewart: Enquiries are being made from the Railway Administrations concerned and a reply will be laid on the table in due course.

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

CHANGE OF THE NAME OF BUDHAM GHAT RAILWAY STATION TO THAT OF MURHO.

†1714. *Babu Kailash Behari Lal: Will the Honourable Member for Railways be pleased to state

(a) if it is a fact that Budham Ghat Railway Station falls within the village Murho, and there is no village by the name of Budham Ghat even in the near vicinity; and

(b) if the Railway authorities concerned contemplate to change the name of Budham Ghat to that of Murho?

The Honourable Sir Thomas Stewart: Enquiries are being made from the Railway Administration concerned and a reply will be laid on the table in due course

BONUS ON POSTAL INSURANCES

†1715. *Babu Kailash Behari Lal: Will the Honourable the Communications Member please state the circumstances under which the bonus on Postal Insurances for the quinquennium 1932—37 has not been declared yet, and when it may be expected?

The Honourable Sir Thomas Stewart: The matter is under examination and an announcement will be made shortly

CONSTITUTION AND FUNCTIONS OF THE RAILWAY RATES ADVISORY COUNCIL.

1716. *Seth Govind Das: Will the Honourable Member for Railways state.

(a) the constitution and functions of the Railway Rates Advisory Council,

(b) the total annual expenditure from public funds for the functions of the Railway Rates Advisory Council; and

(c) the procedure adopted for receiving a complaint on matters of railway rates and freight rates?

The Honourable Sir Thomas Stewart: (a) and (c) I would refer the Honourable Member to Railway Department (Railway Board) Resolution No 606-T, of the 25th September, 1930, published in Part I of the Gazette of India, dated the 27th September, 1930

(b) I would refer the Honourable Member to the reply given to part (c) of Mr Manu Subedar's question No 991 on the 13th September, 1938

Mr. Manu Subedar: Have Government under their contemplation proposals for a change in the personnel of the present Railway Rates Advisory Committee? When is the President retiring?

The Honourable Sir Thomas Stewart: I would ask the Honourable Member not to anticipate.

RAILWAY STATIONS AND CERTAIN STAFF EMPLOYED ON THE NORTH WESTERN RAILWAY IN SIND.

1717. *Mian Ghulam Kadir Muhammad Shahban: Will the Honourable Member for Railways be pleased to state:

(a) how many railway stations there are on the Sind section of the North Western Railway,

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

(b) the total number of signallers, assistant station masters and station masters employed on this section of this railway, and

(c) how many of them are Sindhis?

The Honourable Sir Thomas Stewart: (a) 139 stations of the North Western Railway are situated in Sind

(b) and (c) The information is not readily available I may add that staff statistics are not maintained by Provinces

TRAINING OF SIGNALLERS AND STATION MASTERS, ETC, ON THE NORTH WESTERN RAILWAY

1718. ***Mian Ghulam Kadir Muhammad Shahban:** Will the Honourable Member for Railways be pleased to state

(a) if it is a fact that a signaller, an assistant station master and a station master, are required to undergo practical training and qualify themselves in telegraphy before being appointed as such,

(b) if so, where such training is given on the North Western Railway,

(c) how many persons are taking such training at present, and

(d) how many of them are Sindhis?

The Honourable Sir Thomas Stewart: (a) Yes

(b) North Western Railway Walton Training School, Lahore Cantonment.

(c) 156

(d) Two

Mr. Lalchand Navalrai: May I know from the Honourable Member if there are any students at present getting training in the Walton School at Lahore?

The Honourable Sir Thomas Stewart: I have just said 156

Mr. Lalchand Navalrai: Under training?

The Honourable Sir Thomas Stewart: That is the substance of my reply

Mr. Lalchand Navalrai: Why are there so many in the Walton School getting training for assistant station masters' jobs? Is that a fact?

The Honourable Sir Thomas Stewart: The question was not in regard to assistant station masters, there were other categories of service mentioned

Mr. Lalchand Navalrai: May I inform the Honourable Member (and then know the correct facts from him) that in the Walton School no new recruit has been taken for the last three years?

The Honourable Sir Thomas Stewart: Well, Sir, I am not in a position to contradict the Honourable Member.

Mr. Lalchand Navalrai: Will the Honourable Member then ask the Agent to take in Sindhis for training, from the Sind section, in that school?

The Honourable Sir Thomas Stewart: I think it is quite unnecessary to make any such request to the Agent He has already taken Sindhis into the school

Prof. N. G. Ranga: May I know if stipends are granted for the sons of the poorer people to get training in this school?

The Honourable Sir Thomas Stewart: I should require notice

OPENING OF A RAILWAY TELEGRAPH SCHOOL IN SIND

1719. *Mian Ghulam Kadir Muhammad Shahban: Will the Honourable Member for Railways be pleased to state

(a) if it is a fact that there used to be a Railway Telegraph School at Sukkur in Sind,

(b) if so, whether that school is still in existence,

(c) if not, when and why that school was closed,

(d) if it is a fact that the closing of that school has deprived the people of Sind of facilities for this training, and that this line of service has thus become a monopoly of non-Sindhis, and

(e) if so, whether Government are prepared to consider the desirability of opening a Railway Telegraph School at some central place in Sind for the training of Sindhis for this line of service?

The Honourable Sir Thomas Stewart: (a) Yes

(b) No

(c) The School was closed in December, 1908, as it was of a very elementary kind and unsuited to the requirements of the Railway

(d) No

(e) All telegraph training is now given at the Walton Training School at Lahore Cantonment The opening of a separate school in Sind is not justified either on financial grounds or on the requirements of the Administration

Mr. Lalchand Navalrai: Will the Honourable Member open a branch of the Walton School in the Lahore Cantonment in Sind?

The Honourable Sir Thomas Stewart: I see no justification for such a proposal

RAILWAY WORKSHOP AT MOGHULPURA AND OPENING OF A WORKSHOP IN SIND.

1720. *Mian Ghulam Kadir Muhammad Shahban: Will the Honourable Member for Railways be pleased to state

(a) if it is a fact that there is a big Railway Workshop at Moghulpura in the Punjab section of the North Western Railway,

(b) if it is a fact that in that workshop boys are getting training to qualify them as mechanics,

(c) how many such boys here tare in the workshop,

(d) how many recruits for such apprenticeship are admitted every year,

(e) how many of such recruits are Sindhis,

(f) if Government are aware that it is difficult for a Sindhi to come for training to this workshop from a long distance, especially at an early age of 14 to 16 years,

(g) if it is a fact that there used to be fairly big Railway workshops at Karachi and Sukkur, which used to turn out useful work;

(h) if it is a fact that these workshops have since been closed,

(i) if so, whether Government are aware that the closing of these workshops has seriously affected Sindhis by depriving them of the facilities which they previously had for practical training as mechanics and for earning their living thereby, and

(j) whether Government are prepared to consider the desirability of reopening these workshops in Sind?

The Honourable Sir Thomas Stewart: (a) and (b) Yes

(c) 694 trade apprentices are at present under training in the Central Workshops including the Power House and its Sub Shops at Moghulpura

(d) The number of trade apprentices to be recruited every year depends upon approximate wastages anticipated at the end of the quinquennium covered by the course of training

(e) There are no Sindhi trade apprentices in the Central Workshops, Moghalpura

(f) As the trade apprentices recruited for Sukkur Shops are given the option of receiving training in Sukkur Shops or in the Central Workshops as it may suit their convenience, the question does not arise I may also mention that the age limit for candidates recruited as trade apprentices is over 15 and not over 18 years on the 1st day of July of the year in which the recruitment is made, and not 14 to 16 years as mentioned by the Honourable Member

(g) Yes

(h) The Mechanical Workshops at Karachi have been closed down but the Workshops at Sukkur still exist

(i) and (j) In view of the reply to part (f) above these do not arise

Mr. Lalchand Navalrai: Does the Honourable Member know that some apprentices from the Sukkur Workshops were trained and were on the waiting list and were sent up for selection but others from other provinces were taken?

The Honourable Sir Thomas Stewart: If such a decision was taken, I suppose it was taken on the merits of the individuals concerned.

EXPENDITURE ON THE FRONTIER.

1721. *Mr. S. Satyamurti: Will the Secretary for External Affairs please state

(a) whether his attention has been drawn to the leading article in the *Hindu* of the 27th October, 1938,

(b) whether he can give the House an estimate of money spent on the Frontier during the last fifteen years,

(c) whether the attention of Government has been specifically drawn to the following sentence in the article

"The independent tribes resent the frequent raids into the tribal areas and road construction for strategic purposes They are obviously not of the opinion that the mere building of roads heralds the march of civilisation, nor is their economic problem solved by the payment of Danegeld to chiefs and Mahsud profiteers The problem requires an entirely different approach",

(d) whether Government have examined this question from this point of view, if so, what their conclusions are,

(e) whether the attention of Government has been drawn to the statement of the *Hindu* special correspondent, reproduced in the leading article, in the course of which he says

"In the latest budget of the Government of India, 201 lakhs have been set aside for expenditure in tribal areas But how little is spent out of this enormous amount on schools, hospitals, irrigation and other beneficent schemes one realises only on going through the country",

(f) the objects on which this money is spent, and

(g) whether Government have considered the question or are prepared to consider the question of developing orchards, and other small occupations for these men?

Sir Aubrey Metcalfe: (a) Yes

(b) Expenditure incurred from Civil Estimates on the North-West Frontier from 1923-24 to 1937-38 inclusive amounts to approximately Rs 21,73,89,000, and that on Military operations to approximately Rs 4,88,02,000 Normal expenditure incurred on the Frontier out of Defence Services estimates is not compiled separately in the accounts It is not, therefore, possible to give figures of that expenditure for the last 15 years

(c) Government have seen the sentence quoted by the Honourable Member

(d) Government do not propose to make any radical change in the Frontier policy that has been followed during recent years

(e) Government have seen the statement referred to. The North-West Frontier portion of the total grant of 201 lakhs is 146·54 lakhs

(f) (i) Maintenance of the Frontier Corps of Militia and Scouts including hospitals for the forces,

(ii) Construction and maintenance of roads of military importance and buildings required for the Frontier Corps;

(h) Political and administrative charges, *viz*, the pay of officers and establishments for the administration of tribal areas, buildings, subsidies, tribal allowances and entertainment charges and expenditure on schools and hospitals.

(g) The Honourable Member's attention is invited to part (b) of the reply given to question No 1017 on the 5th October, 1936, and to part (c) of the reply given to question No 609 on the 10th March, 1937, to which I have nothing to add

Mr. S Satyamurti: With reference to the answer to clause (b) of the question, may I know if the Honourable Member can give the House some idea of the main items of the expenditure of these 25 crores and odd during the last fifteen years,—apart from the military expenditure?

Sir Aubrey Metcalfe: I have already given in my answer to part (b) the main items of civil expenditure and all that can be found in the Budget

Mr. S. Satyamurti: May I ask—taking the answer to clause (f) of the question—how much of this money is spent on tribal allowances, entertainments, subsidies and so on and so forth to which my Honourable friend referred?

Sir Aubrey Metcalfe: I cannot give the exact details, they are all contained in the Budget of last year, if the Honourable Member will have a look at that

Mr. S. Satyamurti: May I know if it is a fact that the bulk of this amount is spent on subsidies and allowances to these people?

Sir Aubrey Metcalfe: No, I do not think that is at all a true statement but as I say, the whole of the figures can be found in the Budget for each year, if the Honourable Member will take the trouble to look at it, he will find them

Mr. S. Satyamurti: With reference to the answer to parts (c) and (d) of the question, may I know the reasons why Government do not propose to change their policy, in spite of the fact that the expenditure of these large sums of money by way of "Danegeld" as it is called to chiefs and Maliks and profiteers has not solved the problem,—why they do not propose to alter their policy, or even to examine the possibility and the desirability of changing that policy?

Sir Aubrey Metcalfe: Government are constantly examining the matter, as I have already said more than once in this House The reason why they do not propose to change their policy at present is that they consider that any other policy would probably be more expensive

Mr. S. Satyamurti: Apart from expense, so far as results are concerned, that is to say, with regard to peace, law and order in the Frontier Province and harmonious and friendly relations between Government and the Frontier tribes, may I know whether Government have examined the question of changing their policy from those very relevant points of view?

Sir Aubrey Metcalfe: I can only repeat that Government are constantly examining the policy and seeing whether there is any way in which they can improve it

Mr. Abdul Qaiyum: With reference to the answer to part (e) of the question, may I know how much money was spent last year on education?

Sir Aubrey Metcalfe: I must have notice of that question

Mr. Abdul Qaiyum: May I know how much of these 201 lakhs has been apportioned for education?

Sir Aubrey Metcalfe: I think there is a separate question put down regarding that, or has been put down quite recently which has either been answered or will be answered

Mr. S. Satyamurti: May I know how much of this money is budgeted for being spent on schools, hospitals, irrigation and other beneficent schemes, as opposed to paying money to various people?

Sir Aubrey Metcalfe: Again I would refer the Honourable Member to the printed Budget for the last year

Mr. M. Ananthasayanam Ayyangar: In all these years may I know how many schools and hospitals have been opened?

Sir Aubrey Metcalfe: That is a question, for answering which I must have notice I cannot possibly carry all these details in my head

Seth Govind Das: Has the number of schools and hospitals increased or is it stationary?

Sir Aubrey Metcalfe: I could not answer that without notice

Mr. S. Satyamurti: With reference to the reply to clause (g) of the question, may I know how much money has been spent last year on developing orchards and other small occupations for these tribesmen?

Sir Aubrey Metcalfe: Again, Sir, I must ask for notice The whole of the information is contained in the printed Budget I must have time to look them up if I am to answer questions on details of figures

RUNNING OF XB ENGINES ON THE EAST INDIAN RAILWAY.

1722. *Mr. S. Satyamurti: Will the Honourable the Railway Member please state

(a) how many XB engines are in the running on the East Indian Railway,

(b) on what tracks they are running,

(c) whether to all these engines speedometers have been affixed; if not, why not,

(d) whether any maximum speed limit has been affixed to these engines, what are the means by which this maximum speed is now being enforced;

(e) whether all reasonable and necessary precautions have been taken for ensuring that there is no danger to life of passengers by trains drawn by XB engines, if so, what they are,

(f) when the committee which is examining Chief Justice Thom s report, is going to report,

(g) whether the Railway Board is keeping a close watch on the running and behaviour of these engines, and they get periodical reports, and

(h) whether those reports will be made available to members of the House, if not, why not?

The Honourable Sir Thomas Stewart: (a) 38 engines

(b) On tracks of which the weight of rail is 90 lbs or over

(c) I would refer the Honourable Member to the reply given on the 12th August, 1938, to Mr T S Avinashilingam Chettiar's starred question No 145

(d) The maximum speed for this type of engine has been temporarily restricted to 45 m p h To ensure that this speed is not exceeded, ample margin has been allowed in the time-tables between the maximum booked speed and maximum permissible speed

(e) Yes, by utilising the engines on slow services only

(f) Government have no information as to when the Pacific Locomotive Committee will submit their report

(g) Railways have been instructed to submit quarterly reports to the Railway Board and Senior Government Inspectors of any abnormal occurrences attributable to the oscillation of locomotives

(h) The reports received for the quarters ending 30th June and 30th September, 1938, show that there was no case of track distortion attributable to XB engines.

Mr S. Satyamurti: With reference to the reply to clause (b) of the question, may I know whether there has been any change in the tracks on which these engines are running after the Bihta disaster, or whether the same procedure is being continued?

The Honourable Sir Thomas Stewart: No I think the circumstances are these a considerable portion of the track is 90 lbs and over, whereas the other portions were of the lighter weights The engines have been transferred so that they operate on the 90 lbs section of the system

Mr. S. Satyamurti: With reference to the answer to clause (c),—the latter part of that clause—may I know the reasons why—I think the last answer mentioned that speedometers have not been fixed to all the engines—may I know the reason why it has not been done?

The Honourable Sir Thomas Stewart: I do not think that it is an established fact that speedometers are available which are reliable instruments.

Mr. S. Satyamurti: In view of that answer, may I know with reference to the reply to clause (d) of the question, how the Honourable Member or the Railway Board satisfy themselves, apart from making margins or allowances between booked speed and the timings at which they ought to arrive,—may I know whether there are any other mechanical devices by which the maximum speed is being enforced?

The Honourable Sir Thomas Stewart: No But there is the time factor If the 45 miles per hour restriction were being exceeded, the result would be that the trains would arrive much too early at the station

Mr. S. Satyamurti: But is it not possible—I do not want to argue with my Honourable friend, I am merely asking this question,—is it not possible for the drivers to while away their time—I myself know while travelling, the drivers sometimes run the trains at breakneck speed and then slow down somewhere and stop there—may I know whether the Railway Board take any steps to see that the maximum speed is not exceeded, apart from the fact that the drivers are not expected to exceed the speed limit of 45 miles an hour?

The Honourable Sir Thomas Stewart: I think the Honourable Member may be quite sure that drivers are very sensible of the necessity of not exceeding 45 miles an hour

Seth Govind Das: How many of these 38 engines are attached to passenger and mail trains and how many to goods trains?

The Honourable Sir Thomas Stewart: I should have notice

Seth Govind Das: Will Government take steps not to use these engines as far as the passenger trains are concerned?

The Honourable Sir Thomas Stewart: No I give no such undertaking

Mr S. Satyamurti: With reference to the answer to clause (e) of the question, my Honourable friend assured the House that all reasonable and necessary precautions are being taken and he added that drivers are sensible, but may I know what those precautions are apart from this time table business?

The Honourable Sir Thomas Stewart: I do not know that any other precautions are necessary

Seth Govind Das: When the Bihta Enquiry Committee had come to the finding that it was on account of the XB engine that the disaster had taken place, why should not Government stop the use of these engines so far as passenger and mail trains are concerned?

The Honourable Sir Thomas Stewart: I am entirely unaware that there was any finding in connection with the Bihta enquiry, that these engines were unfit for employment on the railways

SALOONS MAINTAINED FOR RAILWAY OFFICERS.

1723. *Mr. S Satyamurti: Will the Honourable the Railway Member please state:

(a) whether he is aware of the opinion held in the House and outside that the number of saloons maintained for railway officers is out of all proportion to the needs

(b) whether it is a fact that the Public Accounts Committee has drawn the attention of Government to this position, and

(c) whether, apart from desisting from constructing new saloons, Government have taken, or propose to take, any steps to reduce the number of saloons with a view to economy and also in view of the fact that railway officials travelling now-a-days get better accommodation elsewhere than in previous years?

The Honourable Sir Thomas Stewart: (a) I am aware of the views that have been expressed in this House but not outside

(b) Yes

(c) The matter will be examined in connection with a report which is being prepared as desired by the Public Accounts Committee at their meeting on the 14th July, 1938.

Mr. S. Satyamurti: With reference to the answer to clause (a) of the question, is the Honourable Member sure that he has not heard from outside the House any opinion that the number of saloons is out of all proportion to the needs?

