

17th November 1938

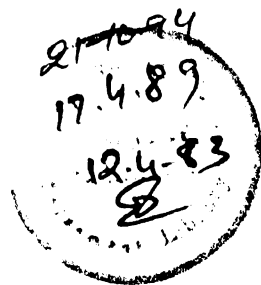
THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume VII, 1938

(10th November to 2nd December, 1938)

EIGHTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



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M437LAD

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LEGISLATIVE ASSEMBLY.

Thursday, 17th November, 1938.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

INAUGURATION OF FEDERATION.

1292. *Mr. Abdul Qaiyum: Will the Honourable the Leader of the House please state:

- (a) whether Federation is to be inaugurated on or about the 1st January, 1940;
- (b) whether a modified Instrument of Accession was lately shown to the ministers of various States at Simla;
- (c) whether any time limit has been fixed for such States to decide for or against Federation; and
- (d) the probable dates for the dissolution of the present Legislative Assembly, and for the holding of elections for the new Federal Assembly?

The Honourable Sir Nripendra Sircar: (a)—(c). The attention of the Honourable Member is invited to the combined reply which I gave on the 14th November, 1938, to starred questions Nos. 1217, 1229 and 1238.

(d) As regards the first part, I invite the Honourable Member's attention to my reply to Mr. Satyamurti's starred question No. 1230 asked on the 14th November. Government are at this stage unable to make any statement on the point raised in the second part.

Mr. Abdul Qaiyum: Is it a fact that time has been given to the States to answer by the 30th of June, 1939, whether they are joining the Federation or not?

The Honourable Sir Nripendra Sircar: For reasons already given, I am not prepared to say whether that is a fact or a fiction.

Mr. Abdul Qaiyum: Is it or is it not a fact that it is intended to call a sort of Round Table Conference, if the requisite number of States fail to give the proper response, in autumn next year?

The Honourable Sir Nripendra Sircar: There is a question pointedly on that subject which I have got to answer later on.

Mr. S. Satyamurti: With reference to clause (c) of the question, may I know whether Government's attention has been drawn to the provisions of the Government of India Act under which it is open to the States to say that the Federation ought to come before a certain time, and that they will join the Federation only if it is inaugurated before that time, and whether, in view of that, Government have considered the possibility of negotiating with the States or the States have approached the Government of India with regard to any time limit, before which the Federation ought to come, for their joining?

The Honourable Sir Nripendra Sircar: For reasons already given, I cannot make any statement on this question.

Mr. S. Satyamurti: I am asking whether Government have considered the provision of the Government of India Act which confers a power on the States to fix a time limit for the Federation to come into existence and to say that, unless it comes before that date, we shan't join it.

The Honourable Sir Nripendra Sircar: The Government of India is supposed to know and does consider all the sections of the Act.

Mr. S. Satyamurti: That I also suppose! But I am asking, with regard to the question that has been raised in clause (c), and with regard to the time limit, whether Government's attention has been drawn to that provision of the Act, and from that point whether they have examined any time limit being fixed by mutual agreement or whether they have left it to the States to fix the time limit.

The Honourable Sir Nripendra Sircar: Government are aware of the section and its signification, but whether action has been taken or has not been taken, for reasons already given, I am not prepared to say.

Mr. K. Ahmed: The Honourable the Law Member is not in a position to deny that a draft was prepared for the Ministers of the States who came here, and probably a copy of it was sent in advance of their arrival here, and they had some conversation with the Governor General, and probably Government have given an ultimatum that by the 30th of June, 1939, they have to make a statement whether they are agreeable to accept the terms of the Federation and to join it by that date. If not, a Round Table Conference will be held. If the Honourable Member is not in a position to deny it, he had better keep quiet. If he will kindly reply in the affirmative, then I am ready to put my question in that form. If that is so, it will be decided that the Federation is coming and the life of our House will be extended up to the autumn of 1940. Is not that so? If the Honourable Member is not in a position to deny it, because he does not know, as he has only recently returned from Europe, then I hope he will accept the version which has also appeared in the daily papers here.

The Honourable Sir Nripendra Sircar: My friend ended his speech by saying whether I accept his version. The answer is "No".

Mr. T. S. Avinashilingam Chettiar: May I ask whether Government have set up any time limit for themselves in the matter of these negotiations with the States?

The Honourable Sir Nripendra Sircar: I think that is covered by my previous answer, namely, that no statement can be made.

APPOINTMENT OF INDIAN AGENTS IN BRITISH COLONIES.

1293. *Mr. Abdul Qaiyum: Will the Secretary for Education, Health and Lands please state:

- (a) whether he has received a reply from His Majesty's Government with regard to the proposal of appointing Indian Agents in some of the British Colonies;
- (b) if so, what is the nature of the reply;
- (c) whether Government will appoint Indian Agents in Fiji, West Indies and East Africa; if so, the probable date of such appointments; and
- (d) if not, the reasons therefor?

Sir Girja Shankar Bajpai: (a) No.

(b) Does not arise.

(c) and (d). I regret that I cannot answer this question until the negotiations with His Majesty's Government have been completed.

Mr. Abdul Qaiyum: May I ask when these negotiations with His Majesty's Government actually began?

Sir Girja Shankar Bajpai: My Honourable friend is aware that the question of the appointment of Agents has been under consideration for some time. In September I said that I hoped to be in a position to say something by the end of October or the beginning of November. Unfortunately, the precise decision has been retarded or delayed by the world crisis.

Mr. Abdul Qaiyum: May I know for how long these negotiations are expected to last?

Sir Girja Shankar Bajpai: I hope they won't take very much longer to conclude.

Mr. Abdul Qaiyum: Have Government received representations from Indians in East Africa, the West Indies and Fiji about the appointment of these Agents?

Sir Girja Shankar Bajpai: On a previous occasion I informed the House that the Indian Congress in East Africa had represented that it did not want any Agent in East Africa. No representations have come from Fiji, but informal advices indicate that the community there would be glad to have an Agent.

Mr. Abdul Qaiyum: May I ask if the Trade Agent in Kabul is under the Honourable Member or is he under the Foreign Secretary?

Sir Girja Shankar Bajpai: No, Sir. He obeys the sway of my colleague to the left.

Mr. Abdul Qaiyum: But is it not a fact that the other day the Honourable the Foreign Secretary was pleased to remark

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member cannot discuss a matter like that.

Mr. Abdul Qaiyum: Sir, the position of the Trade Agent in Kabul is of great importance.

Mr. President (The Honourable Sir Abdur Rahim): Take the answer as it is and draw your own conclusions.

Mr. Abdul Qaiyum: But we want a reply from Government under whom he is? We have got two contradictory statements from them.

Mr. President (The Honourable Sir Abdur Rahim): Draw your own inference.

Mr. S. Satyamurti: We cannot draw an inference on facts. We want to know what the exact position is.

Mr. Abdul Qaiyum: The Foreign Secretary denies all responsibility.

