

16th November 1938

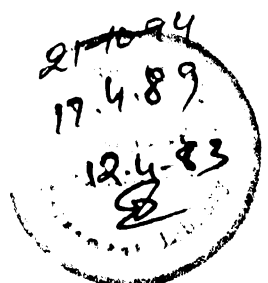
# THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume VII, 1938

*(10th November to 2nd December, 1938)*

## EIGHTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



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1939

M437LAD

# Legislative Assembly.

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# 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 Rahman) in the Chair.

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

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

1274. \*Mr. Abdul Qayum: 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 Qayum: Is the Foreign Secretary aware that there were a number of articles published in the semi-official paper *Istaf* 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 Qayum: 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 Qayum: 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— <i>contd.</i>	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.
East Indian .	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 Plate-layers 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 .	<p>Assistant Way Inspectors are recruited from the following two sources :—</p> <p>(i) Assistant Way Inspectors grade I—60—2—90—24—110 from staff al-65—5/2—85 ready 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.</p> <p>(ii) Assistant Way Inspectors grade II—125—10—155 from candidates 100—10/2—120 recruited as Apprentice Permanent Way Inspectors by a Headquarters Selection Board on the successful completion of their training.</p>	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 Navarai:** 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 Navarai:** 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 Navarai:** (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, cotter 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. Latchand Navarai:** 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. Latchand Navarai:** 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 Qayyum:** 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 13th 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 18th 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.

1230. **\*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 class;

- (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) 126 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 Honourable 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. Avinashlingam 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. Avinashlingam 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. 958 asked by Mr. Satyamurti on the 18th 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.	5.13 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 Qayyum:** 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. 886 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.

<sup>†</sup>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?

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<sup>†</sup>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 Pahartali 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.

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**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.**

**12910. \*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 Tanganika Colony and what are their assets?

**Sir Aubrey Metcalfe:** The question should have been addressed to the Secretary, Department of Education, Health and Lands.

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

**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-Muhammadian Urban): Then, 12 Noon. please get the sanction for us!

**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 3½ annas in the rupee.

An English company operating in India under the existing law pays at present in all 4½ annas in the rupee.

If section 49 is repealed, the English company operating in India will pay more than 5½ annas in the rupee, and if the United Kingdom also repeals its reciprocal relief, the English company operating in India will pay 7½ 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



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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 139 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 26.—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

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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-Muhammadian 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 Cawasji 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 it leaves several lakhs destitute in streets ruining 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 than 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

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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 inellow 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 80, 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.

1 P.M. - 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 assesseees 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

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. 8,500 per annum. It was pointed out to us that there are over four lakhs of assesses in this country, nearly five lakhs I think, and by exempting those whose income is less than Rs. 8,500 from a severe penalty—inflicting only a nominal penalty—nearly a half of the total number of assesses 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. 8,500—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 assesseees, 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  $2\frac{1}{2}$  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.

**The Honourable Sir James Grigg:** On a small point of correction,—  
 3 P.M. “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 Gowasji 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 assesseees 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 device 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 to a device, 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 Gowaji 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 assesses, 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  $4\frac{1}{2}$  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  $7\frac{1}{2}$  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  $4\frac{1}{2}$  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  $5\frac{1}{2}$ ; and  $7\frac{1}{2}$  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 7½ 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

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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.

4 P.M. 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 assesses 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



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 assesseees 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 assesseees should be more congenial. It is not only my experience but that of several others



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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.

**Mr. 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, 1988.