The Honourable Sir Thomas Stewart: I am aware of the views that have been expressed in this House but not outside

Mr. S. Satyamurti: With regard to the answer to clause (c) of the question, may I know whether, apart from considering the report which the Railway Board are preparing in response to the Public Accounts Committee's recommendations, Government are contemplating taking any steps to reduce the number of saloons?

The Honourable Sir Thomas Stewart: If the number of saloons is found to be excessive, then I may assure the Honourable Member that steps will be taken to reduce the number

Mr. Lalchand Navalrai: After the Public Accounts Committee's recommendation and up to now, have any saloons been curtailed?

The Honourable Sir Thomas Stewart: If I remember aright, an undertaking was given in the Public Accounts Committee that no further construction would be undertaken

Mr. T. S. Avinashilingam Chettiar: Though the Executive Councillors and Ministers were travelling in saloons before the launching of the Constitution, are the Government aware that the Ministers now do not travel in saloons?

The Honourable Sir Thomas Stewart: That is a matter entirely of their own choice.

Mr. T. S. Avinashilingam Chettiar: Because of that, has not the use of saloons decreased, and the need for saloons also?

The Honourable Sir Thomas Stewart: That is one of the points that will be considered as our report is being prepared

Mr. K. Santhanam: May I know if the Honourable Member will take steps to show the cost of maintaining these saloons as a separate item in the railway budget?

The Honourable Sir Thomas Stewart: I want notice

Mr. S. Satyamurti: May I know whether the usual sums are being spent on repairs of these saloons, or is there any retrenchment in expenditure on the repairs of these saloons?

The Honourable Sir Thomas Stewart: I am sorry I cannot answer this without notice

Mr. T. S. Avinashilingam Chettiar: May I know whether Government will consider the advisability of keeping a separate account for the saloons?

The Honourable Sir Thomas Stewart: That is essentially the same question which was asked just now and for which I required notice It is a matter that may involve a re-adjustment of our accounting system

DEMAND FOR HALF-ANNA POSTCARD

1724. *Mr. S. Satyamurti: Will the Honourable the Communications Member please state

(a) whether it is a fact that this House has for the last four years consistently demanded half-anna postcard,

(b) whether it is a fact that public opinion of all schools of thought in the country has demanded this half-anna postcard all these years,

(c) whether Government are taking any steps by way of retrenchment in expenditure in Posts and Telegraphs Department or by way of increasing the revenues in other directions, so as to make the introduction of the half-anna postcard possible in the near future, and

(d) what, according to the latest estimates of the Government, is the gross revenue likely to be received by the Department by the introduction of the half-anna postcard, and what according to the latest estimates of the Government will be the net loss, if any, to the department?

The Honourable Sir Thomas Stewart: (a) The Honourable Member is referred to the proceedings of this House

(b) No

(c) The Department are taking all possible steps in the directions indicated by the Honourable Member as a part of the ordinary administrative policy of a commercial department.

(d) On the assumption that the present volume of postcards and letters remains unaffected, the gross revenue likely to be received by the Department by the introduction of the half-anna postcard is estimated to be about Rs 119 lakhs which is nearly 59¼ lakhs less than the revenue derived at present

Mr S. Satyamurti: With reference to part (b) I thought I heard my Honourable friend say "no". May I know what is the basis of that answer, and which is the public opinion or which is the school of thought that supports the present nine pies postcard?

The Honourable Sir Thomas Stewart: Again, I would refer the Honourable Member to the recorded proceedings of this House On the occasion when there was a division on this particular question, certain non-official and elected Members of the House voted against the proposal for the six pies postcard

Mr. S. Satyamurti: Is there any other evidence in the possession of my Honourable friend to show that any public opinion supports the continuance of the present nine pies postcard?

The Honourable Sir Thomas Stewart: The evidence I have quoted is sufficient to justify the answer that I gave to his question

PROPOSAL FOR THE CONSTRUCTION OF A TRUNK ROAD FROM BOMBAY TO AHMEDABAD

1725. ***Mr. Manu Subedar:** (a) Will the Honourable Member for Communications please state whether a conference of the representatives of the Government of India, the Bombay, Baroda and Central India Railway, and the Government of Bombay was held in January last in Bombay to discuss the construction of a trunk road from Bombay to Ahmedabad costing Rs 60 lakhs?

(b) Who represented the Government of India and the Bombay, Baroda and Central India Railway?

(c) What restrictions have the Government of India and the railway authorities suggested on traffic on the proposed new trunk road between Bombay and Ahmedabad?

(d) Have Government examined the possibility of the use of ports in Baroda territory short-circuiting traffic to Ahmedabad *via* (i) rail, and (ii) road, to the prejudice of the Bombay, Baroda and Central India Railway?

(e) Has the permission for the use of Navsari and Billimora as ports for trade other than coasting trade, been given?

(f) Are Government in a position to give some idea of the traffic passing through these ports and affecting the revenues of the Bombay, Baroda and Central India Railway during the last two completed years of account?

The Honourable Sir Thomas Stewart: (a) Yes

(b) Messrs A E Tylden-Pattenson, Member, Railway Board, and L B. Gilbert, Consulting Engineer (Roads) represented the Government of India, Sir Maurice Brayshay represented the Bombay, Baroda and Central India Railway

(c) After discussion it was agreed that certain measures generally approved by the provincial board of communications should be adopted. These relate to long distance carriage of goods, enforcement of speed and weight regulations and such limitation of the number and range of buses and lorries as may be necessary to restrict undesirable competition

(d) The extent to which traffic passing through the ports on the western coast is affecting the earnings of the Bombay, Baroda and Central India Railway is being continually watched by the Railway Administration

(e) No

(f) No.

Mr. Manu Subedar: May I enquire what were those restrictions which have been imposed with reference to the volume and the class of goods which will be carried?

The Honourable Sir Thomas Stewart: The restrictions have not yet been imposed So far as I am aware the Local Governments have undertaken to enforce in the future certain restrictions

Mr Manu Subedar: In view of the fact that this road between Bombay and Ahmedabad was resisted for a long time by the B , B and C I Railway authorities, on the legitimate ground that it will affect their earnings, will the Honourable Member assure the House that adequate steps are being taken to safeguard the interests of the B , B and C I Railway and of the Port of Bombay?

The Honourable Sir Thomas Stewart: It is my own personal opinion and it is the opinion of the Railway Administration concerned that the type of restrictions which it is proposed to impose will ensure the end that the Honourable Member has in view

TAKING DOWN OF NAMES AND ADDRESSES OF PASSENGERS AT TARA DEVI.

1726. *Mr. Sham Lal (on behalf of Mr Sri Prakasa) Will the Honourable Member for Railways state the conditions, if any, on which persons have been allowed to enter the premises of the Tara Devi station on the Simla-Kalka Railway to take down the names and addresses of the persons travelling towards Simla?

The Honourable Sir Thomas Stewart: I would refer the Honourable Member to the reply given to his question No 534 on the 26th August, 1938 The only condition which the North Western Railway Administration have imposed is that the employees of the Simla Municipality should wear arm badges for identification

Shrimati K. Radha Bai Subbarayan: Did the answer, to which the Honourable Member referred, state that this examination was a medical one?

The Honourable Sir Thomas Stewart: That is the substance of the reply that was given

Shrimati K. Radha Bai Subbarayan: May I ask what the medical qualifications of these officials are?

The Honourable Sir Thomas Stewart: My Honourable friend, Sir Girja Shankar Bajpai, would require notice of that question

Shrimati K. Radha Bai Subbarayan: May I ask if there are any special arrangements for the examination of women passengers, especially purdah women passengers?

The Honourable Sir Thomas Stewart: Again, I would require notice of the question.

Mr. S. Satyamurti: May I know if Government are aware that part at least of this purpose of taking down the names and addresses of persons is not for the health of the Simla Municipality, but for helping the C I D and the police? Is the Honourable Member aware of that?

The Honourable Sir Thomas Stewart: I am not aware of that

Mr. S Satyamurti: If the Railway Board have been asked for permission to allow these people to enter the premises merely on the ground of health, why should policemen remain round about, when the names and addresses are taken?

The Honourable Sir Thomas Stewart: I have not myself spent any time at the Tara Devi station, and so I cannot tell the Honourable Member

Maulana Zafar Ali Khan: Is the Honourable Member aware that the public resents this asking of their names and addresses?

The Honourable Sir Thomas Stewart: I am not so aware

Mr Lalchand Navalrai: Has the Honourable Member ever been asked to give his own name?

The Honourable Sir Thomas Stewart: Invariably

DELIVERY OF LETTERS BY EXTRA-DEPARTMENTAL POSTMASTERS IN RURAL AREAS

1727. *Mr. Sham Lal (on behalf of Mr Sri Prakasa) Will the Honourable Member for Communications state

(a) if some extra-departmental postmasters in rural areas have also to act as peons delivering letters, money orders, etc ,

(b) if any extra money is paid to them for this service,

(c) if he is aware that this system delays the delivery of the postal articles to the addressees and results in post offices themselves being closed when they ought to be working, and

(d) if Government have prescribed a minimum of staff for a post office, however small, and, if so, what the minimum is?

The Honourable Sir Thomas Stewart: (a) Yes, only in very small post offices

(b) Yes

(c) Government have no reason to think so

(d) No minimum staff has been prescribed by Government but the absolute minimum is naturally a postmaster.

COST OF A RURAL POST OFFICE.

1728. *Mr. Sham Lal (on behalf of Mr Sri Prakasa) Will the Honourable Member for Communications state

(a) the minimum cost of a rural post office,

(b) if local residents are given an opportunity of suggesting economies in case a post office in a rural area is proposed to be closed on account of its inability to pay its way, and

(c) if not, whether Government are prepared to consider the desirability of such consultation before closing it down?

The Honourable Sir Thomas Stewart: (a) The minimum cost of a rural post office is the allowance to be paid to the postmaster and the pay of the runner or runners employed to convey mails to and from the new post office

(b) and (c) As the Honourable Member was informed in reply to part (c) of his starred question No 848 of the 8th September last, this is a matter for the local Postal authorities I have no reason to suppose that consultations with those interested are not held before a rural post office is closed down, but the final decision rests, as it must, with the local Postmaster-General

Mr. Brojendra Narayan Chaudhury: What is the minimum figure of the minimum cost?

The Honourable Sir Thomas Stewart: The minimum allowance that is paid for the extra-departmental postmaster is Rs 6 and the minimum pay for a runner is Rs 12.

Mr. M. Thirumala Rao: What is the amount of cash security demanded from the extra-departmental officer?

The Honourable Sir Thomas Stewart: I want notice

Shrimati K. Radha Bai Subbarayan: May I ask if Government have considered the question of requisitioning the services of local people, at least as part time, as they do in European countries?

The Honourable Sir Thomas Stewart: That is our practice When I say extra-departmental postmaster, I refer to an officer who is partly doing his own work and partly doing work on behalf of Government This is our system

TELEPHONE COMPANY IN CALCUTTA

1729. *Mr. Sham Lal (on behalf of Mr Sri Prakasa) Will the Honourable Member for Communications state

(a) if it is a fact that the telephone in the town of Calcutta is in the hands of a private company and not Government;

(b) the conditions under which that company works and the date when its contract is going to terminate, and

(c) if the telephone company in Calcutta have to follow all the rules regarding telephones as laid down by Government in the matter of supply of instruments and connections, as also charges inside Calcutta and for trunk calls?

The Honourable Sir Thomas Stewart: (a) There are two systems in Calcutta—one run by a licensed company and the other by Government

(b) The conditions under which the Company works are laid down in the license granted to the Company and the supplemental agreements. A copy of the license and agreements has been placed in the Library of the House The license is due to expire in 1963

(c) Government have not laid down any rules for observance by the Company in the matter of supply of telephone instruments and connections beyond those contained in the license and agreements The charges to be levied by the Company for their telephone services require the prior approval of Government The Company are not concerned with the charges for trunk calls as the trunk lines are owned and worked by Government

Mr. Brojendra Narayan Chaudhury: When was this license with the Calcutta Company last renewed?

The Honourable Sir Thomas Stewart: The license was originally given in 1883 for 80 years There was no renewal

Mr. M. Ananthasayanam Ayyangar: Is it not open to Government to terminate this at any time?

The Honourable Sir Thomas Stewart: Not at any time We have options in 1943 and 1953

Mr. Mohan Lal Saksena: How do the rates of this company compare with the Government rates?

The Honourable Sir Thomas Stewart: I cannot say without notice

Mr M. Ananthasayanam Ayyangar: Are Government considering the possibility of taking over the work in 1943?

The Honourable Sir Thomas Stewart: I think I have on two or three occasions in this Session made clear what the position was in regard to the taking over of telephone systems

GRADE OF AN INSPECTOR OF ACCOUNTS ON THE EAST INDIAN RAILWAY.

1730. *Maulvi Muhammad Abdul Ghani: Will the Honourable the Railway Member be pleased to state whether an Inspector of Accounts has a higher grade than a Stock-Verifier in the East Indian Railway?

The Honourable Sir Thomas Stewart: I place a statement on the table setting out the rates of pay of the categories referred to

Scales of pay of Inspectors of Station/Stores Accounts and Stock Verifiers on the East Indian Railway

	E. I. Rly. Company scales of pay	O & R Rly scales of pay	Accounts scales of pay	Revised Accounts scales of pay
Inspectors of Stores Accounts			Senior Rs 290-20-450	Senior Rs 250-15-325-25/3-350
			Junior Rs 150-15-270	Junior Gr I Rs 225 Junior Gr II Rs 200. Junior Gr III Rs 175 Junior Gr IV Rs. 150.
Stock Verifiers	Gr I Rs 160-10-200 Gr II Rs 116-5-131 Gr III Rs 105-5-120 Gr IV Rs 93-4-109 and Rs. 84-4-100	Hd Stock Verifier Rs 250-15-340 Jr Stock Verifier Rs 100-10-240	Rs 100-10-240	Gr I Rs 160 Gr II Rs 140 Gr III Rs 120 Gr IV Rs 100
Inspectors of Station Accounts	Gr I Rs 440-20 500 Gr II Rs. 345-15-390 Gr III Rs 140-10-330	Senior Rs 300-20-500 Junior Rs 120-15-270.	Senior Rs 290-20-450 Junior Gr I Rs 150-15-270 Junior Gr II Rs 130-8-170	Senior Gr I Rs 400. Senior Gr II Rs 350 Senior Gr III Rs. 300 Senior Gr IV Rs 275 Senior Gr V Rs 250 Junior Gr I Rs 225 Junior Gr II Rs 200 Junior Gr. III Rs 175. Junior Gr. IV Rs. 150 Junior Gr V Rs. 130

Maulvi Muhammad Abdul Ghani: May I know what salaries are paid to the Inspectors of Accounts and the Stock Verifiers?

The Honourable Sir Thomas Stewart: I have laid a very considerable statement on the table which gives the information asked for

PASSES ISSUED TO PROBATIONARY LABOUR INSPECTORS ON RAILWAYS.

1731. ***Maulvi Muhammad Abdul Ghani:** Will the Honourable the Railway Member please state whether passes are given on the basis of salaries, or on the basis of office? If it is on the basis of 'salaries', why are second class passes issued to probationary Labour Inspectors?

The Honourable Sir Thomas Stewart: The basis on which passes are given is detailed in the extract from the Railway Board's letter, which was placed on the table of the House in reply to Mr Muhammad Azhar Ali's unstarred question No 34 on the 2nd March, 1937 Second class passes were given to all Labour Inspectors irrespective of their salaries, in view of the responsibility their work entailed and the desirability of maintaining their status with the staff with whom they were being brought into contact in connection with their duties

Mr. Lalchand Navalrai: The Honourable Member has said several times that the question of the revision of passes according to salaries is under examination Is it still under investigation?

The Honourable Sir Thomas Stewart: I am entirely unable to see how the general question arises on this particular question

Prof. N. G. Ranga: What are the functions of these Labour Inspectors? Is it one of their functions to supervise the work of the gang workers in the permanent ways?

The Honourable Sir Thomas Stewart: That question does not arise out of the answer

Prof. N. G. Ranga: It does arise in view of the Honourable Member's statement that they have to be provided with second class passes in order to facilitate their work and give them a particular status in their relations with the workers

The Honourable Sir Thomas Stewart: If the Honourable Member wishes details as to the duties of these officers, I must have notice

Prof. N. G. Ranga: It is not a question of detail at all because the question was

Mr. President (The Honourable Sir Abdur Rahim) The Honourable Member had better give notice

Prof. N. G. Ranga: Sir, the question asks why second class passes are issued to these people if it is on the basis of salaries, and the Honourable Member

Mr. President (The Honourable Sir Abdur Rahim) There is nothing about duties there

Prof. N. G. Ranga: The Honourable Member said that these passes are given because of the responsibilities of their work I want to know, therefore, what their duties are

Mr. President (The Honourable Sir Abdur Rahim) That is not admissible

NON-GRANT OF HOUSE RENT ALLOWANCE TO LINE INSPECTORS AND TELEPHONE INSPECTORS.

†1732. ***Mr. Amarendra Nath Chattopadhyaya:** Will the Honourable Member for Communications be pleased to state

(a) whether it is a fact that all officials from an Assistant Engineer down to a Lineman of the Telegraph Engineering branch are granted house rent allowance except the Line Inspectors and Telephone Inspectors,

(b) whether it is a fact that the Line Inspectors like the Sub-Inspectors and Linemen have to keep Government tools in their safe-custody,

(c) whether it is a fact that the Telephone Inspectors by virtue of their duties are required to reside as near the Telephone Exchanges as possible and whether Government are aware that they have to pay higher rates of house rent allowance,

(d) whether it is a fact that the number of Line Inspectors and Telephone Inspectors is small in the Department, and

(e) if the replies to parts (a), (b), (c) and (d) above be in the affirmative, whether Government are prepared to consider the claim and grant house rent allowance to Line Inspectors and Telephone Inspectors, if not, why not?

The Honourable Sir Thomas Stewart: (a) to (c) No

(d) and (e) Their number is not large but Government do not see any justification for the grant of house rent allowances to them

NON-GRANT OF PENSIONABLE STATUS TO SOME OFFICIALS IN TELEGRAPH OFFICES

†1733. ***Mr. Amarendra Nath Chattopadhyaya:** Will the Honourable Member for Communications please state

(a) whether it is a fact that some officials in Telegraph Offices are still holding non-pensionable appointments,

(b) whether it is a fact that their number is not large;

(c) whether it is a fact that the question of granting pensionable status to the remaining non-pensionable appointments in Telegraph Offices has been under the consideration of Government for a long time,

(d) whether Government propose to make an announcement of a decision now, and

(e) if the reply to part (d) above be in the negative, when a decision may be expected?

The Honourable Sir Thomas Stewart: (a) to (c) Yes

(d) and (e) The matter is still under consideration and I am not in a position yet to state when a decision will be reached

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

TELEGRAPHISTS OFFICIATING AS BAUDOT SUPERVISORS.