Sir Aubrey Metcalfe: May I explain the position, Sir. The answer which I gave the other day may have been somewhat misleading. For some purposes, he is under the Department which I represent and for some other purposes he reports direct to the Commerce Department.

Mr. Abdul Qaiyum: May I ask for which particular purposes he is under the Foreign Secretary, and for which particular purposes he is under the Commerce Department?

Sir Aubrey Metcalfe: I could not answer that without notice.

Mr. S. Satyamurti: With regard to Fiji, may I know if my Honourable friend's attention has been drawn to the proceedings of a Conference which was presided over by Pandit Hirday Nath Kunzru in which the Indians definitely put forward a demand for the very early appointment of an Agent in Fiji?

Sir Girja Shankar Bajpai: I think that is covered by the answer which I gave earlier that informal advices indicate that the Indian community in Fiji does desire the appointment of an Agent.

Mr. S. Satyamurti: In view of that, will my Honourable friend press on His Majesty's Government the need for permitting this Government as early as possible to appoint an Agent?

Sir Girja Shankar Bajpai: Yes, Sir.

Mr. S. Satyamurti: With regard to the West Indies,—I think my Honourable friend knows that the condition of Indians there is causing some anxiety—may I know whether my Honourable friend will press upon His Majesty's Government the need in that case also for passing early orders permitting us to appoint an Agent in the West Indies?

Sir Girja Shankar Bajpai: My Honourable friend is already aware that the Government of India will be shortly deputing an officer to the West Indies primarily to give evidence before the Royal Commission on the West Indies and it may be that as a result of the report that he may make it may become necessary to make further representations to His Majesty's Government.

Dr. Sir Ziauddin Ahmad: Is the delay due to the fact that his department is very slow to move as was done in the case of Burma, or is it due to the fact that the British Government was engaged in more serious matters?

Sir Girja Shankar Bajpai: This department is not slower than other departments of the Government of India.

Mr. S. Satyamurti: Are there any points of controversy between this Government and His Majesty's Government with regard to the appointment of these Agents of Fiji, West Indies and even East Africa, or is it a case of merely formal permission being given by His Majesty's Government?

Sir Girja Shankar Bajpai: I regret that until negotiations are completed I cannot disclose the nature of the difficulties that have arisen in the matter.

PROTECTION OF THE INTERESTS OF INDIANS IN TANGANYIKA.

1294. ***Mr. Abdul Qayyum:** Will the Secretary for Education, Health and Lands please state:

- (a) whether he has read Reuters message from Dar-es-Salam, dated the 6th October, 1938, published in the *Statesman* of the 7th October, 1938;
- (b) whether the prospects of the return of Tanganyika to Germany has created alarm and resentment among the Indians there;
- (c) the total number of Indians in the above Colony; and
- (d) the steps taken, or proposed to be taken, by the Government of India to protect the interests of Indian nationals in Tanganyika?

Sir Girja Shankar Bajpai: (a) Yes.

(b) and (d). The Government of India received recently a communication from the Indian Association of Tanganyika indicating their concern in regard to the future of Tanganyika. This communication has been forwarded to His Majesty's Government.

(c) The Indian population of Tanganyika, according to the census of 1931, is 23,422.

Mr. Abdul Qaiyum: In view of the possibility of the event of transfer of this territory to Germany, may I know if the Government of India will take steps to see that the Indian settlers there are sufficiently and amply compensated for all their investments?

Mr. President (The Honourable Sir Abdur Rahim): That is a hypothetical question which I cannot allow.

Mr. S. Satyamurti: Have the attention of Government been drawn to the statement of Mr. Malcolm Macdonald probably in the House of Commons, to the effect that there is no intention of transferring any of these colonies to Germany?

Sir Girja Shankar Bajpai: My reading of the paper this morning is that under the authority of the Governor of Tanganyika some statement has been made at a public meeting in Tanganyika—I am trying to get particulars of that—Government have seen an announcement made on the same question on Monday afternoon by the Prime Minister.

Mr. T. S. Avinashilingam Chettiar: May I know whether this Government was consulted when that statement was made?

Sir Girja Shankar Bajpai: I cannot disclose whether this Government was consulted or not.

Mr. S. Satyamurti: May I ask if the Government of India will telegraph to His Majesty's Government and find out the latest position or intention of His Majesty's Government with regard to the colonies, in view of the fact that the statement made by the Governor of Tanganyika, in the light of my Honourable friend's statement, is not completely authorised, and in view of the fact that the Premier's statement was not specific? May I know if Government will ascertain the information by cable?

Sir Girja Shankar Bajpai: I am afraid I must have been misunderstood. I did not say that the Governor's statement was unauthorised. What I said was that all I read in this morning's paper was a statement reported to have been made on the authority of the Governor of Tanganyika. I am trying to get particulars of that. I have cabled already.

Mr. Abdul Qaiyum: What is the attitude of the Government of India towards the proposed transfer of territory to Germany?

Sir Girja Shankar Bajpai: I submit that relates to a question concerning relations between His Majesty's Government with a foreign power.

Mr. Abdul Qaiyum: We are also affected because we have got so many nationals in that country. After all the Government of India are sure to have some opinion on this point.

Sir Girja Shankar Bajpai: All that I can tell my Honourable friend is that the Government of India are as alive to the importance of Indian interests in Tanganyika as they are to their interests in other colonies.

Mr. President (The Honourable Sir Abdur Rahim): Question No. 1295: Sardar Mangal Singh:

(The Honourable Member was absent.)

Mr. Abdul Qaiyum: When I wanted to put a supplementary question about the proposed Round Table Conference, the Honourable the Leader of the House said that there was another question on the order paper and that he would answer my supplementary question when it was reached. I now find that Sardar Mangal Singh is absent and his question has not been put. May I know if I can repeat my supplementary question?

Mr. President (The Honourable Sir Abdur Rahim): You must make it relevant to this question.

The Honourable Sir Nripendra Sircar: I have no objection to answer question No. 1295, if you allow me to give an answer.

Mr. President (The Honourable Sir Abdur Rahim): You can answer the question.

PRESS REPORTS ABOUT A MINIATURE ROUND TABLE CONFERENCE ON FEDERATION ISSUE.

†1295. ***Sardar Mangal Singh:** Will the Honourable the Leader of the House please state:

(a) whether there is any truth in the press reports that a Miniature Round Table Conference will soon be held in India over the Federation issue; and

(b) whether Government intend to make any statement on this matter?

The Honourable Sir Nripendra Sircar: (a) I am not aware of any such proposal.

(b) Does not arise.

APPOINTMENT OF INDIAN AGENTS IN BRITISH COLONIES.

1296. ***Mr. T. S. Avinashilingam Chettiar:** Will the Secretary for Education, Health and Lands state:

(a) whether he has heard from His Majesty's Government with regard to the matter of appointing their agents in some of the British colonies;

(b) if so, to what conclusion they have come; and

(c) to which colonies and when they propose to appoint their agents?