†1734. *Mr. Amarendra Nath Chattopadhyaya: Will the Honourable Member for Communications be pleased to state.

(a) whether it is a fact that the application of the 14 day rule has been extended to telegraphists officiating in the leave or any vacancy of Baudot Supervisors in respect of grant of their special pay;

(b) whether it is a fact that this 14 day rule previously applied to officials officiating in vacancies in higher grades only, such as telegraphists officiating as Telegraph Masters or Telegraph Masters officiating as Deputy Superintendents, etc.;

(c) whether it is a fact that the chances of officiating in temporary vacancies of Baudot Supervisors for periods from 1 to 13 days at a stretch are frequent,

(d) whether it is a fact that the telegraphists lose their special pay if the period of their officiating service in vacancies of Baudot Supervisors be less than 14 days at a stretch,

(e) whether it is a fact that the telegraphists also lose the chance of earning pie-money during the period of their officiating in vacancies of Baudot Supervisors,

(f) if the reply to parts (d) and (e) above be in the affirmative whether Government are aware that the telegraphists are being put to double loss,

(g) whether it is a fact that in other Department of the Central Government the 14 day rule is put into operation; and

(h) whether Government propose to examine the matter and exempt the telegraphists officiating as Baudot Supervisors from the application of the 14 day rule?

The Honourable Sir Thomas Stewart: (a) and (b) Yes

(c) I have no reason to suppose that this is the case

(d) Yes.

(e) Not always because if they work as Baudot-Supervisor-Operators, they earn pie money

(f) Yes, but only in a few cases, as explained in the reply to part (e) of this question

(g) There is no similar rule applicable to other departments but all departments are required to consider whether a vacancy for a period of 14 days or less need be filled

(h) The question is under the consideration of the Director-General

PAUCITY OF RECRUITMENT OF MUSLIMS IN THE POSTAL DEPARTMENT.

1735. *Mian Ghulam Kadir Muhammad Shahban: Will the Honourable Member for Communications be pleased to state

(a) if the attention of Government has been drawn to an article headed "Muslim recruitment in Post Office" which appeared in the *Daily Gazette* of Karachi in its issue of the 8th October, 1938;

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

(b) if it is a fact that the proportion of Muslims in the Postal Department has been fixed at 58 per cent and that their actual strength is not more than 25 per cent ,

(c) if so, whether Government have done anything to redress this inequality,

(d) if they have not yet done so, whether they propose to do anything in this direction;

(e) if it is a fact that the paucity of Muslim recruits is due to the age limit, the expenses attendant upon selection, and the fees for the training course; and

(f) if so, whether Government propose to raise the age limit, reduce the expenses attendant upon selection, and abolish the fees for the training course?

The Honourable Sir Thomas Stewart: (a) Government have seen the article

(b) The percentage of vacancies reserved for Muslims in posts filled by direct recruitment in the subordinate services in the Sind and Baluchistan Postal Circle was fixed at 58 1/3 in June, 1935 Before that date the percentage of reservation was 33 1/3 for all minority communities including Muslims As a result of recruitment at the higher percentage since 1935, the actual strength of Muslims in those services stood at 41·2 per cent on the 1st January, 1938

(c) and (d) Do not arise

(e) Representations have been received to the effect that the paucity of Muslim candidates is due to the low age limit, to the high fee for admission to the competitive examination, and to the difficulty of obtaining a domicile certificate There is no fee for a training course

(f) The lower age limit was fixed for all communities and since the minimum qualification required is a pass in the Matriculation examination, Government are not yet satisfied that there is adequate justification for altering it The fee for admission has already been reduced from Rs 10 to Rs 7 and the difficulty of obtaining a domicile certificate has been removed by the permission given to candidates to produce a domicile certificate signed by a gazetted officer or a Justice of the Peace to whom they are personally known

Mr. Lalchand Navalrai: With regard to clause (b) of the question, what were the reasons for increasing the percentage and how long will it continue?

The Honourable Sir Thomas Stewart: I would refer the Honourable Member to the Home Department Resolution of the 4th August, 1934

Mr. Lalchand Navalrai: How long will that higher percentage continue?

The Honourable Sir Thomas Stewart: There is no time limit to the operation of this rule

Sardar Sant Singh: In view of the several questions that are being asked on this subject by various communities, does the Honourable Member propose to publish a detailed statement from the date of the circular of

August, 1984, up to date, showing the number of recruits taken in each Department according to communities and examine the question once more?

The Honourable Sir Thomas Stewart: Sir, I am under the impression that we publish periodical statistics in regard to that matter

Sardar Sant Singh: What I want is a consolidated statement, so that we may be able to know what has been done in regard to this service question.

The Honourable Sir Thomas Stewart: I am informed that the Home Department supplies periodical statements to this House itself on this matter

Sardar Sant Singh: What I want is a consolidated statement from the date of the issue of the circular

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

DISCHARGE OF MUSLIM CLERKS FROM THE POSTAL DEPARTMENT IN KARACHI.

†1736. ***Mian Ghulam Kadir Muhammad Shahban:** Will the Honourable Member for Communications be pleased to state

(a) if it is a fact that some Muslim clerks have been discharged from the Postal Department in Karachi;

(b) whether the vacancies arising therefrom were advertised or not; and

(c) whether Government made any endeavour to obtain Muslim candidates for these vacant posts?

The Honourable Sir Thomas Stewart: (a) and (b) Yes

(c) Every endeavour was made to obtain the required number of qualified Muslim candidates

RECRUITMENT OF ORIYAS IN THE POSTAL DEPARTMENT IN ORISSA.

‡1737. ***Seth Govind Das:** Will the Honourable Member for Communications please state·

(a) the number of employees taken in the Postal Department in Orissa, observing the rule that they belong to the Revenue Division of Orissa, and yet are Bengalis and Biharis since Orissa has been a separate Province,

(b) the number of employees who are not Oriyas, taken in the Postal Department within the Province of Orissa during the last ten years into the clerical and subordinate grades, and their percentage today in the whole of Orissa,

(c) the number of Biharis recruited into the Postal Department in the clerical and subordinate services in Orissa during the last two years and the number of Oriyas ousted from service as a result;

†Answer to this question laid on the table, the questioner having exhausted his quota.

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

(d) whether he is aware that the Biharis taken into the Postal services in Orissa do not know the local languages particularly in places of Ganjam, where both Telegu and Oriya are used, and only try to learn the language after they have been taken into service,

(e) whether it is not necessary for a postal employee of the subordinate grade to know the local language of the place where he is appointed, and whether the knowledge of the local language is not stipulated as a condition for the appointment made;

(f) whether such employees as have come from another Revenue Division to the Revenue Division of Orissa to serve in the Postal Department, whether by virtue of exemption, or having relations in the Postal Department in the Orissa Province, or not knowing the local languages used in the various districts of Orissa, particularly in Ganjam, will be sent back to their own Province to be entertained in service there; and

(g) whether he proposes absorbing the Biharis and Bengalis in the Postal services in their own Provinces, as the vacancies occur in their respective Provinces, by taking them back from Orissa Province and allow the people of Orissa to be entertained in the services in their own Province, if not, why not?

The Honourable Sir Thomas Stewart: (a), (b) and (c) The information is not available and cannot be collected without a disproportionate expenditure of time and labour, but I can assure the Honourable Member that no Oriyas have been ousted to make room for Biharis

(d) I am afraid I have no information

(e) and (f) No

(g) No Because such a measure is not necessary, would lead to serious administrative difficulties and would be unfair to the domiciled Biharis and Bengalis

EXTENTION OF POSTAL FACILITIES IN RURAL AREAS

1738. *Prof. N. G. Ranga: (a) Will the Honourable Member for Communications be pleased to state if it forms part of Government's policy of extending postal facilities in rural areas, of appointing more postal runners, and providing more post boxes and more frequent deliveries and clearances in those villages which do not have post offices?

(b) If so, how many additional postal runners and post boxes have been provided since this policy was inaugurated, *i e*, 1935 and approximately how many more villages are benefited thereby in various Provinces?

(c) What are the plans of Government for extending these facilities and also opening new post offices during the next two years?

The Honourable Sir Thomas Stewart: (a) and (c) It is the policy of Government to extend postal facilities in rural areas by opening post offices at places where there is a real need for them.

(b) The number of letter boxes in rural areas has increased from 28,897 on the 31st March, 1935, to 35,383 on the 31st March, 1938; the number

of postal runners has, however, decreased from 11,187 to 10,268 between the same dates, the decrease being mainly due to the replacement of a number of runners' lines by motor services I am afraid I have no information as to how many villages have been benefited in each province by the increase in the number of letter boxes

Mr. Muhammad Azhar Ali: When Government say that there is a very large decrease, how is it consistent with the Government policy mentioned in reply to part (a) of the question?

12 NOON.

The Honourable Sir Thomas Stewart: My reply is perfectly consistent. As I have explained, the number of postal runners has been decreased, because the mails that they previously carried are now being carried by mechanical transport

Prof. N. G. Ranga: Are we to understand that their policy of extending postal facilities results in decreasing the number in postal runners and post boxes?

The Honourable Sir Thomas Stewart: No Sir, it is not a necessary concomittant of the policy that there should be either an increase or decrease in the number of postal runners We use the most convenient means of transporting the mails

(*b*) WRITTEN ANSWERS.

FAMINE CONDITIONS IN HISSAR

1739. *Prof. N. G. Ranga: Will the Honourable Member for Railways be pleased to state

(a) if it is not a fact that famine conditions have been prevailing in the district of Hissar in the Punjab,

(b) if so, whether the Government of the Punjab have asked for any railway concessions on the North Western Railway and Bombay, Baroda and Central India Railway for transporting food grains and fodder to the effected areas, and

(c) if any such facilities have been granted by Government and if so, what they are?

The Honourable Sir Thomas Stewart: (a) Government are aware of the conditions in the Hissar District

(b) and (c). I am not aware of any representation from the Government of the Punjab for a concession in freight rates for the carriage of food grains. The question, so far as it relates to the carriage of fodder to areas where there is fodder scarcity, should be addressed to the Honourable Member who represents the Department of Education, Health and Lands in this House.

NON-EXISTENCE OF FACILITIES TO PURCHASE MEAL TICKETS OR TO SEND TELEGRAMS FOR MEALS ON THE BOMBAY, BARODA AND CENTRAL INDIA AND EAST INDIAN RAILWAYS.

1740. *Prof. N. G. Ranga: Will the Honourable Member for Railways be pleased to state

(a) if it is not a fact that no facilities exist on the Bombay, Baroda and Central India and East Indian Railways for passengers either to purchase meals tickets, or to send telegrams for meals in orthodox Indian refreshment rooms, and thus either obtain *thalis* in the hotels concerned, or order them to be brought into their compartments,

(b) if it is a fact that such facilities exist on the Madras and Southern Mahratta and South Indian Railways and only four annas per meal is charged, if taken in the restaurant, and six annas if ordered into one's compartment, and

(c) whether he proposes to consider the advisability of introducing this system and providing this facility at reasonable rates on the Bombay, Baroda and Central India and East Indian Railways also?

The Honourable Sir Thomas Stewart: (a) Telegrams for meals required are sent free on the Railways referred to, but the procedure for purchasing meal tickets in advance does not obtain on those Railways I have no information as to whether *thalis* can be brought into compartments, but believe that refreshment room contractors do this wherever it is found practicable

(b) The reply is in the affirmative, except in regard to meals in trains on the Madras and Southern Mahratta Railway where the charge is eight annas

(c) I will convey the Honourable Member's suggestion to the General Managers of these railways for consideration

LACK OF CO-OPERATION WITH THE NORTH-WEST FRONTIER PROVINCE GOVERNMENT IN PREVENTING RAIDS, ETC.

1741. *Prof. N. G. Ranga: Will the Foreign Secretary be pleased to state

(a) if it is a fact that Mahatma Gandhi has recently expressed his great disquietude about the manner in which the Political Department has failed to co-operate with the North-West Frontier Government in bringing to book various people who have committed many and serious unlawful acts in the border villages of the Frontier Province and escaped into the territory under the Political Department,

(b) if the Frontier Ministry has made any representations in this matter of non-co-operation with it on the part of the Political Department and if so, how many times during the last three months, and when its latest representation was made;

(c) if it is a fact that Dr Khan Saheb, the Premier of the Frontier Government, has expressed grave apprehensions of an impending constitutional crisis if this non-co-operation does not cease;

(d) what steps Government have taken to co-operate with the Frontier Government to prevent these raids, lootings and abductions by people, either not belonging to the Frontier Province, or escaping and being harboured in the border areas under the Political Department; and

(e) what Government propose to do to ensure better co-ordination and co-operation between the Political Department and its Frontier Watch and Ward and the Frontier Ministry and its police?

Sir Aubrey Metcalfe: (a) and (c) Government have no information to that effect

(b) No

(d) The Government of India are employing armed civil forces of all kinds in abnormal numbers and are bringing all possible pressure military, political, and economic to bear on sections who either offend themselves or harbour outlaws or others who take part in raids in the settled districts

(e) The officers of the Central Government and its civil armed forces are already co-operating fully with the Provincial Government and its Police in the prevention of raids

DISCHARGE OF WORKMEN OF THE RAILWAY WORKSHOP, SUKKUR

1742. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state if it is a fact that a large number of workmen of the Railway Workshop, Sukkur, are going to be discharged soon, and that they will be out of work? If so, how many, why and when?

(b) Is it a fact that about 3,000 employees used to work in the Sukkur Railway Workshop but slowly and gradually the number is reduced to about half, and the reduction of many more is under contemplation? If so what arrangement have Government in view to keep them employed?

The Honourable Sir Thomas Stewart: I am obtaining information and will lay a reply on the table of the House in due course

WORKING BY DIESEL CARS OF THE COCANADA-KOTIPALLI RAILWAY.

1743. *Mr. M. Thirumala Rao: (a) Will the Honourable the Railway Member please state whether Government are aware that the Cocanada-Kotipalli Railway (Madras) has been worked by Diesel cars during the last two years?

(b) If so, have Government computed the savings effected by the use of Diesel cars?

(c) Will the economic working of the line be taken into consideration before a final decision is taken on the fate of the line?

The Honourable Sir Thomas Stewart: (a) and (c) Yes

(b) Yes When the position was last examined, it was estimated that a reduction in operating costs of Rs 40,000 per annum had been effected by the substitution of rail cars for steam trains

MONEY ALLOTTED TO MADRAS FROM THE CENTRAL ROAD FUND.

1744. *Mr. M. Thirumala Rao: Will the Honourable Member for Communications please state the amount of money allotted to the Province of Madras from the Central Road Fund?

The Honourable Sir Thomas Stewart: A total sum of Rs 112·65 lakhs, inclusive of grants from the "Reserve" has so far been allotted

IMPROVEMENT OF THE COCANADA RAILWAY STATION.

1745. *Mr. M. Thirumala Rao: With reference to a question put by me in the last Simla Session regarding improving the Cocanada Railway station, and the then Member of Railways' reply that the matter would be referred to the Agent, Madras and Southern Mahratta Railway, for disposal, will the Honourable Member for Railways state in what way my request for improvement of the Cocanada railway station has been disposed of?

The Honourable Sir Thomas Stewart: Action has been taken to bring the matter to the notice of the Railway Administration I may, however, remind the Honourable Member that in my reply to his previous question, I pointed out that the matter was within the discretion of the Railway Administration As I have had occasion to explain before, the allotment of funds as between the various stations for improvements, such as desired by the Honourable Member, is best left to the Railway Administrations to decide, as they are in the best position to judge the relative merits of each case

CONTRACTORS EMPLOYED FOR THE SALE OF AERATED WATER IN RUNNING TRAINS

1746. *Maulvi Muhammad Abdul Ghani: Will the Honourable Member for Railways state

(a) the number of contractors employed for the sale of aerated water in running trains on the State-managed open lines during the last eight years,

(b) how many of these contractors belong to each class, *viz.*, Hindus Sikhs, Europeans, Anglo-Indians and Muslims, and

(c) in case there are no Muslim contractors, the reason why?

The Honourable Sir Thomas Stewart: I have called for the information required and a further reply will be laid on the table of the House when it is received

CONTRACT TO MUSLIMS FOR THE SALE OF AERATED WATER IN RUNNING TRAINS.

1747. *Maulvi Muhammad Abdul Ghani: (a) Will the Honourable Member for Railways state whether he is aware that there are many aerated water factories controlled by Muslims?

(b) If so, are Government prepared to take steps to see that Muslims also get a share in contracts for the sale of aerated water in running trains on State-managed Railways?

The Honourable Sir Thomas Stewart: (a) I am prepared to accept this from the Honourable Member

(b) The giving of such contracts is not determined by communal considerations

MEDICAL CERTIFICATE ASKED FOR CASUAL LEAVE IN THE RAILWAY CLEARING ACCOUNTS OFFICE

1748. *Maulvi Muhammad Abdul Ghani: (a) Will the Honourable the Railway Member please state whether under the rules applying to the clerks in the Railway Clearing Accounts Office, the production of a medical certificate is necessary in order to obtain even one day's casual leave?

(b) If the answer to part (a) be in the negative, is it a fact that the official who was Superintendent in Goods A Section of the said office before August, 1938, and is now Superintendent in Goods B Section, is in the habit of compelling applicants for casual leave to produce such certificates, and is it also a fact that there is great discontent among the employees of the said office on that account?

(c) Is it also a fact that the Superintendent goes to the length of converting privilege leave due to employees into leave without pay for the whole period at his will and pleasure?

(d) If the answer to parts (b) and (c), or either part, be in the affirmative, what steps do Government propose to take to stop such action of the official concerned?

The Honourable Sir Thomas Stewart: (a) No

(b) No, but in a few cases where the staff concerned were suspected to be malingering, medical certificates were called for

(c) The Superintendent is not competent to do so

(d) Does not arise

PROMOTION OF SUB-HEADS IN THE RAILWAY CLEARING ACCOUNTS OFFICE.

1749. *Maulvi Muhammad Abdul Ghani: (a) Will the Honourable Member for Railways lay on the table a copy of the rules regulating the promotion of sub-heads in the Railway Department?

(b) Will the Honourable Member lay on the table a list of candidates for sub-headship in the Railway Clearing Accounts Office?

(c) In case the rules referred to in part (a), or the list referred to in part (b), or both, are not forthcoming, will the Honourable Member state the criterion on which promotions are given and what means there are with Government to feel satisfied that the promotions are fairly and justly given?

The Honourable Sir Thomas Stewart: Promotion to the rank of sub-heads is regulated by the following rules:

(i) Rules 8 and 9 of Railway Board's Memorandum No 5565-F., dated the 31st July, 1929, and clause (c) of Rule 3 of Appendix A to the same

(n) Rule 2 of the Rules for determining the relative seniority of the Non Gazetted Staff in State Railway Accounts Offices Copies of these documents are available in the Library of the House

(b) I am unable to understand what exactly the Honourable Member has in mind by referring to Candidates for sub headship If he is referring to clerks eligible for promotion as sub heads I understand that there are roughly about 366 clerks in the Railway Clearing Accounts Office who are eligible for promotion to the rank of sub heads I do not think that anything will be gained by my placing on the table of the House a statement containing these 366 names

(c) Every aggrieved person has a right of appeal to a higher authority and Government see no need for anything further

DELAYS AND DETENTIONS OF MAILS FOR TANGAIL IN MYMENSING DISTRICT

1750 *Mr Kuladhar Chaliha Will the Honourable Member for Communications please state

(a) whether the outward mails from Tangail sub divisional town of District Mymensing leaves Tangail post office at about eight in the morning for the up steamer at Parabari station timed to arrive at seven in the evening?

(b) how far is Parabari from Tangail and the time taken by the mails between Tangail and Parabari and how the mails are carried

(c) whether all the mails from the *mofussil* do not reach the Tangail town post office before eleven in the morning and mails going *via* Parabari are held up for about twenty to twenty four hours including those coming to Tangail from only two or three miles off

(d) whether the down mails coming from Parabari to Tangail reach Tangail at about 1 P M ,

(e) whether the mails arriving through Parabari intended for many *mofussil* post offices are often not sent out the same day but are detained for a day at Tangail whether this working i e sending mails to *mofussil* are irregular or not and

(f) whether the department is considering the delays and detentions of mails for Tangail and *mofussil* if so what remedies are proposed?

The Honourable Sir Thomas Stewart I am afraid I have no information on these points The matter is within the competence of the Postmaster General Bengal and Assam Circle to whom a copy of the question is being sent for such action as he may consider suitable

INCONVENIENCES TO PILGRIMS AT RANAGHAT RAILWAY STATION

1751 *Mr Kuladhar Chaliha Will the Honourable Member for Railways please state

(a) approximately the number of Churamani Yoga pilgrims that entrained or changed at Ranaghat station and the maximum number that had to wait at the station at any one time for a considerable time,

(b) the number that the third class passengers shed can accommodate for the night;

(c) whether in one night about one thousand pilgrims waited at Ranaghat station, and whether any special arrangements as regards shelter for the night and latrines and other essential amenities were made for such a large number, if so, what;

(d) whether in the absence of suitable arrangements, the station premises and surroundings were polluted, infecting the town of Ranaghat with cholera, and

(e) whether the railway authorities estimated the pilgrims traffic beforehand, and what was their ostimate of the maximum number at any one time that would be detained for a considerable time at Ranaghat?

The Honourable Sir Thomas Stewart: (a) to (e) I have called for the information required and will lay a reply on the table of the House when it is received

DISCOURAGEMENT TO STAFF FROM JOINING TRADE UNIONS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY

1752. *Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please refer to the reply given by the Honourable Sir Joseph Bhore to the supplementary question to starred question No 724 asked on the 7th March, 1935, *viz* "I am not aware of any such thing", and state

(a) whether it is a fact that the Divisional Superintendent, Delhi Division, North Western Railway, in November, 1938 issued a circular thereby discouraging the staff from joining Trade Unions?

(b) whether it is a fact that in that circular the issuing authority has used the words "Habitual offenders, etc , etc ," against the officers of Trade Unions?

(c) whether it is a fact that in that circular the Divisional Superintendent has detailed the staff to watch the movements of the officers of Trade Unions and submit special reports for which credits, promotion, etc , will be given, and

(d) how far the action of the Divisional Superintendent is justified?

The Honourable Sir Thomas Stewart: I am obtaining information and will lay a reply on the table of the House in due course

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UNSTARRED QUESTIONS AND ANSWERS.

COLLISION BETWEEN A BULLOCK CART AND A TRAIN BETWEEN GOCHARAN AND DAKSIN BARASAT ON THE EASTERN BENGAL RAILWAY.

129. Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state if Government will lay on the table a short note on the collision between a bullock cart and 96 Down Mixed train between Gocharan and Daksin Barasat at mile 28/2, Eastern Bengal

Railway, at the level crossing, which took place on 24th September, 1938, in which the bullocks and a person were killed, showing how the collision happened, the persons responsible for and the actions taken against them?

The Honourable Sir Thomas Stewart: At about 22 55 hours on the 24th September, 1938, 96 Down Passenger train ran into a bullock cart at a level crossing at mile 23/2 near Gocharan station on the Lakshmikantapur-Baruipur section of the Eastern Bengal Railway The cartman and a boy travelling in the cart were injured The cartman died while being taken to Calcutta for treatment The accident was due primarily to the occupants of the cart presumably being asleep, as the engine headlight would have otherwise been seen by them from a distance of at least 60 ft before the level crossing was reached A contributory cause was the failure of the gateman to lock the gates against road traffic The question of the disciplinary action to be taken is under consideration by the Administration

PETTY CONSTRUCTIONS AT THE HARDWAR RAILWAY STATION

130. Qazi Muhammad Ahmad Kazmi: Will the Honourable Member for Railways please state

(a) whether it is a fact that during the last Kumbh Mela at Hardwar several petty constructions were undertaken,

(b) whether such constructions were undertaken by the railway or contracts were given for the purpose,

(c) whether tenders were called for such constructions or not,

(d) how long after the completion of work the contractors were paid up for the work, and

(e) whether Government will lay on the table of the House a complete list of all the contractors and the work orders and the amount of and nature of work given to each and the dates on which payment was made to them for all the work done during the remodelling of the station and in connection with the Kumbh Mela?

The Honourable Sir Thomas Stewart: With your permission, Sir, I propose to reply to questions Nos 130, 131 and 132 together Enquiries are being made from the Railway Administration concerned and replies will be laid on the table in due course

EXPENSES IN CONNECTION WITH CONSTRUCTIONS UNDERTAKEN DURING THE KUMBH MELA

†**131. Qazi Muhammad Ahmad Kazmi:** Will the Honourable Member for Railways be pleased to lay on the table of the House a comparative statement of the expenses incurred on labour, staff, material, etc, in connection with temporary and permanent constructions undertaken during the Kumbh Mela of 1927 and 1938?

†For answer to this question, see answer to question No 130

TENDERS AND WORK ORDERS GIVEN DURING THE KUMBH MELA

†132. **Qazi Muhammad Ahmad Kazmi:** Will the Honourable Member for Railways be pleased to lay on the table of the House copies of the tenders and work orders which were given for various works during the Kumbh Mela of 1938?

TENDERS INVITED FOR THE SUPPLY OF BOULDERS FOR STOCKING ON HARDWAR DEHRA DUN AND KOTDWARA SECTIONS

133. **Qazi Muhammad Ahmad Kazmi:** Will the Honourable Member for Railways please state

(a) whether it is a fact that the Divisional Superintendent, East Indian Railway, Moradabad, invited tenders for the supply of Five Lac Cft Boulders to be stocked on Hardwar Dehradun and Kotdwara sections,

(b) whether it is a fact that after the final acceptance of the tenders the demand was considerably curtailed,

(c) why no fresh tenders were called,

(d) whether it is a fact that the supply is much below the standard laid down by the railway; and

(e) whether Government are prepared to lay on the table of the House a copy of various tenders given by contractors and correspondence entered on the subject with them by the Railway?

The Honourable Sir Thomas Stewart: Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course

SUPPLY OF STATIONERY IN THE GENERAL POST OFFICE, DELHI.

134. **Mr. Ram Narayan Singh:** Will the Honourable Member for Communications please state:

(a) the amount of contingent allowance sanctioned by Delhi General Post Office,

(b) whether it is a fact that only half of the allowance is paid to the stock clerk for supplying stationery to the staff;

(c) whether it is also a fact that the Postmaster, Delhi, has ordered the stock clerk not to supply stationery every month; and

(d) whether Government propose to arrange to supply the articles of stationery from the stock depot instead of making payment to the head of the office in cash?

The Honourable Sir Thomas Stewart: (a), (b) and (c) Government have no information The matter is within the competence of the Postmaster-General, Punjab and North-West Frontier Circle, to whom a copy of the question is being sent for such action as he may consider suitable

(b) No.

†For answer to this question, see answer to question No 130

STATEMENTS LAID ON THE TABLE.

Information promised in reply to part (b) of starred question No 462 asked by Maulvi Muhammad Abdul Ghani on the 24th August, 1938

MILEAGE COVERED BY THE SUPERINTENDENT OF EDUCATION, DELHI, AJMER-MERWARA AND CENTRAL INDIA.

(b) The total mileage covered by the Superintendent of Education, Delhi, Ajmer-Merwara and Central India, by road and rail during 1937-38 was 10,026 miles

Information promised in reply to parts (c) and (d) of starred question No 1206 asked by Mr Brojendra Narayan Chaudhury on the 10th November, 1938

DISLOCATION OF RAILWAY AND POSTAL TRAFFIC BETWEEN BONGAIGAON AND BIJNI.

(c) When transhipment either by boats or over a pontoon bridge was not possible, passengers were diverted *via* Dhubri In any case, there was nothing to preclude passengers desiring to do so, from booking through *via* Dhubri The latter route was not, however, open for goods traffic, but the Steamer Companies after the occurrence of the breach agreed to goods traffic also being booked through with effect from 5th August, 1938

(d) *No*

MOTION FOR ADJOURNMENT

SETTING UP OF A NEW MEMORIAL OF THE BADLI-KI-SERAI BATTLE NEAR DELHI.

Mr. President (The Honourable Sir Abdur Rahim) The Chair has received a notice of motion for adjournment of the business of the House from Mrs Subbarayan and Mr Sri Prakasa for the purpose of discussing a definite matter of urgent public importance, namely, the setting up of a new memorial of the Badli-ki-Serai Battle about six miles from Delhi, under official auspices on December 1, 1938, a report of which is published in the *Statesman* of December 2, 1938, and the inscription on which describes in insulting language men who were fighting for their freedom against the foreigner, and tends to revive unhappy memories and exacerbate racial feeling Is there any objection to this?

Mr. C. M. G. Ogilvie (Defence Secretary) Yes, Sir My objection in the first place is that the adjournment motion is not correct The language it uses is not borne out by actual facts The inscription upon the monument,—it is not a monument to the Battle, but to a cemetery, or monument to the dead who are interred on that spot,—reads as follows

"To the memory of those men of Her Majesty's 75th Regiment (now the 1st Battalion The Gordon Highlanders) who fell while charging the mutineers' guns on this mound at the battle of Badli-ki-Serai, 8th June, 1857, to whose gallantry the victory of that day was due and who lie buried here."

Mr. President (The Honourable Sir Abdur Rahim) Is not that on the merits?

Mr. C. M. G. Ogilvie: I should think hardly

Mr. President (The Honourable Sir Abdur Rahim) Is there any objection on a point of order?

Mr. C. M. G. Ogilvie: It is not the word "mutineer" is not opprobrious and insulting to India.

Mr. President (The Honourable Sir Abdur Rahim) Furthermore, this notice says that it tends to revive unhappy memories and exacerbate racial feeling

Mr. C. M. G. Ogilvie: That, Sir, I entirely and absolutely deny it could That is on the merits But on the question whether the word "mutineer" can be described as it is described in this notice, I would, with all respect, point out that it is, whatever one's feelings may be, the only term which can be used for troops who have risen in arms against their Government

Mr. President (The Honourable Sir Abdur Rahim) Then, the Honourable Member can justify it It is not a question of order As objection has been taken, Honourable Members who are for leave being granted will please rise in their places

(More than 25 Honourable Members rose in their seats.)

As not less than 25 Honourable Members have risen, leave is granted, and the adjournment motion will be taken up at 4 O'clock

THE INDIAN INCOME-TAX (AMENDMENT) BILL—*contd*

Mr. President (The Honourable Sir Abdur Rahim) The House will now resume consideration of the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee

Mr. M. S. Aney (Berar Non-Muhammadan) Before you proceed with the business of the House, Sir, may I have your permission to make a statement?

Mr. President (The Honourable Sir Abdur Rahim) Is it in connection with this Bill?

Mr. M. S. Aney: Yes, Sir The consideration of clause 4 has been postponed because the Honourable the Finance Member told the House that an attempt would be made to come to some formula agreed to by the Leaders of all the four Parties in the House as regards clause 4, and in accordance with that promise, a conference was also held. But I think that by this time Honourable Members are aware that formula agreed to by all the Leaders of Parties is not possible So the condition on which the postponement was made no longer holds good. I, therefore, think that it will not be justifiable for the House to postpone the consideration of clause 4 indefinitely. I can see the difficulty of taking up a clause like that today, because whatever proposals the Honourable the Finance Member may have to bring forward, due notice will have to be given of those proposals to the House. I want to know now whether the Honourable the Finance

[Mr M S Aney]

Member is in a position to allow this House to proceed with the discussion of the amendments to clause 4 which was under discussion last time, at least on Monday next Because, Sir, I find it is rather difficult for the House to proceed with the discussion of clauses after clauses without knowing anything about the fate of the main clause 4 It is something like a sword of Damocles hanging over us, and the House is in suspense In fairness to the House, therefore, I want to know whether, in view of the fact that the attempt at an agreed formula as originally contemplated has fallen through, the Honourable the Finance Member would be in a position to assure us that he will be able to proceed with the consideration of the amendments to clause 4 at least on Monday next

The Honourable Sir James Grigg (Finance Member) Sir, I am quite aware of the position of the various representatives of parties who discussed the possible basis of an agreed settlement, Mr. Aney has made it quite clear that in no circumstances will he agree to any settlement which does not involve the deletion of clause 4 completely That is perfectly true No other Leader of a Party has taken the same line, and, so far as I am aware, with the other Leaders of Parties there is still a possibility of a settlement which will command the assent of the vast bulk of the House That being so, Sir, I ask the indulgence of the House for a little more time Amendments are being drafted, they will be discussed, to see if they represent accurately an agreement which we can recommend to the House to accept, but they are being discussed, and I have no reason to suppose that it will not be possible to arrive at such a solution That being so, I ask for a little more time in which to produce an agreed solution, and in that case, I think it is only fair to the House when the agreed solution has been arrived at they should see the amendments actually on the paper before discussing them So, I would very much deprecate doing what Mr Aney suggests, that is, proceeding at once to delete clause 4 in the circumstances as now exist

Mr. President (The Honourable Sir Abdur Rahim) What is the earliest date when the Honourable Member can bring on that agreed amendment?

The Honourable Sir James Grigg: I hope early next week I hope to be able to do it on Monday or Tuesday I cannot say definitely at the moment, because the drafts have to be looked at very carefully before they are put down, but I can assure the House that there is no intention of merely vapouring about and seeking to go on with the Bill merely for the sake of going on with it when the main object of strife is not settled I am not merely playing for time or delaying or doing anything of that sort I, personally, would very much resent having wasted time on discussing the rest of the Bill if in the end there were a prospect of the Bill being destroyed by the deletion of clause 4

Mr. President (The Honourable Sir Abdur Rahim) The Chair takes it the Honourable Member will expedite the matter and try to come to some agreed settlement early

Mr. A. Aikman (Bengal European) Sir, I wish to support the contention of Mr. Aney I am not in agreement with several of the terms

of the proposed compromise and I reserve the right to consider and suggest amendments

Mr. President (The Honourable Sir Abdur Rahim) All that the Chair is anxious to know is when the matter is likely to be brought up before the House—the amendment to clause 4 The Chair understands that it is likely to be brought up either on Monday or Tuesday—as early as possible.

The Honourable Sir James Grigg: I hope in any case as early as possible

Mr. President (The Honourable Sir Abdur Rahim). Then, the House will proceed with the discussion of the rest of the Bill The House is now on amendment No 814*—clause 16.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions Non-Muhammadan Rural) Sir, I rise to support the amendment of the Honourable Mr Som The demand in favour of these allowances, mentioned in this amendment, has been so insistent and wide-spread that I think it my duty not to cast a silent vote on this matter The matter can be looked at from three standpoints—as a matter of principle, as a matter of precedent and from the point of view of the detailed provisions As regards the question of principle, I have carefully listened to the speeches of the Honourable the Leader of the House and the Honourable the Finance Member last evening I have not heard one word on that question from these two Honourable Members The question of principle is not a matter of small detail It is a major question of major importance going to the very fundamental basis of the law of income-tax, and yet, the Honourable the Law Member has not one word to say repudiating that principle; and the Honourable the Finance Member also did not say one word So I take it they have got nothing against the principle involved in this amendment Whatever may be the position of the Honourable the Finance Member, so far as the Honourable the Law Member is concerned, he knows that non-denial is tantamount to admission Therefore, I take it that the principle is undisputed and non-controversial The position is simply this take the case of three assessees one a bachelor, the second a married man with one child, and the third another married

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*"That after sub-clause (*b*) of clause 16 of the Bill, the following sub-clause be added, namely

'(*c*) after sub-section (*3*), the following sub-section shall be added

'(*4*) In computing the total income of an assessee the following allowances shall be made —

(i) an allowance of one-sixth of the income received by the assessee from salaries or business, profession or vocation subject to a maximum of Rs 1,800,

(ii) an allowance of Rs 1,000 in the case of every married person,

(iii) an allowance of Rs 120 in respect of each child of the assessee,

(iv) an allowance of Rs 100 in respect of each dependant maintained by the assessee

Provided however that when two assessees are husband and wife the allowances shall be claimed and allowed only in respect of either of them at the option of the officer'."