Sir Girja Shankar Bajpai: (a), (b) and (c). I would refer the Honourable Member to the reply which I have just given to Mr. Abdul Qaiyum's question No. 1293.

Mr. T. S. Avinashilingam Chettiar: When do they expect to come to a conclusion on this matter?

Sir Girja Shankar Bajpai: I have already answered that in reply to supplementaries.

Mr. T. S. Avinashilingam Chettiar: May I know whether the Honourable Member can specify any time?

Sir Girja Shankar Bajpai: Neither time nor date.

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

REPORT OF THE UNITED PROVINCES AND BIHAR GOVERNMENTS' JOINT POWER ALCOHOL COMMITTEE.

1297. *Mr. T. S. Avinashilingam Chettiar: Will the Secretary for Education, Health and Lands state:

- (a) whether Government have received copies of the United Provinces and Bihar Governments' Joint Power Alcohol Committee Report and examined their recommendation;
- (b) if so, to what conclusions they have come; and
- (c) whether they have received any representations from those Governments on this matter?

Sir Girja Shankar Bajpai: (a) and (c). No.

(b) Does not arise.

Mr. T. S. Avinashilingam Chettiar: May I know if they have not received copies of this report?

Sir Girja Shankar Bajpai: That is so.

Mr. T. S. Avinashilingam Chettiar: May I know whether they have examined the report?

Sir Girja Shankar Bajpai: How can we examine the report without receiving copies?

Mr. T. S. Avinashilingam Chettiar: It is about two months back that the report was published and he said that they are trying to get a copy. May I know the reasons for such a long delay in getting copies?

Sir Girja Shankar Bajpai: That question can only be answered by the Government of the United Provinces. All that I can say is that we asked for a copy of the report in August. We reminded them again in November without success.

Mr. K. Santhanam: May I know if the Government of India cannot buy a copy of the report from the Government Press of U. P.?

Sir Girja Shankar Bajpai: Seeing that the report has not yet been published and is not on sale the option of purchase is not open to me.

TRADE TALKS BETWEEN INDIA AND Ceylon.

1298. *Mr. S. Satyamurti: Will the Honourable the Commerce Member please state:

- (a) whether any steps have been taken to initiate Indo-Ceylon trade negotiations so far; if not, why not;
- (b) whether Government's position still is that those talks cannot be taken in hand till the Indo-British trade negotiations are over; if so, why; and

(c) whether Government propose to take in hand those trade talks between Ceylon and India at once, and also to include therein the status of Indians in Ceylon?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b) and (c). The position with regard to negotiations for a trade agreement with Ceylon has been fully explained in reply to Mr. Manu Subedar's question No. 227 on the 14th February, 1938, and to the Honourable Member's question No. 874 on the 9th September, 1938, and the supplementary questions arising therefrom.

Mr. S. Satyamurti: In view of the protracted nature of the Indo-British trade negotiations and the need for taking up these Indo-Ceylon negotiations as early as possible, may I know if Government have reconsidered or will reconsider the question of not putting them off till these negotiations are over but of starting them as early as possible independent of the outcome of the Indo-British trade negotiations?

The Honourable Sir Muhammad Zafrullah Khan: Sir, I regret the delay as much as the Honourable Member, but it really is not practicable to take up the question before the conclusion of the negotiations with the United Kingdom which, however, I am hoping will not take very much longer.

Mr. S. Satyamurti: With reference to the second part of (c) may I know whether Government are aware that the status of Indians in Ceylon is now causing grave anxiety to friends of India and Ceylon—I include the Government of India also—and may I know whether the Government of India are considering the question of including in these trade negotiations—I am glad to hear they will start it soon—this question of the status of Indians in Ceylon?

The Honourable Sir Muhammad Zafrullah Khan: I have already on a previous occasion answered this question. I have tried to explain that it is proposed that the talks with Ceylon shall not be confined purely to commercial matters but shall also include other matters.

Mr. Manu Subedar: May I enquire whether Government have considered the desirability of cancelling the preferential treatment given to Ceylon under the Ottawa agreement in view of the attitude of Ceylon towards Indians generally and towards certain Indian products going to Ceylon?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir, I have no further information to add to that which I have already given on this matter on previous occasions.

Mr. Manu Subedar: May I enquire whether Government have the power under the Indian Sea Customs Act to deal with certain imports from Ceylon which are receiving preference now and against which India is receiving no reciprocal preference?

The Honourable Sir Muhammad Zafrullah Khan: The Indian Sea Customs Act is available to the Honourable Member.

Mr. Manu Subedar: I want to know whether Government have considered the desirability of using those powers?

The Honourable Sir Muhammad Zafrullah Khan: I have already answered that.

DEPUTATION TO DISCUSS THE QUESTION OF INDIAN MIGRATION TO MALAYA.

1299. *Mr. S. Satyamurti: Will the Secretary for Education, Health and Lands please state:

- (a) whether the Malayan Government have approached the Government of India with a request for receiving a deputation from them in respect of the question of Indian migration to Malaya;
- (b) whether the Government of India have agreed to receive the deputation; if so, when;
- (c) whether the Government of India will keep in touch with the Madras Government as the Government most interested in this question, if and when the deputation is received;
- (d) whether the Government of India will send for their Agent from Malaya at the time the delegation is received;
- (e) whether the Government of India will consult the Emigration Committee of this House, when the delegation is here;
- (f) whether the Government of India will consult Indian opinion both in Malaya and in this country before conceding any of the demands of this deputation; and
- (g) whether the Government of India will arrange to receive their deputation sometime early in February next year?

Sir Girja Shankar Bajpai: (a) and (b). It has been agreed between the two Governments that a delegation from Malaya should visit India on sometime this cold weather.

(c) The Government of India are already in touch with the Madras Government.

(d) and (e). That is the intention.

(f) The Government of India consider that the consultation envisaged with the Government of Madras and the Standing Emigration Committee of the Indian Legislature should suffice to bring into focus representative Indian opinion. They will, of course, be willing to examine views that may be communicated to them from other responsible quarters.

(g) The exact date of the delegation's arrival is under consideration.

Mr. S. Satyamurti: With reference to parts (a) and (b), may I know whether my Honourable friend can throw some light on the points which the Government of India and the Government of Malaya have agreed to discuss as a result of the deputation's visit to India?

Sir Girja Shankar Bajpai: Primarily to discuss the situation arising out of the decision of the Government of India to suspend assisted emigration to Malaya.

Mr. S. Satyamurti: May I take it that so far as the Government of India are concerned, their position continues to be what it was, when they introduced the Bill and successfully piloted it through this House, and the delegation is being received at the instance of the Government of Malaya who want to make certain representations to the Government of India?

Sir Girja Shankar Bajpai: Yes; the initiative for sending this deputation came from the Government of Malaya.

Mr. S. Satyamurti: With reference to part (g) may I know if the Honourable Member will be good enough to arrange for the date of deputation when this House is in session, so that apart from the Emigration Committee members of this House who may be interested in the question, other Members of the House may be available for consultation by Government or may be enabled to represent their views to the Government of India?

Sir Girja Shankar Bajpai: My Honourable friend will realise that this is a matter in which we have to adjust our convenience to the convenience of the Government of Malaya, but I shall bear his suggestion in mind.

DISFRANCHISEMENT OF INDIAN ESTATE LABOURERS IN CEYLON.

1300. *Mr. S. Satyamurti: Will the Secretary for Education, Health and Lands please state:

- (a) whether his attention has been drawn to the fact that the Bill to amend the village communities ordinance in Ceylon has again been reserved by the Governor of Ceylon for the significance of His Majesty's pleasure;
- (b) whether the Government of India have noticed that even in this Bill discrimination against Indian estate labourers persists and that the remedy offered in the Bill is to disfranchise all estate labourers, Indian and Sinhalese;
- (c) whether Government have considered that this will result merely in the disfranchisement of thousands of Indian labourers;
- (d) whether the disfranchisement in the case of Sinhalese labourers will be practically *nil* and
- (e) whether Government propose to press on His Majesty's Government the need for giving the franchise to Indian estate labourers provided they are otherwise qualified?

Sir Girja Shankar Bajpai: (a) Yes.

(b) The amended Bill excludes all labourers, Indian and Sinhalese, resident on estates from the right of vote.

(c) No. Under the existing Ordinance no Indian estate labourer has vote.

(d) It is estimated that 32,000 Sinhalese may be prevented from acquiring the vote.

(e) The Honourable Member probably means the village communities franchise. The Government of India have addressed His Majesty's Government on the subject of the amended Ordinance which has been reserved for His Majesty's assent.

Mr. S. Satyamurti: May I know if my Honourable friend's attention has been drawn to the news which appeared in this morning's paper that the Secretary of State for the Colonies has said that he is unable to advise His Majesty to give his assent even to the amended Bill?

Sir Girja Shankar Bajpai: My attention has been drawn to that report.

Mr. S. Satyamurti: May I know if Government have any information officially apart from the statement in the newspapers?

Sir Girja Shankar Bajpai: No, Sir.

Mr. S. Satyamurti: With reference to the answer to clause (a) of the question, I see my friend has taken advantage—I do not say undue, but proper advantage—of some ambiguity in my question. I am asking whether the result of this Ordinance will mean that Indian estate labourers will have no votes at all, whereas Sinhalese labourers will get votes in other capacities because they do not live on the estates exclusively as the Indian labourers do?

Sir Girja Shankar Bajpai: According to my recollection, the provision in the Ordinance excludes all resident estate labourers, whether Indian or Sinhalese. It may be that Sinhalese labourers working on an estate who are not resident will be eligible for the vote.

Mr. Manu Subedar: May I enquire whether Government have considered any retaliatory measures and in particular any form of economic pressure on Ceylon on account of the attitude which Ceylon is showing in this matter.

Sir Girja Shankar Bajpai: That question was implicitly raised by my Honourable friend when he addressed his question regarding treaty relations to the Honourable the Commerce Member.

Mr. Manu Subedar: Sir, I submit that was raised with regard to the preferences only. I have now asked about retaliatory measures generally, including citizenship.

Sir Girja Shankar Bajpai: It seems to me that so far as the question of citizenship is concerned, if my Honourable friend will refresh his memory, he will find that the Indian estate labourers have the franchise for the State Council in Ceylon. When the Honourable the Commerce Member said that the proposed trade discussions will not be limited to economic questions, he indicated that other outstanding questions will come under review also.

Mr. S. Satyamurti: In view of the reassuring news in this morning's paper, will my Honourable friend cable to England and find out if a definite recommendation has been made to His Majesty by the Colonial Secretary, against His Majesty giving his assent to the measure?

Sir Girja Shankar Bajpai: Instructions for telegraphic enquiry have been given already.

NEGOTIATIONS FOR BILATERAL TRADE AGREEMENTS.

1394. **Mr. S. Satyamurti:** Will the Honourable the Commerce Member please state:

- (a) whether any attempts are being made to start bilateral trade negotiations with any other countries;
- (b) if not, the reasons for the delay; and
- (c) whether Government are prepared to take prompt and effective steps to start bilateral trade negotiations with countries with which India has a good foreign trade?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b) and (c). The attention of the Honourable Member is invited to the answers given by me on the 9th September, 1958, to part (d) of Mr. Santhanam's question No. 887 and the first supplementary question.

Mr. S. Satyamurti: May I know if Government from time to time review trade statistics between India and foreign countries and come to decisions with regard to the need for concluding trade agreements with those countries, and, if so, how often in a year?

The Honourable Sir Muhammad Zafrullah Khan: As I said on a previous occasion, these statistics are being continuously reviewed.

Mr. S. Satyamurti: When were these statistics last examined from the point of view mentioned in this question, namely, the desirability from India's point of view of concluding bilateral trade agreements with other countries?

The Honourable Sir Muhammad Zafrullah Khan: When the statistics come in they are examined from all points of view on which they bear.

Mr. S. Satyamurti: In view of the fact that this House has recommended to Government that they should conclude bilateral trade agreements wherever they are favourable for India, may I know whether these figures are examined from that point of view; if so, how often, and by what agency?

The Honourable Sir Muhammad Zafrullah Khan: They are examined in the Department, Sir, and as I have said, they are examined continuously. For instance, after my journey to some European countries last year, they were examined from that point of view. Since then the examination has been taking place continuously.

Mr. S. Satyamurti: Have Government come to any conclusion with regard to any of the countries with which they desire to start negotiations for concluding bilateral trade agreements?

The Honourable Sir Muhammad Zafrullah Khan: With regard to that until the negotiations with the United Kingdom are out of the way, no definite conclusion could be come to.

Mr. K. Santhanam: Now that discussions with the United States and the United Kingdom are almost completed, may I know whether any steps are being taken to enter into negotiations with the United States for a trade agreement?

The Honourable Sir Muhammad Zafrullah Khan: The matter is being examined.

Mr. Abdul Qayyum: In view of the fact that cordial relations exist between Italy and Great Britain now, is it a fact that trade negotiations are about to begin between India and Italy?

The Honourable Sir Muhammad Zafrullah Khan: I have no specific information though I have noticed something in the press which might tend in that direction.

Dr. Sir Ziauddin Ahmad: Have Government already established or have they taken up the question of establishing clearing arrangements with any of these countries? Are they taking steps to establish clearing arrangements direct with any of these countries?

The Honourable Sir Muhammad Zafrullah Khan: So far as I am aware, there are no clearing arrangements between India and any other country.

Mr. Manu Subedar: May I know whether the proposal is to delay bilateral trade agreements until the trade with these countries is definitely lost to India.

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

Mr. M. Ananthasayanam Ayyangar: One more supplementary question, Sir. May I know why the negotiations for bilateral trade agreements with other countries should wait until the negotiations with the United Kingdom are complete?