[Mr Akhil Chandra Datta]

man, as fortunate as the Leader of the House—a married man with eight children Is the capacity and ability to pay the same with regard to all three assessees? We must remember that the foundation of this law of income-tax, admittedly, is the ability and the capacity to pay Are we asked to believe that the capacity to pay in the case of these three assessees is the same? And yet that is the very foundation and the assumption on which the existing law is based, namely, no allowance for wife or children That is so far as the principle is concerned As regards precedent, it was urged, times without number, that our law of income-tax is to be based on the model of the United Kingdom law or the United States, how is it that on this very fundamental question we are going to give the go by to the law as it exists in those two countries? In fact the Honourable the Finance Member has told us that the only real argument is the argument of money He says "We shall lose a lot of revenue if this allowance is given " Let us consider for a moment the implication of this argument It appears the argument is simply this he says to those people who are entitled to these allowances "You have been paying so long and so much Why should you not continue to pay longer and pay as much?" In other words, "you have allowed me to rob you of some money for these years and, therefore, I have a prescriptive right to rob you for a few years more " That is the whole position If money is the only argument, I admire the cynical frankness of the Honourable the Finance Member He tells us in so many words that money is the only argument—money by fair means or foul, by proper and just methods or unfair and unjust methods Why should he not resort to frontier methods We have been told there was a time when highway robbers used to ask people to stand and deliver That is the principle on which this present law is apparently based

Now, Sir, the Honourable the Law Member has attacked the detailed provisions of this amendment with all the ability of Sir Nripendra Sircar My short reply to him is this If you do not dispute the principle and if you quarrel only with the figures contained in this amendment, why not reject these figures? If the demands are exorbitant, reject them by all means But let us have your reasonable figures I find an amendment tabled by the Congress Party It is No 6 on the Supplementary List No 7, in the name of my Honourable friend, Mr Gadgil, the Secretary of the Congress Party I learn with amazement from the Leader of the Opposition that it is not going to be moved The Secretary is being thrown overboard

Mr. N. V. Gadgil (Bombay Central Division Non-Muhammadan Rural) Nothing of the kind

Mr. Akhil Chandra Datta: He is My contention is this. If Mr Som's figures are very extravagant and unreasonable, here is a very reasonable amendment with very reasonable figures tabled by the Congress Party, and I want to draw the attention of the House to the date on which this amendment has been tabled by the Congress Party It is the 1st December, and today it is the 2nd December. No doubt, some amendments are given in a hurry without much thought, but here is an amendment which has been tabled only yesterday and, therefore, I take it a

good deal of thought and care has been bestowed upon it, and yet, after 24 hours, I am told that this gentleman has become wiser! Without going further into that, my contention is that if those figures of Mr. Som are very extravagant, why not accept the figures given in the Congress amendment? If I can get an assurance that Mr Gadgil's amendment will be moved, and also an assurance from the Honourable the Finance Member that the figures given in the amendment of Mr. Gadgil, or for the matter of that, any other figures, suitable as regards the quantum of allowance—if there are any other figures which can be put forward by the Honourable the Finance Member, I shall advise my Honourable friend, Mr Som, to withdraw his amendment with the leave of the House. I think I am perfectly right when I say that this amendment affects only the poorer sections of the people. It does not affect the rich people, and, therefore, I say, I feel justified in calling this amendment as a poor man's amendment The acid test as to who are the poor man's friends in this House will be this—those who support this amendment or those who oppose this amendment As I have already said, the agitation in the country is overwhelming on this point There is a large volume of opinions on this Bill, but a large portion of that volume is taken up by this matter. The acid test is, therefore, who are the people in this House who have any regard for public opinion? Again, the Honourable the Finance Member, in the course of the discussions, has told us that India being a poor country, the capacity to pay should be the criterion In view of that declaration, I submit that this question must be very carefully considered by the Honourable Member as well as the other Parties in the House

The Honourable the Law Member talked about population yesterday. He told us that at the next census the population was going to swell to 400 millions There are two Leaders in this House, one, the Leader of the House, and the other, the Leader of the Opposition Providence has given as many as eight children to the Leader of the House as he told us yesterday But I am afraid Providence has not been so kind to the Leader of the Opposition . .

An Honourable Member: How many have you got?

Mr. Akhil Chandra Datta: Possibly it would be the largest We heard ten yesterday, that was the maximum number I do not know whether Providence, before giving eight children to the Leader of the House, ever took into consideration this allowance under the income-tax law, and whether before the children are born, they or their parents care to enquire what will be the income-tax law on this point We have heard a lot of argument on this question of birth control, but this is the first time that we hear an argument in support of birth control, based on absence of provision in the income-tax law as regards allowance for children

One word more about the position taken up by the Leader of the House His defence against Mr Som's amendment is something like this. It is like the defence of a defendant in a suit for damages Without disputing the principles or the facts on which the claim for damages is based, the defendant simply says, "the amount you have claimed is excessive" That is the sort of position that the Honourable the Law Member has adopted" He does not dispute the principle, but he only says that the

[Mr Akhil Chandra Datta]

amount is too much Therefore, I should think that the Leader of the House had made a weak defence, and by his faint praise he only condemned Sir James Grigg and did not support him. With these words, Sir, I support this amendment of Mr Som

Mr. Husenbhai Abdullabhai Laljee (Bombay Central Division. Muhammadan Rural) Sir, I rise to support the amendment that has been moved In my speech I have already said that when we are going to introduce the slab system and when we are coming forward with the plea that the tax is being levied for the good of the middle classes and the poor people—I ask why this has not been considered in relation to this amendment It has been pointed out by the Leader of the House that in India we have large families and that if such provisions are made, we shall not know where we will be I ask, why are all these funds collected, and for whose interest? When you have got poor people and others with big families not able to earn large sums or even able to pay income-tax on the scale that my Honourable friend, the Finance Member, has laid down, without starving, is it fair that we should allow this income-tax from such people? The other day an Honourable Member said that people are starving and if I mistake not, it was the Honourable the Finance Member who said that if more than Rs. 6,000 are allotted for the policies, all investments may be put therein and the families will be starved In the same tone I wish to say that we do not like that our people should be taxed by income-tax to the extent that their children will starve Then again, I fail to see why it was said in this House that there are no records of births and deaths Probably Mr Chambers does not know much about my country but all the same I really ask whether there is anybody here who can say that we have no records of birth and deaths We have even records of vaccination When a statement is made that we do not know whose children they were, when such insinuations are made, I do feel that we ought to tell those gentlemen who make such statements that it is not in my country that you cannot find that out Experience outside may be quite different So far as I know there is not the least difficulty at all in my country I also appeal to the Leader of the Opposition Here are people who fight for the poor and they rightly do so. Why is it that we don't hear some speeches from Professor Ranga • I don't know whether my friend, Dr Deshmukh, is going to get up and justify what he said. I am not in the secrets of that Party but all the same I hope the Leader of the Opposition will make it clear that just for the reason that the Finance Member does not want more than Rs. 6,000 to be allotted for policies he also does not want such an amount of tax which will cause children to be starved. My friend, Dr Deshmukh, is interested in agriculture as well I know he will be only too glad to come forward and say that he does mean what he has said I ask the House to take into serious consideration that their hard-earned money should not be taxed in this way, i e, without the man being able to provide for the maintenance and for the education of the children With these words, I support the amendment

Sir Cowasji Jehangir (Bombay City • Non-Muhammadan Urban) Sir, I do not think anybody expected that the debate on this amendment would be continued very much longer this morning, for the very simple reason

that this amendment has not been studied in all its aspects, and we do not know what it is going to cost That is a sufficient argument for not considering it and coming to any definite conclusion on it except to reject it for the time being

Mr. Akhil Chandra Datta: When do you propose to take it up ?

Sir Cowasji Jehangir: At some future time after it has been properly considered in all its aspects We were told, when an amendment was moved about rentals, that the matter had not been properly considered, and we agreed that to be a valid argument I think the same argument applies with much greater force to the present amendment To say that the acceptance or rejection of this amendment is an acid test of whether a Party or set of individuals is for or against the poor is rather exaggerated language It is not an acid test by any means It can only be an acid test after the question has been properly and thoroughly investigated There were chances of investigating it Those chances were not taken by those most interested in this question and, therefore, I do not think it is right to have a prolonged debate on this amendment, but, Sir, I find that my Honourable friend, Mr Gadgil, has given an amendment of a similar nature I can quite understand why he has done so On the very first occasion I had the pleasure of meeting Mr Gadgil, in the course of our conversation we hit upon the topic of children and as to how many children he had He said that he had five children and that Government had been kind to him and sent him to prison, otherwise he might have had two more I don't know how many he has now I can quite understand Mr. Gadgil moving this amendment and wanting it to be considered I do believe that the object with which he put down this amendment was that the House should give its attention to it now, so that it may be an accomplished fact two years or five years or ten years hence, when I hope to see him a Minister on these Benches Nevertheless, I think we might finish this discussion on this subject for the present and not take it as an acid test that we are against the poor if we reject the amendment

Mr. Bhulabhai J. Desai (Bombay Northern Division Non-Muhammadan Rural) But for the fact that the poor were mentioned and that we had no heart for the poor if we vote against this amendment, I did not at all intend to intervene in this debate Let us examine the facts as they appear from the reports which were placed before the House in this matter in the inquiry committee The facts are that out of a population of a little over 250 millions in British India, there are, roughly speaking, 5 lakhs of assessees, to use round figures You can take it from me that I am stating it quite correctly, the exact figure being 4,92,000—half a million, which means 249½ million of the poor are not touched by this measure So, let my friends clearly understand that this kind of appeals is not going to defeat those who understand their job Therefore, the two hundred and forty-nine and a half million poor do not come into the picture Let us look at the other five lakhs I am not accustomed, of course, to talking in terms of millions—I leave that to millionaires. I hope my friend has understood I am repeating that the two hundred and forty-nine and a half million of this population does not come into the question for the purposes of the discussion of this matter Therefore, we are only concerned with the remaining five lakhs I will give other figures

[Mr. Bhulabhai J. Desai]

which are equally well-known and undisputed, *viz.*, that people whose assessable income is Rs 3,500 and less is half the number of these five-eighths, people whose assessable income is Rs 5,000 or less are two-thirds Now, let me come to other countries of which my friends have talked so much so that we can understand what we are doing, and I hope and trust that deep attention will be paid to the figures and not to mere words

An Honourable Member: And sentiments

Mr. Bhulabhai J. Desai: These sentiments must get something to base them upon Sir, the Royal Commission on Income-tax in England in 1920 recommended, after careful consideration, that in any scheme of taxation on incomes specific exemption should be allowed for family responsibilities They recommended an exemption, for a bachelor, of £150—that is near to Rs 2,000, a little more—for a married couple with no children £250, and £40 for the first child and £30 for each subsequent child . The average income excluded by this benign Government is about Rs 75 a year per head I take it as the basis Making an allowance for the bachelor and making an allowance for the man with a wife with no children, even if you come to the man with a wife and two children, with his family of four, he has an average income of Rs 300—according to their calculation Now, let me take the relative income in England Instead of Rs 75, it is £75—meaning at least twelve and a half times more Now, the one thing which is forgotten is that there is under the income-tax system—I hope the Finance Member will not alter that—what I may call a free slab of income which would not be taxed at all It has been Rs 2,000 now Now compare the two thousand with the allowance made in England and see whether even the allowances which were overnight suggested would do, and you will find it is less than Rs 2,000 until you come to many children The scale suggested shows that unless you have more than three children, you get less than Rs 2,000 in the scheme of which much was made in the table of my Honourable friend, by Mr Gadgil The fact is that on the whole and for the present, if there is a sum of, say, Rs 2,000 more or less according to the conditions of the time and the finances at the disposal of the State, a certain sum say, Rs 2,000 is exempted from income-tax altogether, and, taking everything into consideration and having regard to the average income of the people of this country, it is, I think, an entirely unfounded complaint to say that provision is not being made for what you may call reasonable charges It is for that reason, and not in any light-hearted way, forgetting the poor all the time, that I feel myself unable to support this amendment

Mr. M. S. Aney: Sir, is there no untaxable minimum in England?

Mr. Bhulabhai J. Desai: None that I know of. That is precisely the point What my friends wanted was that there should be first the Rs 2,000 and there should be these additional amounts The result in the end would have been, I think, that about a third would be taxed, and if they wished to be taxed a rupee in the rupee, well, you might possibly produce an income, but not otherwise So it is not the income in point, but it is not actually understanding the operation of *what* is being argued for—that is the point That is what I mean by saying when explaining to Mr Gadgil that assuming that there is no limit as free exemption for

everybody, but merely a limit as recommended in England, it will produce less than Rs 2,000 for a family of less than five Therefore, in any case, having regard to our income, having regard to our conditions, I wish to very humbly plead before this House that there is no question of neglecting the poor, the two hundred and forty-nine and a half million do not come into this at all, it is out of the other half a million, and I have said that having regard to our income and a free limit of Rs 2,000, I think, having regard to our resources, that should be exempted (Interruption by Mr Bajoria) The point I am trying to make is this. My Honourable friend, Mr Bajoria, need not be anxious I daresay, he wants to pay on Rs 2,000 on the slab system he will do so, and he is better off under the Bill, and let me assure him that he will escape the first two thousand altogether which he does not do now. The point is a very narrow one The point is that Rs 2,000 is the exemption limit which has prevailed at all events and that is all I can put my finger on at the moment, and I wish to say one last word to my Honourable friend, the Finance Member, whether this Bill passes or not, that in the Finance Bill he will take care that that exemption which is granted is not reduced

Several Honourable Members: I move

"That the question be now put"

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

"That the question be now put"

The motion was adopted

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

"That after sub-clause (*b*) of clause 16 of the Bill, the following sub-clause be added, namely

'(*c*) after sub-section (*3*), the following sub-section shall be added

'(*4*) In computing the total income of an assessee the following allowances shall be made :—

(i) an allowance of one-sixth of the income received by the assessee from salaries or business, profession or vocation subject to a maximum of Rs 1,800,

(ii) an allowance of Rs 1,000 in the case of every married person,

(iii) an allowance of Rs 120 in respect of each child of the assessee,

(iv) an allowance of Rs 100 in respect of each dependant maintained by the assessee

Provided however that when two assessees are husband and wife the allowances shall be claimed and allowed only in respect of either of them at the option of the officer'."

The Assembly divided.

AYES 11

Abdur Rasheed Chaudhury, Maulvi	Laljee, Mr Husenbhai Abdullabhai
Aney, Mr M S.	Maitra, Pandit Lakshmi Kanta
Bajoria, Babu Baijnath	Parma Nand, Bhai
Banerjea, Dr. P. N.	Sanat Singh, Sardar.
Datta, Mr Akhil Chandra	Som, Mr Suryya Kumar
Lalchand Navalrai, Mr	

NOES 93

Abdoola Haroon, Seth Haji Sir
Abdul Hamid, Khan Bahadur Sir
Abdul Qaiyum, Mr.
Abdul Wajid, Maulvi
Abdullah, Mr H M
Ahmad Nawaz Khan Major Nawab Sir
Aikman, Mr A
Asaf Ali, Mr M
Ayyangar, Mr M Ananthasayanam
Ayyar Mr N M
Bajpai, Sir Girja Shankar
Bardley, Mr. J.
Bewoor, Mr G V
Bhutto, Mr Nabi Baksh Illahi Baksh
Boyle, Mr J D
Chambers, Mr S P
Chanda, Mr A K
Chapman-Mortimer, Mr T
Chaudhury, Mr Brojendra Narayan
Chettiar, Mr T S Avinashilingam
Chetty, Mr Sami Venkatachelam
Chunder, Mr N C
Dalal, Dr R D
Dalpat Singh, Sardar Bahadur Captain
Damzen, Mr P R
Das, Pandit Nilakantha
Desai, Mr Bhulabhai J
Deshmukh Dr G V
DeSouza, Dr F X
Essak Sait, Mr H A Sathar H
Gadgil Mr N V
Ghiasuddin Mr M
Gorwala, Mr A D
Govind Das, Seth
Green, Mr B R T
Grigg, The Honourable Sir James
Gupta, Mr K S
Hardman, Mr J S
Hegde, Sir K B Jmaraja
Hosmani, Mr S K
James, Mr F E
Jawahar Singh, Sardar Bahadur Sardar Sir
Jedhe, Mr K M
Jehangir, Sir Cowasji
Jogendra Singh, Sirdar
Kailash Behari Lal, Babu
Kushalpal Singh, Raja Bahadur
Lahiri Chaudhury, Mr D K
Mackeown, Mr J A
Mangal Singh, Sardar
Maxwell, the Honourable Mr R M
Mehr Shah, Nawab Sahibzada Sir Sayad Muhammad
Menon, Mr P A
Menon, Mr P M
Metcalfe, Sir Aubrey
Miller, Mr C C
Misra, Pandit Shambhu Dayal
Mudaliar, Mr C N Muthuranga
Muhammad Ahmad Kazmi, Qazi
Mukerji, Mr Basanta Kumar
Nur Muhammad, Khan Bahadur Shaikh
Pande, Mr Badri Dutt
Raghubir Narayan Singh, Choudhri.
Rahman, Lieut.-Col M A
Ramayan Prasad, Mr
Ranga Prof N G
Rao Mr M Thirumala
Row, Mr K Sanjiva
Saksena, Mr Mohan Lal
Santhanam, Mr K
Satyamurti, Mr S
Scott, Mr J Ramsay
Shahban, Mian Ghulam Kadir Muhammad
Sham Lal, Mr
Sheehy Mr J F
Sheodass Daga, Seth
Shoi Muhammad Khan, Captain Sardar Sir
Siddique Ali Khan, Khan Bahadur Nawab
Singh, Mr Gauri Shankar
Singh Mr Ram Narayan
Sinha, Mr Satya Narayan
Sircar, The Honourable Sir Nripendra
Sivaraj, Rao Sahib N
Sobha Singh, Sardar Bahadur Sardar
Spence, Mr G H
Stewart, The Honourable Sir Thomas
Subbarayan, Shrimati K Radha Bai
Sukthankar, Mr Y N
Sundaram, Mr V S
Talukdar, Mr J N
Town, Mr H S
Varma, Mr B B
Zafrullah Khan, The Honourable Sir Muhammad

The motion was negatived

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

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

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

"That clause 16, as amended, stand part of the Bill"

The motion was adopted

Clause 16, as amended, was added to the Bill

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

"That clause 17 stand part of the Bill"

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor Non-Muhammadan Rural) Sir, I beg to move my amendment No. 317 with a slight change. It now reads thus

"That in clause 17 (*a*) of the Bill, in the proviso to clause (*b*) of the proposed sub-section (*1*), for the word 'under' the words *'or carried forward and set off* in accordance with' be substituted"

The clause, as it stands, refers to section 24, and it would read better if the change suggested in the amendment is made The words "carried forward and set off" as they stand at present refer only to the setting off that year's profits or losses We want to cover the profits and losses of other years also, and that is the reason why this amendment is moved Sir, I move

Mr. Deputy President (Mr Akhil Chandra Datta) Amendment moved

"That in clause 17 (*a*) of the Bill, in the proviso to clause (*b*) of the proposed sub-section (*1*), for the word 'under' the words *'or carried forward and set off* in accordance with' be substituted"

Mr. K. Santhanam (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) Sir, in supporting this amendment I would like to draw the attention of the Government and of the House to a contingency in which this proviso becomes inoperative Under clause 24, an unregistered firm's losses are carried forward to the losses as an unregistered firm They are not allocated to the partners, while in the case of a registered firm the losses are allocated to the partners and are carried forward in their accounts They have provided a contingency in which the Income-tax officer may assess an unregistered firm as a registered firm but they have not provided how the losses shall be carried forward in such a contingency As a result of this lacuna in the Bill, it may happen that whenever there is a loss they may assess it in one way and whenever there is a profit they may assess it in another way, with the result that the lossess may not be carried forward at all It is very difficult for us to table amendments for such a contingency It is the business of the Government to bring in an amendment to fill in this lacuna and so, I wish to draw the attention of the Government and of the House so that when they come to clauses 23 (*b*) and 24 they may remedy the state of affairs

The Honourable Sir James Grigg: Sir, as regards the actual amendment moved, which is in substitution for amendments Nos. 316 and 317, Government will accept it subject to the wishes of the House As regards the supplementary point raised by the Honourable Member, we will certainly look into it before we get to clause 28

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

"That in clause 17 (*a*) of the Bill, in the proviso to clause (*b*) of the proposed sub-section (*1*), for the word 'under' the words *'or carried forward and set off* in accordance with' be substituted"

The motion was adopted.

Sir Cowasji Jehangir: Sir, I beg to move:

"That in clause 17 (*a*) of the Bill, clause (*c*) of the proposed sub-section (*1*), be omitted."