The Honourable Sir Muhammad Zafrullah Khan: For the obvious and simple reason that we must know to what extent we are able to offer concessions to any country with which an agreement may have to be arrived at and that could not be determined till we know what our position is likely to be *vis-a-vis* the United Kingdom.

Mr. S. Satyamurti: Have the Government of India borne in mind the necessity for keeping their hands as free as possible for favourable bilateral trade agreements with other countries and not commit themselves beforehand with the United Kingdom, so as to restrict the scope of negotiations for bilateral trade agreements with other countries?

The Honourable Sir Muhammad Zafrullah Khan: Yes, Sir.

INDIAN DELEGATION TO THE LAST ASSEMBLY OF THE LEAGUE OF NATIONS.

1302. *Mr. S. Satyamurti: Will the Honourable the Leader of the House please state:

- (a) whether it is a fact that the Indian delegation to the last Assembly of the League of Nations was given a free hand in respect of the attitude which it may take up in regard to the questions coming before the Assembly;
- (b) whether, in pursuance of that, they were given a brief by the Government of India, or the present practice continued of their being given a brief at the India Office; and
- (c) whether the attention of Government has been drawn to the statement of the Leader of the Delegation, Sir Nripendra Sircar, to the effect that the League is becoming increasingly unpopular in India and whether that statement was made on behalf of the Government of India?

The Honourable Sir Nripendra Sircar: (a) The last Indian Delegation equally with its predecessors had a free hand within the limits imposed by its instructions.

(b) There has been no change in practice. Delegates receive at the India Office briefs which have been prepared in consultation between the Secretary of State and the Government of India.

(c) The Honourable Member is presumably referring to my speech in the Sixth Committee on the 24th September of which he appears to have seen a not entirely accurate press report. I, therefore, lay on the table a copy of the official report of the relevant portion of my speech which was made in my capacity as Delegate and, therefore, on behalf of the Government of India.

Extract from Provisional Minutes of the 6th Committee of the 19th Ordinary Session of the League Assembly.

* * * *

"A certain section of opinion in India was opposed not merely to Article 16, but to all the other articles of the Covenant and that section was gaining ground owing to the rapidly decreasing prestige of the League. The League had been described as a body which could neither punish its enemies nor help its friends. The matter was further complicated by another consideration, not strictly relevant to the interpretation of Article 16. There was in India a strong feeling of grievance about the representation of its nationals in the administration of the League; that factor also has a bearing on India's attitude.

If the League could not justify its existence by constructive work towards the end for which it was established, India might lose all interest in Article 16 and every other article of the Covenant. Personally he was opposed to the secession of India from the League, but he desired to direct attention to the fact that such a measure was a possibility, even a probability, in view of the changes in the Constitution of India which were expected to come into effect at no distant date."

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The Honourable Sir Nripendra Sircar: The relevant portion is about two-thirds of a page. I do not know if my Honourable friend expects me to read it.

Mr. S. Satyamurti: Will the Honourable Member read the one sentence regarding the increasing unpopularity of the League of Nations in India?

The Honourable Sir Nripendra Sircar: I had better read the two paragraphs—two paragraphs out of my speech.

Mr. S. Satyamurti: If I am not taken to be impertinent, I would like to express to my Honourable friend my agreement with him, but I should like to ask him, in regard to clauses (a) and (b) of the question, what are the instructions to which he referred?

The Honourable Sir Nripendra Sircar: I believe my friend is more interested in the limits imposed by the instructions than in the instructions themselves, because the instructions cover a huge field. Speaking from recollection—I have not the brief with me here—the only limit which I found in the instructions was that in regard to questions of relations with foreign powers it would be advisable to consult the British delegation. I do not remember any other limit being placed on anything which I proposed to do in the League of Nations.

Mr. S. Satyamurti: May I know whether my Honourable friend understood the instructions to mean that, if he thought so, he was free to differ, on behalf of the Government of India, from the British delegation in respect of foreign affairs?

The Honourable Sir Nripendra Sircar: I found no express prohibition, and if I felt any doubt I surely would have consulted them as to whether I was free to express my opinions.

Maulana Zafar Ali Khan: In view of the fact that international events in Europe have given a decent or rather indecent burial to the League of Nations, will Government consider whether the time has not come when India should cease all relationship with the League of Nations considering the waste of money and the waste of time?

The Honourable Sir Nripendra Sircar: I would like to abide by the decision of His Highness the Aga Khan.

Dr. Sir Ziauddin Ahmad: Are Government aware of the fact that people in India as well as in Europe say that the League of Nations is a pleasant place where you can go in whenever you like and come out whenever you like?

The Honourable Sir Nripendra Sircar: I can tell you that when the weather was bad it was very unpleasant indeed to get out.

Mr. S. Satyamurti: With reference to clause (b), may I ask whether in respect of the briefs prepared and given to the delegates, do the Secretary of State and the Government of India always agree, or what happens in cases of difference of opinion between the Government of India and the Secretary of State?

The Honourable Sir Nripendra Sircar: I cannot tell the House as to what happened on previous occasions; but on this occasion I did not come across any question of any difference.

Mr. Abdul Qaiyum: May I know, if on the question of Palestine the Indian delegation's views exactly tallied with the views of the British Government or was there any difference of opinion?

The Honourable Sir Nripendra Sircar: The question of Palestine was not discussed in any committee in which I was present, in which opinion of British Government was expressed.

Mr. Manu Subedar: May I ask whether the delegation submitted any report to the Government of India and whether in that report the delegation made any recommendation about relieving this country of the huge cost of the membership of the League of Nations?

The Honourable Sir Nripendra Sircar: The Report will be published in due course.

Mr. Manu Subedar: May I ask whether the recommendation which I referred to is included, viz., the saving to this country's treasury of this enormous cost?

The Honourable Sir Nripendra Sircar: I would advise a little patience to Mr. Manu Subedar. It will be printed and published and copies will be supplied.

Mr. Abdul Qaiyum: On the question of Palestine, did the Indian delegation receive any instructions from the British Government?

The Honourable Sir Nripendra Sircar: We received no instructions.

Mr. S. Satyamurti: In the case of the aggression and invasion of China by Japan, which I believe came before this session of the League, did the Indian delegation agree with the British delegation that nothing could or need be done?

The Honourable Sir Nripendra Sircar: I do not know that the British delegation expressed that view.

Mr. S. Satyamurti: Did they express any view at all?

The Honourable Sir Nripendra Sircar: Not that I remember.

POSITION OF INDIANS IN BURMA.

1303. ***Mr. Sami Vencatachalam Ohetty:** Will the Secretary for Education, Health and Lands please state whether Government propose to issue a statement on the situation in Burma in regard to anti-Indian troubles, since the arrival there of the Representative of the Government of India containing, *inter alia*, information on the number of Indians who left Burma, their condition in India, the number still remaining in Burma, the

condition of safety of the personal, commercial and agricultural interests of the Indians who have left Burma and who still remain there and whether panic has ceased?