Sir, there have been several amendments tabled about this clause I find that my Honourable friend, Mr B Das, has tabled one and Mr Santhanam has tabled another I presume they will take their choice between one or the other. My amendment is to omit this clause. The effect of this omission will be that the law will remain *status quo* Today, in the case of a revocable trust, the responsibility for paying the income-tax passes to the beneficiary According to the Bill, a trust will have to be irrevocable, that is to say, both the corpus and the income will have to pass to the beneficiary before the responsibility of paying the income-tax can pass to the beneficiary Now, Sir, I presume that this amendment is suggested in order to avoid the so-called evasion of income-tax and the conclusion that there is evasion has been arrived at by the Government on the analogy in England I would point out that in this country trusts are made not so frequently as in England and I do not really believe that Government is going to get much additional revenue by this very radical change in the trust laws of the country We have had an occasion to hear from the Honourable the Finance Member, during this Session, that from the amendment he made in section 16 (*3*) in 1937 he expected to have an yield of 30 lakhs but it merely yielded two lakhs I believe that is what he said I was not in the House at that time

The Honourable Sir James Grigg: The Honourable Member is referring to a very small part of the clause, namely, 17 (*2*) (*b*) The amendment which was made in 1937, and which covers a very narrower field, was expected to yield about 30 lakhs In fact, it yielded only 2¼ lakhs a year for the simple reason that a loophole was left in the clause by which everybody could resort to a new form of avoiding tax That is the reason why we are asking the House to amend it

Sir Cowasji Jehangir: We will not anticipate a discussion of that clause before we come to it, because I have a great deal to say on that clause What I am now pointing out is the fact that a well-considered amendment made in 1937 which was expected to yield 30 lakhs yielded only 2¼ lakhs I believe that the same result will be derived by the present Bill and therefore, I would like to point out to the House to take the figures of the additional revenue that may be obtained with a certain amount of reservation

Now, Sir, I was on the analogy between England and India There is no comparison between the wealth of the two countries It was only this morning stated that the average income of a man in India is 18 times less than the average income of a man in England Even that is an under-statement The point now is that in England these trusts have been made very frequently with the object of evading income-tax, and I do not believe, that in this country trusts have been made solely with the object of evading income-tax. And one of the reasons is, that there is a substantial stamp duty that has to be paid by the settlor, before such trusts can be made and people, merely wanting to evade their income-tax, during their lifetime, are not going to pay thousands of rupees in stamp duty That is the point that this House must consider. Sometimes the

stamp duty is equal to the income-tax for ten years Now, Sir, in order to avoid this so-called evasion the House is asked to have a very drastic change in the trust laws of this country I am given to understand that the omission of the whole clause will not be acceptable to the House but the House will seriously consider one of the amendments that have been tabled by the Congress Party Standing alone as I do, I have not much hope, unless my Honourable friend, the Leader of the Opposition, will continue to smile and give his blessing to the amendment I move, which I do not expect him to do, from the conversations I have had with him But he will reserve his eloquence and his blessings for one of the two amendments tabled by his Party and I wish him God-speed Sir, before I take any further step with regard to this amendment, I will give an opportunity to some other Honourable Members to express their views

Mr. Deputy President (Mr Akhil Chandra Datta): Amendment moved:

"That in clause 17 (*a*) of the Bill, clause (*c*) of the proposed sub-section (*1*) be omitted"

Mr. Bhulabhai J. Desai: Sir, as I have no desire to make more than one speech on this question of trusts which my Honourable friend distrusts so much, I wish to explain clearly the position with reference to matters which he has mentioned In order to understand this matter even from the point of view of my Honourable friend opposite, I wish to call attention to section 16 of the Act as it now stands and the amendment which he carried during my absence in less than ten minutes It is a feat of achievement on which I congratulate him, though it is belated It is a feat on which he may have good reason to congratulate himself in future even though he may then by that time translate himself to a more congenial atmosphere Sub-clause (*3*) of that section 16 which is the amended one contains two points which it is necessary to bear in mind in order that we may understand this whole matter of taxing the income of the beneficiary as the income of the settlor Part (*iii*) of section 16 (*3*) says

"From assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart"

I hope that contingency does not often occur in this country as elsewhere Then

"(*iv*) or, from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual"

Reading the words as I do, there should be no attempt on my part at all events to conceal their proper meaning, because, whether I disclose it here or not, a Court of law is bound to put the right construction upon it. I read clauses (*iii*) and (*iv*) of section 16 (*3*) to mean, among other things, that if there is a trust created for a wife, or if there is a trust created for a minor child, in either of those cases the income of the beneficiary would be added to the income of the settlor for the purpose of taxation, because the words are, "transferred directly or indirectly to the wife", etc And I believe it must be intended to mean not merely that it is given away to them absolutely, but, according to one of the fair interpretations of this clause, it would mean that if the wife becomes a beneficiary under a settlement by the husband, it may be said to be an indirect transfer from the assets of the husband to the wife Anyway, I am apprehensive that such a construction is not merely possible, but

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probable Therefore my reading is that, on a proper construction, clauses (*iii*) and (*iv*) would include a trust made by a husband in favour of the wife or child, of whatsoever nature, revocable or irrevocable And, therefore, my Honourable friend has really got all he wanted though he got it by a snap vote of this House, and I hope he will not be too greedy for the expansion of it in clause 17 I say that in a very proper sense that he need not emphasise so much the value of the condition he wishes to impose as it might otherwise have been That brings me to the present clause 17 which deals with the attempt to tax,—and, again, with the permission of the House, I will use one expression, to tax the income of the beneficiary as the income of the settlor If that result is the whole intention, that wherever A makes a settlement in favour of B, in the circumstances mentioned in the clause, even though it is properly beneficially and legally the income of B for the purpose of taxation, it will still be treated as the income of A—that is the object of the clause—it is rather involved, but that is the purpose Therefore, in order to avoid that, I would express it shortly by saying that the object of the clause is to treat the income of the beneficiary as the income of the settlor for the purpose of taxation in the circumstances mentioned in 17 (*1*), and the substantial point, as I understand it, is this I have no desire to make a second speech on the numerous amendments of which notwithstanding my friend, who is absent, I have taken the courage to move only one—sub-clause (*c*) of clause 17 reads

"all income arising to any person by virtue of a settlement or disposition whether revocable or not and whether effected before or after the commencement of the Indian Income tax (Amendment) Act, 1938 from assets remaining the property of the settlor or disponer shall be deemed to be income of the settlor or disponer and all income arising to any person by virtue of a revocable transfer of assets shall be deemed to be income of the transferor

Provided that for the purposes of this clause a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the settlor, disponer or transferor etc etc'

And, then, there is the definition of "settlement" It may be a point of construction on this as to what is the true meaning of the words from "assets remaining the property of the settlor", I have no desire to say anything more about that, it is entirely for the advisers of my Honourable friend opposite But the point I wish to emphasise is this that if all trusts for the benefit of a wife and minor child are already hit by section 16, as it now stands, this clause can only touch trusts for the benefit of individuals other than wife and minor child If that is so, is any purpose served by my Honourable friend trying to attack trusts in favour of—I will call them strangers only in the compendious sense—other than wife or minor child? In such a case, I submit that the only purpose could be to attack trusts which it can reasonably be believed to be made only for the purpose of evading the tax As my friend will explain readily—and I will accept it—they cannot and they do not affect or wish to affect the law of trusts that is true What they say is, the law of trusts may remain, but the law of trusts should not be used for the purpose of evading taxation; and it is only to that extent that he can ask the House reasonably to aid him in a legislation by which, notwithstanding the fact that the trust is valid, the income of another shall be treated as the income of the settlor He cannot, therefore, claim anything more from this House—at least not reasonably speaking What I am suggesting is that the way in which they claim it is too wide, too sweeping. For

instance, the clause, as they interpret, is in the explanation given—whether that interpretation is right or wrong, it is not for me to say—but what they claim is this, that in every case in which the trust is such that the corpus or the capital is in some manner reserved or likely to return to the settlor, the income of the beneficiary should be treated as the income of the settlor In other words, supposing A makes a perfectly honest trust for life and makes no further disposition Then, they say "No, the corpus is still under your domination, and, therefore, the income should be taxed as the income of the settlor." How can my Honourable friend in reason say that every trust must be deemed to be an evasion of the income-tax law? Unless he goes to that length, he cannot possibly justify the clause that he is relying on. Therefore, what I suggest to him and to the House is that certainly a limitation of what he now moves is needed

Looking at the English law, that is to say, not the English law in the sense of the English law of trusts, because there he would get no consolation—but where he gets consolation from is the fact that the Income-tax department in England by means of legislation only intended for tax purposes have attempted from time to time as their attention has been called to a kind of trust—an infinite variety of them—by which people have attempted to evade the income-tax law in that rich country, and, therefore, my friend knows that there are some 15 or 16 pages in their Act where a description of numerous kinds of trust is given, where the income of the beneficiary is to be treated as the income of the settlor We need not in this poor country go so far as looking for all this infinite variety of devices which their monied men are obliged to resort to and which they do I, therefore, suggest humbly to the House—and if the House so accepts the view—that if the trust is revocable at the will of the settlor, I can well understand, in such a case, it being said that even though in terms it may be this "A for life, but revocable" and the Indian Trusts Act allows it—but A for life is a deception or can be, because after the tax-gatherer is gone at the end of a year, you have only to file a revocation, and the trust is at an end I will deal with the point which my Honourable friend raised in which there is a lot of substance Therefore, if they were merely wanting to hit the purely revocable trust, I can understand some reason in supporting it, because it might well be argued that a revocable trust, whatever its other terms are, because it does not matter what it says—to A for life or to B for life, so long as, at the end of the trust deed, the words are put that the settlor shall have power to revoke the same by an instrument in writing or words to that effect which are usually to be found

The point, therefore, is that if you merely hit the revocable trust to that extent, the House may; if it thinks right, at all events concede that it is likely or lend itself to being likely as a device But when it comes to irrevocable trusts, it seems to me that my Honourable friend is going too far Nobody is going to irrevocably give away his income to another in order merely to escape taxes; and mark the language of 17 (*1*)—"whether revocable or not." Therefore, if it were merely as an irrevocable trust, I think my Honourable friend is going too far Even there also I can see in some cases the possibility of an evasion, that is, supposing a trust is irrevocable, not altogether, but by virtue of its provisions at the end of, say, six years—usually it is six years only for this reason that in studying the lists of trusts which are hit by the English law of tax,

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I found that they seem to find that people are quite willing to part with the income for a period of six years under some arrangement or other which may not exist here, to a stranger—or if it is wife and child it may stand on a different footing—but the test which they put before themselves roughly was that if it is irrevocable for a period of six years, then you may assume that any trust to ensure more than six years and not being irrevocable in the meantime is a trust which could not possibly be argued to be a trust intended to be a mere device to evade tax, and, therefore, such trusts are outside and my suggestion to the House is this, that the kind of amendment which I wish to recommend is—if a trust is revocable, let the income of the beneficiary be treated as the income of the settlor. If the trust is irrevocable for a period of six or less than six years, then that should be a case in which you may consider whether or not the income of the beneficiary should be treated as the income of the settlor But if it is irrevocable for more than six years, I think even the desire of the House to tax a person should not so run away with them as to imagine fraud in every case, because, nobody is going to give away income for more than six years irrevocably in order that he may escape the tax

3 P. M. There is one other point to which I should like to draw the attention of the House, and it is this Even in the case of revocable trusts, though my friend can argue, and I have really put the argument against myself in the sense that from the point of view of the assessee, anything from five to seven per cent *ad valorem* is to be leviable on the transfer of property, where it is by way of trust or gift Now, it must be remembered that this is not a case of enure being taxed at all In some cases, it may happen, where the income of the beneficiary is less than the exempted amount, we shall say Rs 5,000, but it is divided between three beneficiaries, then each of them escapes the tax if it was taxed in their hands But, apart from such cases, the income in the hands of the beneficiaries remains taxable The real intention, therefore, is really to get the two sources of income, one is the accumulated income which is divided into several parts being such that it is not liable to tax, and, secondly, the income to be added to the income of the settlor so that he pays tax at a higher rate These are the two ways by which they hope to gain by hitting against this machinery of trust which nobody can argue is unjust or is unknown to law, it has been known to English law ever since the Chancellor's foot first came into existence at the instance of their kings. So that the last point I was trying to make out was that the excess rate would be relatively so small that my friend was not too far in saying that it may actually represent 10 years' tax

An Honourable Member: It varies

Mr. Bhulabhai J. Desai: I thought you may find that at least for five years you get no benefit out of the trust if you transfer the property in a legitimate way, because you avoid the higher rate That is to say, supposing your income was, shall we say, Rs 20,000, the trust was Rs. 10,000, so that you would pay a higher rate on the Rs. 30,000 assuming that was the rate. In the other case, Rs. 10,000 would bear one rate, Rs. 20,000 would bear another rate. Thus, on a rough calculation, the accumulated trust would pay at least five times the cost of the transfer by

means of stamps, and so forth. I quite agree that in the five years the man begins to gain, and that is the reason why I am suggesting it is a futile effort to catch any settlement to enure for a period of less than six years, because it would not pay the man, even from the point of view of tax dodging to transfer the property and yet pay in advance so much that at the end of six years he still does not gain anything substantial In the light of this, what I submit to the House is this,—and I am asking my friend whether he would not agree to an amendment like No 824 which I think serves all the possible purposes that they may expect by way of tax dodging devices Even that goes a little too far, but I have only done it in the hope that it will complicate his otherwise grasping mind.

There is one other part of that which I am going to deal with The words are "during the life time of the person", and the reason we have added is this, that it is not uncommon in India to make provision by way of maintenance for dependants or members of the family or widowed members of the family, and so on, and those words may or may not be more or less less than six years That is the reason why it had to be distinguished It may easily happen that you make a settlement for a person's life time, it may happen to be in fact less than six years, or it may in fact exceed six years Therefore, it is a type of case by way of maintenance which I thought it was reasonable and necessary to provide for in the case of middle class people The poorer classes have nothing but to trust God Therefore, my submission is that my friend has got to make out a case that in every trust in which the corpus is to revert to the settlor, it must be a device, though it is a perfectly good trust in the eye of the law and of common sense I think he will find it difficult to persuade some of us to believe that it is a mere tax dodging device I have given my reasons for limiting the period to six years One is the rough calculation I have given about the duty where the man gets nothing at all, and the other is the period which is to be found in the English Statute In the light of this, I hope my friend, Sir Cowasji Jehangir, would withdraw his amendment

Sir Cowasji Jehangir: But the Government have got to say whether they will accept your amendment

Mr. Bhulabhai J. Desai: That is all what I have to say

Mr. M. S. Aney: Sir, I only would like to have one explanation from the Honourable the Leader of the Opposition. I entirely agree with all that he has said, but I have not been able to follow his reasoning when he said that from sub-clause (*c*) of section 6 trusts which are covered by parts (*3*) and (*4*) of sub-clause (*3*), trusts which are directly or indirectly transferred to the wife by the husband, are excluded My understanding of this part is this. In computing the total income of anything, there shall be excluded from the assets transferred directly or indirectly to the wife by the husband, otherwise than for adequate consideration,—I thought the words 'the disposition of property otherwise than for adequate consideration' was a kind of transfer, if we call it a trust at all, in the nature of a bogus transaction, because there was no consideration about that thing at all. That being the case, if there was any real and *bona fide* transfer, then it will be covered by what is known as sub-clause (*c*) of this

Then, as regards the other matter, I see there is an amendment tabled in the name of Mr Santhanam. I think it is No 824, and I find that if that amendment is allowed, there is no need for the apprehensions which

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are felt if this clause is retained as it is I do not know whether this part (3) really takes away even those transfers which are made directly or indirectly in favour of the wife by the husband *bona fide*

Mr. Bhulabhai J. Desai: With your permission, I will explain what I mean If my Honourable friend will read, the words are

'In computing the total income of any individual for the purpose of assessment, there shall be included so much of the income of a wife or minor child of such individual as arises directly or indirectly from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration "

In other words, if it is for adequate consideration, then it is not included A trust is a transfer otherwise than for adequate consideration That is how I read the language in a legal sense Once it is a transfer for consideration, it is a sale If it is for otherwise than adequate consideration, it may be a gift or a trust That is the reason why I thought it was possible to argue—I am merely pointing out as a consideration for limiting clause 17 in the manner in which I am doing I am attempting to give no opinion gratis to my friend the tax gatherer As regards that, he will look after himself But I think he has taken away a good deal more than he could ever have succeeded if we had been in the House at the time when section 16 was before it But, taking that into account, I appeal to him whether he still wants clause 17 to stand in these drastic terms in which has that clause That is all I have to say

The Honourable Sir James Grigg: I propose to deal at this stage only with the amendment before the House, which is to destroy the clause altogether or at any rate, the new part of the clause leaving the old clause as it was after the 1937 legislation I hesitate to expose my poor forensic abilities in the midst of so much legal talent, but as I understand it, the theory of taxation in matters of this kind is a man is not entitled to have deducted for income-tax what he spends out of his income He is entitled to have deducted for income-tax the income of which he divests himself for ever irrevocably There is one exception to the last case which was dealt with in the legislation of 1937, namely, that where a man divests himself, whether revocably or irrevocably, of income in favour of the wife or minor children, in view of his obligation to maintain the wife and minor children, it is to be presumed that the purpose of that divestment is to avoid taxation Therefore, by the 1937 legislation the transaction was nullified for income-tax purposes, but not completely effectively because two conditions which ought to have been cumulative were made separate The 1937 legislation covered transfers in favour of wife or minor child, but not of both Roughly speaking, if you put the two together, a trust in favour of wife and minor child, the purpose of the clause is defeated I am bound to plead a certain lack of foresight on the part of the Government in that matter

Sir Cowasji Jehangir: How are you going to remedy that?

The Honourable Sir James Grigg: There is an amendment down to remedy that, but that is not relevant to the present purpose As I understand it, there are two parts of my Honourable friend, Mr Desai's argument. You have got a good deal out of the 1937 legislation, more than you ought to have got Why not be satisfied with that? The reason for

that is that the 1937 legislation only covers a very minor part of the field. The new clause does not cover, except for the gift from the husband to the wife or minor children—it does not cover at all dispositions of income, whether revocable or irrevocable, without transfer of assets or revocable transfer of assets to persons other than a wife or minor children So, it is necessary to go a good deal further and there is no doubt that there are innumerable cases in India in which a man divests himself of income in circumstances so that he can retain control or recover control of that income either by lapse of time or by a specific provision in the trust deed or in the settlement, and so he is, in effect, getting relief from income-tax in respect of income which is merely expenditure out of his income and not a real divestment of it A simple straightforward case is a settlement of income for a period of six years revocable at the will of the disponer, upon somebody with a very small income or no income at all The income settled is the top slice of the settlor's income, he relieves himself of taxation at a very high rate and disposes of the income to somebody who pays little or no tax And, it may be that he would have spent that income in that way in any case I can give an example with which I am very familiar in the United Kingdom Supposing a rich man spends, say, £1,000 a year in charitable subscriptions, he can settle £1,000 a year for seven years on trustees and make them pay £1,000 in charitable subscriptions He has to pay no income-tax or super-tax on that £1,000 although he is merely doing what he did before,—namely handing out a series of subscriptions to charities out of his income Take another example, the bar on relief for settlements on minor children can be defeated—even if they were fully operative—by the mere device of having cross settlements of two brothers settling on their nephews There are innumerable devices and there is no doubt whatever that there is a good deal of this going on in India just as there was a good deal going on in England In so far as I understand the argument of the Leader of the Opposition, it was this Really this clause is not much good to you at all If you are only seeking to catch the non-*bona fide* transaction, nobody will with the very high stamp duties in this country divest himself of income for such a short period as six years because he does not save anything by it And if he does it for more than six years, it is quite clear that his *bona fides* must be established and, therefore, the new provision is not really justified at all But we show our moderation and we are prepared to let you have all trusts for period of six years or less, and he thereby makes us an extremely generous offer He says to us, "You really ought to have nothing Nevertheless, I make an extremely generous offer I will give you something", but in sort of aside he says, "What I am going to give you is no good any way". To come back to Sir Cowasji Jehangir's speech, he says, none of this is going on, in one part of his speech, and, therefore, you do not want the clause But in another part he says, "Well, if it is going on really, what does it matter? You can never catch these people They are always one move ahead of you"

Sir Cowasji Jehangir: When did I say that?

The Honourable Sir James Grigg: If I am doing an injustice to you, I will certainly withdraw, but I understood you to say that the lesson of the legislation of 1937 was that you could never stop these holes, and as soon as you have stopped one hole another one would appear very quickly

Sir Cowasji Jehangir: What I said was that you expected to get 30 lakhs and you got only 2½ lakhs That is not due to evasion but it was due to the fact that no money was to be had from that source

The Honourable Sir James Grigg: I thought I had disposed of that The argument was that we had insufficiently stopped the hole and, therefore, a large number of rats or mice would get in But to come back to the argument which Sir Cowasji Jehangir did not use but which is frequently used—"what is the good of trying to prevent tax dodging? People will be sure to get the better of you" So long as taxation rests on any scientific or equitable basis, that is bound to be the case, for the tax dodger is always ready to move ahead of the fiscal machine That is no reason why the tax machine should not run as hard as it can and see that the leakage is as little as possible and goes on for as short a time as possible

One further point about the proposal to delete the provision as a whole The Leader of the Opposition with his usual dialectic or forensic skill sought to prove that it was a very fierce provision and supposing one admits his argument for the moment that it is comprehensive and seeks to stop this particular method of evasion radically, there is very little doubt, as I have said on innumerable occasions in this House, that unless anti-tax dodging provisions are simple and comprehensive they will be broken down very quickly That has been the experience in England I have experience of anti-tax dodging legislation going back to 1921 and every hard case which is quoted and is provided for by way of exception to the legislation provides a hole which ultimately becomes a chasm in the legislation It has to be stopped up in the following year, and the history of legislation of this sort in the United Kingdom shows that it is now an annual event to have in the Finance Bill longer and longer clauses of more and more hideous complexity in order to stop loopholes which have been left in the complex but partial legislation of previous years The only effective way is to have something simple

Mr. Bhulabhai J. Desai: Killing the patient instead of curing him?

The Honourable Sir James Grigg: I was going to anticipate that The analogy is not a perfect one What you are doing in this is not to punish people for making trusts and that sort of thing but simply to prevent them getting an uncovenanted benefit by doing so and I submit that if that is the worst punishment that can happen to anybody by this clause there is no need to make a great fuss about it and if that is the worst which can happen to the righteous, let us have legislation for dealing with the unrighteous

Sir Cowasji Jehangir: In view of the speech made by the Leader of the Opposition, and not in view of the speech of the Finance Member, I will ask for permission to withdraw this amendment in favour of another that will be moved from the Congress Benches

The amendment was, by leave of the Assembly, withdrawn

Dr. P. N. Banerjea (Calcutta Suburbs Non-Muhammadan Urban) Sir, I move:

"That in clause 17 (*a*) of the Bill, in clause (*c*) of the proposed sub-section (*1*), before the words 'settlement or disposition', occurring in the second line, the word 'revocable' be inserted, and the words 'whether revocable or not', occurring in the second and third lines, be omitted"

In the first part of this Bill, the Government wish to put revocable and irrevocable settlements on the same footing I sympathise with the desire of the Finance Member to stop all loopholes, but when he presumes that all settlements, whether revocable or irrevocable, are something other than *bona fide* transactions, I cannot agree with him

The Honourable Sir Nripendra Sircar (Law Member) May I put one question to Dr Banerjea? If a trust is irrevocable for six years, do you call it revocable or irrevocable?

Dr. P. N. Banerjea: That is a question of law and that will be a point for the Court to decide

The Honourable Sir Nripendra Sircar: What is your impression?

Dr. P. N. Banerjea: For myself, I should be satisfied if an irrevocable trust is to be regarded as a trust which is irrevocable for ever The object of a settlement is to provide for members of a family or other dependants or even for charitable purposes and therefore it is desirable that a distinction should be drawn between trusts which are made as collusive arrangements for the purpose of evading the payment of tax and arrangements made only for the good of others My amendment is in the simplest form and its meaning is clear, so far as I can understand it, but if the Government thinks that its meaning is not clear, they may prefer some other amendment among the several amendments on the paper

Mr. Deputy President (Mr Akhil Chandra Datta) Amendment moved

"That in clause 17 (*a*) of the Bill, in clause (*c*) of the proposed sub-section (*1*), before the words 'settlement or disposition', occurring in the second line, the word 'revocable' be inserted, and the words 'whether revocable or not', occurring in the second and third lines, be omitted"

Mr. S. P. Chambers (Government of India Nominated Official) I oppose this amendment and I do not at this stage want to go into details because I understand that amendment No 824 will also be moved I prefer to oppose this particular amendment on two small grounds, first, that I think the wording is obscure as the Honourable the Law Member has explained, secondly, that I do not think the amendment even does what the Honourable the Mover hoped it would do, because he has only moved or amended one part of sub-clause (*c*) of section 16 and not the other part He leaves in these words, "all income arising to any person by virtue of revocable and transferable assets shall be deemed to be the income of the transferor"—he leaves those words in I am not sure whether he intends that, but in any case I think that the amendment as moved is unworkable and I, therefore, oppose it

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

"That in clause 17 (*a*) of the Bill, in clause (*c*) of the proposed sub-section (*1*), before the words 'settlement or disposition', occurring in the second line, the word 'revocable' be inserted, and the words 'whether revocable or not' occurring in the second and third lines, be omitted."

The motion was negatived

Mr. K. Santhanam: Sir, I move

"That in clause 17 (*a*) of the Bill, to clause (*c*) of the proposed sub-section (*1*), the following further proviso be added

'Provided further that this clause shall not apply to any income arising to any person by virtue of a settlement or disposition which is not revocable for a period exceeding six years or during the lifetime of the person and from which income the settlor or disponer derives no direct or indirect benefit' "

Sir, after the lucid exposition of my Leader, I only want to make two observations on this I want the House to concentrate attention on the last two lines

"and from which income the settlor or disponer derives no direct or indirect benefit"

I think that will cover almost all the cases mentioned by the Honourable the Finance Member The second observation I want to make is that the question of settlements cannot arise there Here there is nothing by way of settling something irrevocably on my nephew and asking my brother to settle something irrevocably on myself That question has not been dealt with in the Bill, and it should not be used as an argument against this Bill Therefore, you are not going to catch such settlements So far as the ordinary settlements go, this proviso has been drawn up as strictly and narrowly as possible, it should cover all possible cases of easy evasion, about very hard cases of evasion I cannot say, but in order to catch one hard case, even they should not prevent *bonâ fide* settlements which accrue to poor and helpless widows, and in order to cover these cases, this proviso has been put in Sir, I move

Mr. Deputy President (Mr Akhil Chandra Datta) Amendment moved

"That in clause 17 (*a*) of the Bill, to clause (*c*) of the proposed sub section (*1*), the following further proviso be added

'Provided further that this clause shall not apply to any income arising to any person by virtue of a settlement or disposition which is not revocable for a period exceeding six years or during the lifetime of the person and from which income the settlor or disponer derives no direct or indirect benefit' "

Mr. S. P. Chambers: Sir, there have been already several speeches on this subject and two or three of the amendments and I think it will perhaps be useful if I try to clear the air and explain in my own words what I think the original clause in the Bill intended to do I have said "in my own words" because I am not quite sure that the other explanations have been fully understood First of all, we divide transfers or dispositions into two main groups First, we deal in this clause with transfers of income where the assets do not pass out of the property or out of the ownership of the transferor Then, we deal separately with the case where the assets of themselves pass but do not pass in perpetuity. Where the assets pass finally irrevocably and in perpetuity from the transferor, that case is not caught or covered by this clause It is covered, as has already been explained, by sub-clause (*3*) of section 16 where the transfer is to the wife or the minor children or to an association of persons for the benefit of the wife or the minor children.

An Honourable Member: That is *with the amendment moved.*

Mr. S. P Chambers: Therefore, I deal first with the case of transfers of income where the property remains the property of the transferor. Now, let me first explain that I understand that all valid and irrevocable transfers are such that the property is finally and irrevocably transferred to trustees Therefore, this sub-clause does not apply in any circumstances to any valid irrevocable transfer or deed It applies to those transfers of income which have been made, whether revocable or irrevocable, by a person who is liable to income-tax Now the effect of such a transfer, I think I can make clear by just giving an example If a man has an income of Rs 10,000 and makes a transfer of his income of Rs 5,000 to a person without any income, then, instead of getting taxed at the rate applicable to Rs 10,000, he gets taxed only at the rate applicable to Rs 5,000 in two separate assessments That is the general effect and the manner in which the tax is avoided, usually, is to transfer income where the amount transferred is less than Rs 2,000 so that no tax whatever will be payable on that part of the income which has been so transferred. Now, that case is clear and what we argue is that if a man genuinely wants to transfer income for a long period or in perpetuity, he will normally, but not in all cases, transfer the assets If he wishes somebody to be endowed permanently, he will normally transfer the assets We, therefore, say, that where he has made a disposition of income but has not made that disposition permanent, then we can challenge the *bonâ fides* of that disposition, and that, moreover, where he fails even to transfer the assets but has made the transfer of income permanent, there is no reason why, if he intended this to be a valid transfer, he should not also have transferred the corpus That is why in the first part of this clause we say "whether revocable or not", those words relate only to deeds, trusts and other transfers where the assets themselves remain the property of the transferor The second part of the section deals with the actual transfer of the assets where the transferor does retain some right to take back those rights as and when he wishes There again, we argue, that if he only makes such partial transfer of the assets from which the income is derived, then we can again challenge the *bonâ fides* I will come again later to the question of *bonâ fide* transfers and we say that we are entitled to treat income from such assets as the income of the transferor That broadly is the intention of this section

Now, reference has been made to the United Kingdom law and the Honourable the Leader of the Opposition has already explained that the law on this one point, *viz* , that which we propose to deal with in one sub-clause, is dealt with in about fifteen long pages One might ask how it is that in India we propose to deal with this matter so summarily when in the United Kingdom they have found it necessary to take as many as 15 pages The position in the United Kingdom is materially different on this point from that in India For one thing, the income of the wife is always treated as the income of the husband for purposes of assessment Secondly, taxes are deductible from all payments which are made in the way of annual payments from income and, therefore, a number of different set of rules are necessary But that is not the only trouble The trouble in England is that they started in 1922 to provide a general rule such as we have in India and then to provide a number of exceptions Having started in the 1922 Act to provide for exceptions, they found that these exceptions created loopholes which were so large as to let out almost everything they intended to catch. They found it necessary to amend the 1922 Act. This they did on three subsequent

[Mr S P Chambers]

occasions, and the last amendment is contained in the Finance Act of 1938 The provisions of that Act are very lengthy and in some respects they still leave some loopholes and some exceptions In other respects, this Act of 1938 goes even further than we are intending to go in this Bill In section 40 of the 1938 Act provision is made that certain capital sums should be treated as income and that where the amount of the income under the trust is less than the capital sum, the net capital sum once having been paid shall be deemed to cover the amount of income arising in subsequent years This is an exceptionally complicated section and it is exceptionally difficult to say exactly how it will work I have heard already from the United Kingdom that this section is working very badly there but the views of the officials in the United Kingdom are not likely to carry very much weight I would, therefore, like to read out the views of non-officials, persons who are affected by the United Kingdom legislation, to show how unsatisfactory the legislation in the United Kingdom has been I want to read two short extracts, one from a publication called the *"Taxation"* which is described as the leading authority on the law, practice, administration and incidence of taxation in the United Kingdom and the other from the *"Accountant"* The *"Accountant"* is the recognised publication of the Chartered Accountants throughout the world That is how they describe it on the front page The views of these people are bound to carry some weight because they are non-official views I think officials' views are not likely to carry quite so much weight in this House

Mr. S. Satyamurti (Madras City Non-Muhammadan Urban) No reflection on this House

Mr. S. P. Chambers: It might be a reflection on the official views

Mr. S. Satyamurti: That I accept

Mr. S. P. Chambers: The first extract is from the *"Taxation"*, dated the 22nd October, 1938 So, I am very well up-to-date It says this under the heading "Revocable covenants some urgent reflections"

"The effect of the history of this item of legislation is unfortunately apparent in the Act itself, Although the penalising sections, though magnificently vague, bear the stamp of the draftsman's most careful attention, the later relieving provisions of Part II of the Schedule show disastrous signs of hurried preparation which necessarily leaves the taxpayer in an embarrassment of doubt as to what amendment of his arrangements he must exactly make in order to obtain the relief intended to be granted him by Parliament"

The other extract which I wish to read is from the *"Accountant"*, dated the 10th September, 1938, under the heading "Settlements" This is what it says:

'Perusal or study of this latest addition to the legislation upon settlements reminds one of the quip of the chairman of the Income-tax Payer's Society (Sir William Davidson) who remarked in the House of Commons during the course of the Bill's passage through that assembly, that it ought to be known as 'The Legal Profession Endowment Bill' " *(We are anxious that this clause should not also be a Legal Profession Endowment Bill)* "One is tempted to wonder how many of our legislators understood the terms of the measure they were begetting' The new sections strengthening the position of the Inland Revenue in relation to 'tax avoiding' settlements are attempting for the time being to discriminate in favour of what have been described as 'genuine' settlements are couched in language which positively courts inquiry"

Those are very up-to-date quotations about the position of the United Kingdom law Although I am not here to criticise the United Kingdom law, which is working so unsatisfactorily there and which is regarded there as an "Endowment of the Legal Profession", I think that type of legislation is quite unsuitable for India

I now want to turn to the types of cases which have been referred to by Honourable Members First of all, I understand it is not the intention of anybody in this House to protect a genuine tax-dodger When I say a genuine tax-dodger, I mean a person who is obviously dodging the tax The intention, I understand, is only to protect such persons who have made genuine transfers and have not made those transfers with the object of avoiding income-tax

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

The difficutly, as has been experienced in the United Kingdom, is to word the exceptions so that those exceptions cover the genuine cases and do not cover other cases The experience of the United Kingdom in 1922 clearly was that any attempt at providing a general simple clause to make exceptions would fail It did fail in the United Kingdom and, therefore, their attempts at making exceptions now run in to 15 pages, as the Honourable the Leader of the Opposition has already explained Therefore, we are faced with this dilemma Are we to provide any exceptions? If so, then our legislation must of necessity be very complicated Any attempt to putting in a simple amendment is bound to lead to difficulties

Now, I will come to the difficulties of simple amendments when I come to the actual wording of the amendment which is under discussion But before I come to that, I want to explain quite generally the manner in which any amendment which sets a period of years to the length of disposition still leaves loopholes and allows the dishonest—I will not say dishonest—but allows the tax-dodger to go through

Mr. S. Satyamurti: Is a tax-dodger an honest man?

Mr. S. P. Chambers: The tax-dodger may be an honest man according to some standards and according to other standards he may be a dishonest man I prefer to use the neutral word, tax-dodger, rather than dishonest assessee I understand the expression "dishonest", as used in relation to persons evading or avoiding tax by legal means, has been objected to in certain quarters If a person makes a revocable transfer of income for a period of seven years, what we have provided in this amendment is that a transfer for a period of six years will escape the damage of the section All he has to do is to see that the person upon whom he is making a disposition is not in a position, during those seven years, to do anything which would affect his ultimate rights to regain income In the case of persons who are under any disability, widows, minor children and so on, this is usually fairly easy In India, I understand, that there are a very large number of illiterate persons That is the general impression I have got It is possible to make a disposition in favour of a completely illiterate person in such circumstances that the deed would be perfectly valid and the disponer does, in fact, retain the income although in law it remains the income of such an illiterate person. That is a very easy thing to do and it is a very difficult thing for anybody to challenge If, therefore, these deeds are drawn up in favour of widows and other persons whom

[Mr. S P Chambers]

the transferor wishes to benefit, it will be virtually impossible for the income-tax officer to challenge the validity of the deed Moreover, there is this question of cross transfer which my Honourable friend, Mr Santhanam, referred to What Mr Santhanam said was this It is a very important point which he made, that this clause does not cover the case of cross transfers May I first of all explain what a cross transfer is? Transfer by 'A' of income or securities for the benefit of the son of 'B' when 'B' simultaneously transfers a similar amount of income or securities for the benefit of the son of 'A' Such a transfer, of course, is not covered by sub-section (3) of section 16, and Mr Santhanam says that this is not covered by section 16 anyhow and, therefore, the question does not arise. That I think is due perhaps to slight confusion When a transfer of assets has been made and that transfer has been made irrevocable, then we do not intend nor have we drafted any provision to cover that case in any circumstances unless, of course, it is to the wife or the minor child Where it is made for any other person there was no intention of taxing the income as the income of the transferor So we have no objection whatever to such transfers where the whole corpus passes and passes irrevocably, but what we do wish to catch is the case where the income is transferred, whether revocably or irrevocably or the assets are transferred not irrevocably To that extent, which is the extent to which we wish to go in this section, this clause does cover that case

Mr. K. Santhanam: It is covered in any case There is no question of cross transfer in that case.

Mr. S. P. Chambers: I understood the Honourable Member to say that we were not covering such cases Then the point is quite clear I now come to what I think is the main point of the Opposition to this clause. Now, as I said earlier I do not think it is the wish of anybody in this House to assist persons who are deliberatley dodging taxes But it is argued that we have made some severe and harsh sections without any exceptions and that we are going to catch not only the honest but the dishonest as well (Laughter) I am glad that Honourable Members are so keenly following as to notice the slip of words However, I have made my point perfectly clear I want to catch both Honourable Members do not wish to penalise such persons, but this is the point, is there any penalty in such a case? Now, my argument is this let us suppose that this catches quite a number of genuine trusts which are not made for the purpose of dodging taxes Let us put it at its worst I do not think there are really many cases, because I think most of them are definitely irrevocable transfers of assets Putting it at its worst, let us suppose that this covers a number of very genuine cases, I submit even in that case the incomes should be deemed to be the incomes of the transferor.