Sir Girja Shankar Bajpai: Available information regarding the present situation in Burma and the number of refugees who have returned to this country has already been furnished to this House in answer to questions asked on the 14th of this month. Government do not consider any other method of publicity to be necessary for the dissemination of this information. They have no information regarding the condition of Indian refugees who have come back to India; the number of Indians still left in Burma must be over a million. With the return of conditions to normal, the personal, commercial and agricultural interests of Indians should be as safe as they used to be before the recent riots.

Mr. M. Thirumala Rao: Has the Agent to the Government of India submitted any report about the situation in Burma after he went there?

Sir Girja Shankar Bajpai: The answers which I gave on the 14th regarding the present situation in Burma were based on the reports received from the Agent.

Mr. M. Thirumala Rao: Will copies of the reports be laid on the table of the House?

Sir Girja Shankar Bajpai: These are almost bi-weekly communications: they are not reports in the sense of formal documents.

Maulana Zafar Ali Khan: May I know whether normal conditions have been restored?

Sir Girja Shankar Bajpai: That is the information that we have received from the Agent.

Prof. N. G. Ranga: Will Government give due publicity to the fact to whom those who wish to put in claims for compensation will have to send in their claims?

Sir Girja Shankar Bajpai: I informed the House the other day that the question of the machinery to be set up for adjudicating questions of compensation is still under consideration.

Prof. N. G. Ranga: When once that decision is reached, will Government see to it that due publicity is given as to whom these claims have to be sent by those who suffered?

Sir Girja Shankar Bajpai: I have no doubt that when a decision is taken the person or authority to whom claims should be addressed would be widely published.

Mr. Abdul Qaiyum: May I know if the Indian Agent has been instructed to assess the value or amount of losses suffered by Indian nationals in Burma, because that would help Government in pressing their claim for compensation?

Sir Girja Shankar Bajpai: I gather that those responsible for the presentation of the Indian case to the Commission of Inquiry which has been set up in Burma have already presented to the Commission a fairly comprehensive statement of the loss suffered by the Indian community.

Mr. Abdul Qayum: May I know what is the total amount which has been claimed by Indians?

Sir Girja Shankar Bajpai: I should like to have notice of that: I cannot say off-hand. But I believe it is something like 75 lakhs.

Mr. S. Satyamurti: Has the Indian Agent's term been extended, and if so to what period?

Sir Girja Shankar Bajpai: The Indian Agent has been appointed only recently and the question as to how long he should serve has not been considered.

Mr. S. Satyamurti: Was he not appointed only for a few months in the first instance?

Sir Girja Shankar Bajpai: The idea was that he should be there, at any rate until the more critical position arising out of the riot was over.

INAUGURATION OF FEDERATION.

1304. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Leader of the House state:

- (a) whether any progress has been made in the talks with the Princes with regard to the inauguration of Federation;
- (b) whether the required numbers of them have signified their consent to the Instrument of Accession; and
- (c) at which stage are the negotiations at present?

The Honourable Sir Nripendra Sircar: The attention of the Honourable Member is invited to the combined reply which I gave on the 14th instant to starred questions Nos. 1217, 1229 and 1233.

Dr. Sir Ziauddin Ahmad: Has any Indian State approached the Government of India that it wishes to join the Federation?

The Honourable Sir Nripendra Sircar: I once more draw his attention to the answer which I gave on the 14th. But did the Honourable Member say League of Nations? This question relates to Federation, and they are not mathematically the same.

IMPORT OF FOREIGN WHEAT IN INDIA.

1305. *Mr. Manu Subedar: Will the Honourable the Commerce Member state:

- (a) in view of the representations recently sent to Government for the equalisation of freight on wheat and wheat products, whether Government have ascertained whether Indian wheat and wheat products have to compete on an unequal basis with imported wheat and wheat products from imported wheat at the ports;

- (b) whether the import of wheat in India has increased since the Wheat Import Duty Act expired in 1937; if so, what are the figures;
- (c) whether the import of foreign wheat in India is due to technical grounds, or it is due to price difference; and
- (d) whether it is true that Australian wheat can be landed in India cheaper on account of depreciated Australian exchange?

The Honourable Sir Muhammad Zafrullah Khan: (a) A representation has been received in the Railway Department from the Punjab Chamber of Commerce on the subject of the equalisation of freight rates on wheat and wheat products. The representation is under examination.

(b) Imports of wheat into India during 1937-38 were 21,688 tons against 117 tons in 1936-37 and 13,066 tons in 1935-36. During the first five months of the current year imports were negligible, but in the last two months, September and October, they amounted to 42,302 tons.

(c) There is a demand from Indian flour mills for Australian wheat for blending purposes, owing to the larger percentage of wheat flour obtained from it, but the extent of the demand in any year appears to be determined by price considerations.

(d) Since the Australian exchange has not varied in its relationship either to sterling or to the rupee over recent years, during part of which time no imports of Australian wheat into India took place even with a free market, the answer is in the negative.

Mr. Mann Subedar: May I know what steps are Government taking to safeguard the interests of the wheat producer as well as the interests of the Railway Companies who were transporting wheat and wheat products from the Punjab to Calcutta and Bombay?

The Honourable Sir Muhammad Zafrullah Khan: The question of imposing a duty on the import of wheat is under consideration.

Sardar Sant Singh: May I know whether the figures contained in the reply of the Honourable Member as to the quantity of wheat imported include the quantity under bargain which is to come into the ports very soon?

The Honourable Sir Muhammad Zafrullah Khan: Does the Honourable Member mean whether the figure I have mentioned for September and October includes the quantity of wheat that might come in in January?

Sardar Sant Singh: My point is, whether it is a fact that more quantities are under contracts to be sent to India in the near future and that has depressed the price of wheat considerably?

The Honourable Sir Muhammad Zafrullah Khan: The question was whether the figure I had mentioned included certain other quantities. It does not include anything except that to which it refers.

Sardar Sant Singh: May I know if Government are aware of the fact that bargains relating to very big quantities have been made with Australia for import of wheat into this country?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir, I am not aware of that fact.

Mr. Mannu Subedar: May I know whether Government propose to revive the Wheat Import Duty Act by bringing in a separate Bill or whether it is capable of being revived, and if they are going to bring in a Bill, whether it will be brought in this session?

The Honourable Sir Muhammad Zafrullah Khan: That is a question which I have just answered, and my answer said that Government have that matter under consideration.

Prof. N. G. Ranga: Is it not a fact that the Punjab Government made a representation not only during the last Session while this House was in Session in Simla, but also after the recess?

The Honourable Sir Muhammad Zafrullah Khan: I believe a representation was received, but with regard to any more specific question I am afraid I shall have to ask for notice.

Sardar Mangal Singh: May I know when Government will finish their consideration, because a similar reply was given before that they hoped to finish consideration of the question.

The Honourable Sir Muhammad Zafrullah Khan: The consideration had to be started afresh, because the consideration which was then in progress showed that no wheat was coming in but now the matter has to be looked into afresh because there have been imports of wheat.