Mr. S. Satyamurti: Why?

Mr. S. P. Chambers: There are several types of persons for whom transfers of this kind can be made quite genuinely.

Mr. N. C. Chunder (Calcutta: Non-Muhammadan Urban). Marriage settlement.

Mr. S. P. Chambers: Marriage settlement is a very good case It is, of course, by the father to the daughter and not by husband to wife which is referred to. That is a perfectly legitimate case Let us assume that the father in such a case has an income of two lakhs and the daughter has none whatever. There is no reason why the father should not transfer income in that way to his daughter about to be married. But why should the State subsidise that? That is the argument This amendment has this effect that if the father transfers to his daughter in this way saving is effected in income-tax and, therefore, just as we are encouraging insurance by giving deduction for life insurance so we are asked to subsidise or give a bonus for making settlements on daughters That to my mind is completely wrong.

Sir Cowasji Jehangir: Then why not stop gifts also because you lose income-tax

Mr. S. P. Chambers: The Honourable Member raises the case of gifts which again suits my purpose very well If out of my income of two lakhs a year I propose to spend two thousand or twenty thousand by way of gifts, then that makes no difference to my income-tax By settling on my daughter two thousand or 20 thousand, then the effect of such a provision is that income-tax will only be payable on 1,98,000 or 1,80,000 If I make a gift, I still pay my tax on two lakhs

Sir Cowasji Jehangir: The point is will you show why one person should not give to another person or to any charities anything he chooses You lose income-tax on it.

Mr. S. P. Chambers: I have already said that this may be perfectly legitimate, but in no manner whatever would we wish to stop that type of gift . .

Mr. President (The Honourable Sir Abdur Rahim) It being Four of the Clock, the House will now take up the motion for adjournment

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MOTION FOR ADJOURNMENT

SETTING UP OF A NEW MEMORIAL OF THE BADLI-KI-SERAI BATTLE NEAR DELHI.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions Non-Muhammadan Rural) Sir, I move

4 P M

"That the Assembly do now adjourn"

I shall try to speak quite quietly, Sir, both because I have a fever, and also because I do not want to make matters worse than they are. Frankly, Sir, I am a friend of the English people, if they will accept the friendship of a small man like myself, and I was exceedingly pained when I saw in the *Statesman* this morning a description of a ceremony about six miles away from this place where a new so-called "mutiny" memorial has been raised on which my people, who rightly or wrongly were fighting for their freedom, have been referred to as "mutineers" and as "enemies" in their own country. What was their fault? The only fault that they committed was that they lost. The Americans fought and won, and so they became the warriors of freedom; we fought and lost, and we are

[Mr. Sri Prakasa.]

dubbed as mutineers The principle that actuated the Americans and actuated us was the same, but the results were different, and being different we are called by different names. Sir, Scotland and England have also fought against each other It is said that for centuries a deeper river of blood divided them than the river Tweed which separates them today And, today, the Scottish leaders Wallace and Bruce, and even the great English King, Edward I, their sworn enemy, are alike heroes of the two nations, and nobody wants to erect a memorial on the field of Bannockburn whence the English had to fly, or at the London Bridge where Wallace's brave, patriotic head was exposed to be jeered at by the London crowds of that time Would my Honourable friends want me to raise a memorial at the *Khuni Darwaza*—the Gate of Blood—here at Delhi—where, tradition says, hundreds of my people were blown at the cannon's mouth from day to day, and, where, it is said that when the valiant British General found one day that only 99 were available, he added his own *khansama* so that the quota of a hundred might be made up?

Sir, would my Honourable friends like me to raise a memorial in my own village in the Jaunpur district where at that time ruled a noble chieftain named Ijarat Jehan, whose memory is still fresh in the countryside and who was hanged by the British for his patriotic activities on an open mound which is still pointed out He was a Muslim, but the Brahmans there, more than any others, hold his memory in reverence to this day, because he was, according to the traditions of those Brahmans themselves, a real king, a "*Go Brahmana pratipalak*", a protector of cows and Brahmans He gave away lands in plenty, free of all rents and taxes, to the Brahman pandits of his time whose descendants enjoyed them till the cruel land laws of the British snatched away from them their heritage Would my Honourable friends opposite want me to raise memorials like that? Or do they only want memorials to be raised on one side? Lucknow and Cawnpore were already there and now they want a Delhi also to be added to the number I have no objection to private friends and relatives raising memorials to the dead Even murderers have their friends and those friends may hold their memory dear But when the Commander-in-Chief of the army in India goes down and associates himself with this ceremony, he puts the *imprimatur* of official approval on this transaction It is that to which I strongly object

I have no objection to memorials being raised to the fallen gallant and brave men of either side. It the memorial said "Sacred to the memory of the brave men who fought and died here on either side for the cause each held dear, in the Badli-ki-Serai battle on the 8th June, 1857 Instead of lamentation they shall have remembrance and instead of pity. praise", if such were the language of the memorial, I should positively welcome it But when one side is referred to as mutineers and as enemies and gallantry is sought to be reserved only for the other side, then I have grave objections I know it is difficult to get into other peoples' skins, but it is not only the victors who are brave, the vanquished may be braver We see before our very eyes in Ethiopia, in China and in Spain that it is the vanquished who are braver than the victors; and, so far as I have been able to peep into the events of 1857, our people were braver than those who ultimately won I, therefore, feel, Sir, that to revive old memories is not proper The healing hand of time was

already trying to efface the sad memories of 1857 People were settling down, new problems were arising, new causes of conflicts were certainly there, but there is no doubt that so far as the old sad memories of 1857 were concerned they were being slowly but effectively eliminated. But here come some busy bodies with the paraphernalia of the British army who insist on identifying a skeleton as being that of Lieutenant so-and-so —and it does require remarkable ingenuity and research to identify a skeleton as that of an individual and not a type—and raise a memorial. Shall I also go and find a skeleton and say that it is that of the *khansama* who made up the quota of one hundred on that fateful morning, and raise a memorial at *Khuni Darwaza* saying how he was cruelly done to death by the foreign aggressor?

Do not Honourable Members remember the publication of that book "The Other Side of the Medal" by Edward Thompson that made many Europeans realise, both in official and non-official life, that the shadow of 1857 still lay heavy across the Indian continent and that in the country-side people had not forgotten those sad days? The memory certainly was not in favour of the British, but in favour of ourselves Our people remember the cruel deeds that were committed against us, but we have not been able to express them because we had been stifled —speech and writing alike has been banned I do not want to raise any racial or communal bogey—indeed I want to avoid it, and though we all know that in the events of 1857, it was the Muslims who suffered most, I do not refer to the martyrs as such separately but as part of the whole I regard Hindus and Muslims as one and the same in the battle of freedom as well as in social life, and whether it is this bloody warfare of 1857 or the non-violent struggle of 1932, or the daily life of the land they stand side by side for the common good

I, therefore, feel, sir, that it is not a racial or a communal question My objection is to the reviving of old and forgotten memories and purposely trying to foment racial difficulties and deliberately preventing the growth of common citizenship I object to this, and I have no doubt that the presence of this memorial can only serve this nefarious purpose It would have been better really if the old cemeteries by lapse of time and by the action of wind and weather had been allowed to go into dilapidation and disappear, as this one was doing according to the *Statesman* report It would have been better to let unidentified skeletons crumble to pieces I have no objection to the appreciation of the brave deeds that were done, I bow in humility and in admiration before the bravery that was doubtlessly displayed at that time But bravery was displayed on both sides I do not slur over the dirty deeds either that my own countrymen did at that time I am scientific and historical enough to recognise that unmentionable events took place, of which none of us can be proud, but which are unfortunately inevitable in all large-scales conflicts Dirty deeds were done by the other side as much as by my side, which I deplore, and deeds of unsurpassed bravery were done by the other side as much as by my own, which I admire, and both deserve equal condemnation and equal praise from my friends opposite also. It is no business of a Government that calls itself the Government of India and not a Government of England, or any foreign country, now and at our expense and with our help to go and find out in odd nooks and corners old skeletons and old remains, old places and old cemeteries

[Mr Sri Prakasa]

and raise new memorials on them I strongly object to the spirit that pervades the whole thing, namely, the unnecessary and deliberate raising of racial hatred

The purpose of moving this adjournment motion is to express formally that in our opinion it is improper for the Government of India officially as represented by the head of its army, His Excellency the Commander-in-Chief, himself to go and give their moral support to this venture I deplore the presence of a Christian divine who blesses such a function His Master—and he is not the Master only of those who regard themselves as Christians, but Master of many others who may not be Christians in the Census report—has Master has decreed 'Thou shalt turn thy right cheek when the left is smitten ' But this official Christian divine goes and blesses the erection of a memorial to those who attacked a few men standing on a mound trying bravely to defend their country from the onslaught of the foreigner as he then was I, therefore, venture to move this motion so that such things may not happen again in the future and that no further memorials may be raised in this fashion and the growth of mutual goodwill be not rudely prevented This inscription to which I have so much objection reads

"To the memory of those men of H M 75th Regiment (now the 1st Bn the Gordon Highlanders) who fell while charging the *mutineers'* guns on this mound at the battle of Badli-ke Serai, 8th June, 1857, to whose gallantry the victory of that day was due and who lie buried here

'Instead of lamentation they shall have remembrance and instead of pity praise' "

I sorrowfully feel, Sir, that things being as they are, the Government opposite cannot but be held responsible for what has happened, and I have, therefore, no option but to move with deep regret that the House do now adjourn and thereby censure and condemn that Government

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

"That the Assembly do now adjourn "

Mr. C. M. G. Ogilvie (Defence Secretary) Sir, I was extremely surprised when I received my Honourable friend, Mr Sri Prakasa's adjournment motion this morning One of the matters upon which we seem to differ vitally is this, he says that it is better that cemeteries should disappear and be forgotten and the resting places of the dead be allowed to disappear Those feelings are not our feelings In fact they are very strongly the reverse The memorial was raised to the memory of men who died at that place and whose resting place had up till recently not been discovered When it was—and thanks largely to the co-operation of the villagers in whose ground it lay—it was necessary, reverently, to restore it This was done not by Government but by private agency and a suitable memorial was erected over the names of the fallen The inscription has already been read to the House by Mr Sri Prakasa and there is no need, therefore, for me to read it again It is a plain statement, short and brief as possible, and gives the facts in a way which I think ought not to affect the sensibilities of any one Mr Sri Prakasa compared the old Bengal Army, which mutinied in 1857, with the Americans and the Scots The difference I may point out to him is that the Bengal Army were

troops engaged by the Government of the country, whose uniform they wore and to whom they owed allegiance, and troops who take up arms against the Government which maintain them must be called mutineers.

Mr. M. Asaf Ali (Delhi General): The Government of the day was the Mughal in Delhi.

Mr. C. M. G. Ogilvie: I do not propose to argue with the Honourable Member on that subject. All I need say is that the Mughal Emperor of the day did not pay or maintain those troops. As regards the other matters which Mr. Sri Prakasa touched upon, I can only say that I have not only no wish whatever but absolutely no intention of saying anything which might arouse unhappy memories, but that the erection of a memorial to the dead on this cemetery is a matter for the adjournment of the House I must most emphatically contest. It was in accordance with our ideas not only a natural but a necessary thing to do. With these words, I resume my seat.

Mr. M. S. Aney (Berar: Non-Muhammadan): Sir, I rise to support the motion moved by my Honourable friend Mr. Sri Prakasa. I believe the time has come when those who are in power in this country up to this time ought to be more careful in taking note of the sentiments of the people and the tremendous change that has come over the mentality of the Indian people as a whole. Things that were tolerated connived at and even acquiesced in at one time could not be looked at from the same point of view nowadays when a new consciousness is growing in this country. It was the fashion with European historians and a number of those who happened to be the writers of the story of the year 1857 to describe those brave and gallant men and women who had raised the standard of rebellion against the foreign authority in this country and fought and made the supreme sacrifice that any patriot is expected to make—it was the fashion to describe them as mutineers and give them all sorts of bad names which the English dictionary is full of. It is now a matter of which my friends on the Treasury Benches and others of their way of thinking ought to take note that the story of 1857 is looked upon as the first brave attempt made by the Indian people to regain the liberty of which they were robbed in the most unjust manner. It might be an unsuccessful attempt, and those who succeeded in putting them down may, for the time being, claim the right in their spirit of vindictiveness to call themselves victors and to give bad names to those whom they crushed then, but the country now is no longer in a mood to put up with anything of that kind hereafter. If the adjournment motion which my friend, Mr. Sri Prakasa, has tabled and moved so ably has anything to teach my friends on the other side, it is this—it will show them that a real change has come over the country, and the people of India no longer want to read their history or the books that have been written by those who had an interest or a bias in writing them in a particular manner, that the eyes of the people have been opened, their consciousness is awakened, and they have now got a definite point of view from which they read their own history, and that they have now got a particular respect for all those who had fought for the people of this country before. I want to remind Honourable Members that all those who fought in the fight for Independence in the year 1857-58 are rightly looked

[Mr M S Aney]

upon as martyrs who shed their blood in the cause of India's freedom. It may not be liked by you,—that is another matter,—but you must know that you are ruling over a people who have got this feeling, and if you all still are not aware of this fact, then it is clear you have yet to learn much to understand what we are

Sir, having said this, I should like to make a short remark. The Honourable Member in charge said that the statement which my friend, Mr Sri Prakasa, made,—it is better that the cemeteries should be forgotten, —did not please him My friend, Mr Ogilvie, began his reply by saying 'No, our feelings are just the reverse'. Sir, I can assure him I respect the dead as much as he does, whether the dead belong to his race or to my race There can be no two opinions about it But when you want to glorify a thing in a particular manner with a particular object in view, it is that spirit which we all resent The point is this I make no difference between dead of one race or another

Mr. K. Ahmed (Rajshahi Division Muhammadan Rural) What about the misrepresentation made by the sepoys?

Mr. M. S. Aney: Sir, this is too serious a matter We are speaking about the dead, and my friend has started his jokes

Now, Sir, it is stated that the epitaph is there, and it is such to which nobody can object because it is so carefully worded as to avoid giving any offence to the sentiments of the people The word 'mutineer' is there, and is it not a word which will give offence to the sentiments of the people? Will my friend like to be called a mutineer in his own country?

Mr. C. M. G. Ogilvie: I would not like to be one

Prof. N. G. Ranga (Guntur *cum* Nellore Non-Muhammadan Rural): You will be one when Hitler goes there

Mr. M. S. Aney: There is no doubt that there is something like offensiveness in that term, and it is being used here with regard to those persons whom the people of this country regard as true martyrs If my friend knows that fact, he will also appreciate the fact that the term is properly objected to, and, therefore, if he wishes that this feeling should disappear, the least he can do is to efface that word "mutineer" from the epitaph which is on the cemetery If he does that, probably we shall be reconciled, and we shall say it is honour to the dead without meaning any insult to anybody else, but when you call them mutineers, you deny them the proud honour which rightly belongs to them for doing an act of bravery which they did then, you arrogate all that was honourable in that fight to yourself You refuse to look at the spirit with which they opposed you at the time when they fought against you. There is no sense of that generous appreciation which the victors are expected to possess. Unfortunately, even after about 100 years, we find those victors still carry their vindictiveness to such an extent as to nickname those who so bravely fought against them If after 100 years you are unable to appreciate that, it only indicates the depth of vindictiveness which you possess. I wish that feeling of vindictiveness disappears from you and that you are in a position to understand the real sentiments of the people about the war of

independence which was waged by our forefathers in the year 1858 It is impossible for you to understand what are the feelings with which the people cherish the memories of those brave men. Your books and history are only read by a few school boys, and, even in spite of all the efforts and all the propaganda made to popularise the so-called heroes that fought on the side of the English people in 1858, the sweet and inspiring memories of those who fought for the cause of independence, in those days, are still cherished and revered Stories and traditions are heard in every village wherever there was a mutiny or wherever there was some kind of fight for independence, and those people who fought for independence in those days are today remembered much more than all the other names whom you try to crowd the pages of history with Sir, as yet, the Englishman has failed to understand the Indian thought If you want to continue in that state of darkness or ignorance, so much the worse for you I only wish that this motion will serve to bring about a change of mentality in the English people who are today in India, and make them look at the Indian point of view in its proper perspective With these words, Sir, I support the motion moved by my friend, Mr Sri Prakasa

Syed Ghulam Bhik Nairang (East Punjab Muhammadan) Sir, I rise to support the motion, and in doing so I feel it is not necessary to make anything like a speech The case has been put with the greatest fairness, moderation and effect, by the Honourable the Mover, and I think it is impossible to improve upon what he has said The point at issue is not whether it was proper or improper to raise a memorial to the soldiers who had fallen fighting during the rising of 1857, but the real point is whether the inscription should have been worded in the way in which it has been worded, and whether official blessing should have been given to that wording by such a high personage as His Excellency the Commander-in-Chief in India Sir, it is now a well established fact that what is described in our school text books and official versions of Indian history as the mutiny of 1857 has been again and again described by Indians as the War of Indian Independence That is a thing, I take it, which must have come to the notice of the wide-awake Government of India, and they ought to have been in a position to appreciate the point of view of Indians in this matter As has been remarked by my friend, Mr Sri Prakasa, the result of the struggle which was waged in 1857 is immaterial for this purpose You have to look at the motive and the spirit which animated the other side While I do not for a moment blame the British people for having struggled hard, and successfully at that, to maintain their hold on India, I am unable to see with what justification Indians can be blamed for the life and death struggle which they waged in order to secure their independence It is like the proverbial picture of the lion and the man which was shown triumphantly by a man to a lion saying, "See how brave this man is He has borne down this lion" The lion retorted by saying that the person who drew the picture was a man and if a lion had drawn the picture he would have found the lion on top of the man. Now, it is very easy for those who have happened to be victors in the struggle of 1857 and who have been, since then, in the commanding position to write histories and to publish them and get them written even by our people who were their hirelings, to describe it as a mutiny The feeling of Indians is just the other way, and I think we are entitled to bring it pointedly to the notice of the Government of India by means of this adjournment motion, that this kind of treatment of Indian feeling and

[Syed Ghulam Bhik Nairang.]

Indian susceptibilities can no longer be tolerated. We are all unanimous, Sir, that this adjournment motion should be carried and on behalf of my Party I support this motion.

Several Honourable Members: Let the question be now put

Mr President (The Honourable Sir Abdur Rahim): If any Honourable Member wishes to speak, there is enough time.

(No Honourable Member rising.)

The question is

"That the question be now put."

The motion was adopted.

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

"That the Assembly do now adjourn."

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Monday, the 5th December, 1938

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