Mr. K. Ahmed: May I know whether the freight of wheat from

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

Mr. K. Ahmed: What is the attitude of the Chair, I do not know.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member must withdraw that sort of remark.

Mr. K. Ahmed: I am not allowed to ask any question, I am suffering from this trouble. I don't know what the attitude of the Chair is

Mr. President (The Honourable Sir Abdur Rahim): Will the Honourable Member withdraw those remarks?

Mr. K. Ahmed: What am I to withdraw?

Mr. President (The Honourable Sir Abdur Rahim): He must withdraw the words "what is the attitude of the Chair" and he must apologise to the Chair.

Mr. K. Ahmed: I will withdraw, but allow me to put the question.

Mr. President (The Honourable Sir Abdur Rahim): No, not at all. Will the Honourable Member withdraw those remarks and apologise to the Chair?

Mr. K. Ahmed: What is it, what am I to withdraw?

Mr. President (The Honourable Sir Abdur Rahim): I must ask the Honourable Member to withdraw the remarks he made regarding the attitude of the Chair.

Mr. K. Ahmed: You tell me the words and I shall tell you.

Mr. President (The Honourable Sir Abdur Rahim): What were the words used, let the Official Reporter read them out.

(The Official Reporter read out the words "What is the attitude of the Chair, I do not know".)

Mr. K. Ahmed: Yes, I withdraw those words unconditionally.

INDIANS IN THE INDIAN MEDICAL SERVICE.

1306. *Dr. Sir Ziauddin Ahmad: (a) Will the Secretary for Education, Health and Lands please state the number of Indians in the permanent grade in Indian Medical Service, and how many of them are Muslims?

(b) What is the number of Indians in the temporary grade of the Indian Medical Service and how many of them are Muslims?

(c) When do the temporary officers complete their five years service?

(d) Will they be considered for permanent appointment?

Sir Girja Shankar Bajpai: The question should have been addressed to the Defence Secretary.

JOINING OF FEDERATION BY INDIAN STATES.

1306A. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Leader of the House state:

(a) representatives of how many States have had talks with Government over the matter of Federation;

(b) whether any of them have signified their consent to join the Federation; and

(c) if so, how many and if under any conditions on what conditions?

The Honourable Sir Nripendra Sircar: The attention of the Honourable Member is invited to the reply which I have just given to his starred question No. 1304.

Mr. T. S. Avinashilingam Chettiar: May I know, Sir, how many Ministers of States have had consultations? We do not want to know the matter if it cannot be given out, but we would like to know the number of Ministers consulted.

The Honourable Sir Nripendra Sircar: I think I explained more than once that we cannot give that information, because it is against public interest to disclose anything about the nature of the negotiations which include the number as well as the names of the States or with whom consultations, if any, are being carried on.

Mr. S. Satyamurti: I can understand their claiming public interest for not answering question on the nature of the negotiations, or even the names of the Princes, but the simple question here is how many States have had talks, and whether any of them have signified their consent to join the Federation? I think, Sir, the public are interested in this matter. Federation is not between one man and another; it is between British India and the people of the Indian States. I am not asking your help in the matter; I am merely asking my friend, the Law Member, what are the reasons why the Government will not give this House even this information as to how many States have talked to them or whether any of them have signified their consent to join the Federation?

The Honourable Sir Nripendra Sircar: My friend is so familiar with May's Parliamentary Practice that, I am sure, he will agree that a Government Member cannot be cross-examined as to the reasons why it considers certain answers opposed to public interest, but in this particular case, it is obvious it is not in the public interest to disclose as to what people are negotiating.

Mr. S. Satyamurti: May I take it, therefore, that no State has agreed to join the Federation?

The Honourable Sir Nripendra Sircar: You may take it or drop it as you like.

Dr. Sir Ziauddin Ahmad: May I know, Sir, how many States have already signified their intention to join the Federation, and not the League of Nations, please hear me properly.

The Honourable Sir Nripendra Sircar: I have answered this question very often, and I would repeat once more that for the reasons already given, I cannot make any statement.

Mr. Manu Subedar: May I know, Sir, whether Government have considered the desirability of a tripartite discussion with regard to Federation between the Government of India, the representatives of States and leaders of parties in this House?

The Honourable Sir Nripendra Sircar: I am not prepared to say what they have considered.

Mr. Abdul Qayum: And who decided that the disclosure of the information would be against public interest?

The Honourable Sir Nripendra Sircar: That again my Honourable friend is not entitled to know.

Maulana Zafar Ali Khan: I should like to know whether it will be a condition precedent to the participation of Indian States in the Federal scheme that the representatives from the States should be elected or nominated to the Federal Legislature?

The Honourable Sir Nripendra Sircar: It will be either yes or no, I am not prepared to say what it is.

Maulana Zafar Ali Khan: I should like to know whether it will be a condition precedent.

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

INDIANS IN TANGANYIKA.

1306B. *Mr. Sami Vencatachelam Ohetty: (a) Will the Secretary for Education, Health and Lands please state the number of Indian population in Tanganyika?

(b) What are the landed, commercial or labour interests of these people in that country?

Sir Girja Shankar Bajpai: (a) The attention of the Honourable Member is invited to the reply given by me just now to part (c) of Mr. Abdul Qaiyum's starred question No. 1294.

(b) Indians have considerable landed and commercial interests in Tanganyika but Government cannot assess exactly the monetary value of these interests.

Prof. N. G. Banga: Is any considerable number of them interested there as labourers?

Sir Girja Shankar Bajpai: No, I don't think so.

THE INDIAN INCOME-TAX (AMENDMENT) BILL—contd.

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume consideration of the following motion moved by the Honourable Sir James Grigg:

"That the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee, be taken into consideration."

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Last evening, when we adjourned, I was dealing with the question of the machinery of the Income-tax Department. There has for long been a demand that there should be some judicial officers who should sit with the Income-tax Officers when they sit to assess a particular assessee. That demand has not been fulfilled in the present Bill. There will be nothing lost if an independent non-official with judicial experience is joined with an Income-tax Officer in the assessing of claims. That is the first point that the House should consider. At one time it was considered that some such people who have some knowledge of the Income-tax Department should be joined, but that has also not yet been done.

I now come to the first appellate authority. The first appellate authority at the present moment is the Assistant Commissioner. He belongs to the machinery of the department and he is the creature of the Central Board of Revenue; that is to say, he is responsible for making more revenue for the department. Now, in the Bill, we find that the words "Assistant Commissioner" have been changed into "Inspecting Assistant Commissioner". Probably the idea is that some Assistant Commissioners will be engaged in the duty of inspection only and some others who will sit in appeal as the first appellate court. But I do not find that the one who will sit in appeal will be a judicial officer. I find from the Report of the Select Committee that the judicial work, that is, sitting as an appellate court, will also be given to some of these inspecting Assistant Commissioners; in other words, the officer will be a ministerial officer all the same. That is what I am objecting to. I submit that the Assistant Commissioner, who will sit as the first appellate authority, should be a judicial officer. Then I move on to the question of the second appellate authority. An attempt has been made by the Select Committee to give only indications regarding a tribunal. I say, indications, because I find from the Select Committee Report that no definite proposal was considered by the Committee. Some suggestions were placed before the Select Committee and they had no time, they state, to consider them. My complaint of yesterday that this report has been sent to us too prematurely is fully justified by what the Select Committee has said. I will now read that portion of the report of the Select Committee which deals with the tribunal:

"We are of opinion that the Bill should contain provisions for the introduction of a further appellate authority, of an independent nature, for the hearing of appeals from decisions of Appellate Assistant Commissioners. The limited time at our disposal. . . ."

Why should the time be considered limited? Is it because of the fact that the Honourable the Finance Member is soon leaving us that he is in a haste about this?

"The limited time at our disposal and the complicated nature of the adjustments that would be necessary for this purpose have prevented us from giving effect to our views in the Bill itself, and have reconciled us to awaiting proposals on the subject which Government undertakes to put forward at the consideration stage."

Have those definite proposals come before us now? We are at the consideration stage and no definite clause has been brought before us. If it comes at the time of the amendment stage it does not satisfy the requirements. Therefore, it cannot be considered that the consideration of this Bill now at this stage is complete:

"The new appellate body should consist of a tribunal composed of not less than two members chosen from each of two categories of a panel of some eight or ten members comprising legal members with qualifications such as are normally required for appointment as a District Judge and technical members recruited from among persons with professional experience of accountancy."

These suggestions are very good, but my point is that they should be cut and dried and in the form of a clause so that we may consider it fully.

I now come to a very important point on which I am very keen and I think the House also, and that is with regard to clause 4. This is a clause against the objectionable portion of which there have been many protests, I would say world-wide protests of the Indian traders. Certain parts of

[Mr. Lalchand Navalrai.]

this clause are being considered very objectionable, and as I stated yesterday, they will prove a great detriment to Indian traders outside. I, therefore, submit that this is a very important Bill. I will take up the important clauses and comment on them and give my reasons for their deletion. In the Bill as it stands clause 4 reads thus:

"Subject to the provisions of this Act, the total income of any previous year of any person includes all income, profits and gains from whatever source derived which are received or are deemed to be received in British India in such year by or on behalf of such person."

This is the remittance system that we have at present. All foreign incomes that come into India are charged by the Income-tax Department on the remittance basis, that is to say, income-tax is charged on the money that is actually brought into India. Therefore, that clause may not be objectionable. The second one reads:

"If such person is resident in British India during such year accrue or arise or are deemed to accrue or arise to him in British India during such year."

This also is not objectionable, because that is the present practice. We cannot do away with the Income-tax Act under this head. What is most harsh is sub-clause (ii) which reads:

"Accrue or arise to him without British India during such year."

This will mean that income-tax will be charged whether the money is brought into British India or not. I see no justification for this. Along with this I would ask the House to read the second proviso which reads thus:

"Provided further that in the case of a person resident but not domiciled in British India, income, profits and gains which accrue or arise to him without British India shall not be so included unless they are derived from a business, profession or vocation or unless they are brought into or received in British India by him during such year."

This makes a distinction. One would go to that limit and say that it is a racial question. The distinction is apparently and clearly a very invidious one. Reading clause b (ii) with this proviso, it comes to this—that an Indian who is resident as well as domiciled and who belongs to India will be charged on every income that is made by him outside India. That is to say, it would be profit on business, profession or vocation and also securities or interest or profit in shares and so forth but with regard to the person who has been resident here for years, but happens to be not domiciled in this country, two exceptions are made. One is that he shall be charged only for profit from profession, business or vocation. But with regard to securities, interest, etc., they are being exempted. A two-fold provision is made. One is that he will be charged with regard to the former three kinds of income, namely, profession, vocation or business, on an accrual basis, but with regard to securities, etc., he would be charged on a remittance basis. That is an anomaly again. Therefore, I submit that this clause will be injurious to the Indian trade and I submit that that clause should go.

After having read the clause and shown what is principally meant by this Bill and how it affects, let me now show since when this remittance basis has been continued, because the very first reason that I would give for keeping on the present basis is that it has lived satisfactorily and it has

also given money to India. Therefore unless very tangible grounds are put forward to show that circumstances have changed now or that there are any conditions under which there is a necessity for the change of this clause I hope the House would say that it is not justified. The history of this Bill is this. This remittance system was first of all provided for in the Act of 1922. In 1923 again the Income-tax Act was amended. Here, the remittance system was continued but the change was made that income will be charged if brought within three years to India. After that an amendment was made in 1933. It levied a tax on income if it was made after 1933 and remitted to India within three years. Now, this gave a little relief because it was shown that if any income that is made in an outside country at any time is charged, it will be wholly inequitable. There ought to be some limit. Then they provided that any income that was made before 1933 will not be assessable and thus was this amendment made. Since 1933 no other amendment has been made and that remittance system has continued. Now, I ask that when it is now demanded that that remittance system should be given the go-by and that the accrual system of all the income, so far as Indian domicile is concerned, should be assessed and charged here even though it lies outside in foreign countries, I ask—is there any justification for it? The House should not consider that this addition is an ordinary thing over which we may sleep or in respect to which we may not give our fullest consideration so as to remove it because this is an evil that is being introduced into the Income-tax Act. Therefore, I submit, that let us consider coolly what are the grounds upon which it is asked that this Bill should have that clause. Now, so far as I understand, no such substantial reason has been shown except the general one, viz., that it will bring in more money. Now how much more money will be brought in, when there are difficulties of bringing in money from foreign countries and others? That is for the Honourable the Finance Member to tell us. How much more can you get in these special days in which there are special restrictions outside? How much more money will he get for which he wants to change the present practice and create this revolution? I submit that that has not been shown. But let us take it that he will get more money. Now, is that a reason for having this injurious or objectionable clause—because there is an assertion that there will be more money brought in from that tax? I ask—which is that tax which does not bring in more money? Any tax will bring in more money. Therefore, that is no reason that any and every kind of tax should be put on. Therefore there will be no necessity or any justification for having the accrual system. Now I would submit that it has also not been shown that there have been any difficulties in charging on the remittance system when the money has been brought in here. That system has been going on very satisfactorily. Then the second point that I would put and which is also a very forcible one and which I think the House should take into consideration, is whether this House, at present, has any reasons to deviate from the opinions that this very House gave definitely and gave it by a large majority on the same accrual system when it was attempted to be brought into India. . . .

Sir Oowasji Jehangir (Bombay City: Non-Muhammadian Urban): When was that?

Mr. Lalchand Navalrai: It was on the 9th September, 1931. If the Honourable Member wants the volume, it is Volume No. 1 of 1931 and 1932.

An Honourable Member: That was before the flood. That was before the "Sukkur Barrage".

Mr. Laichand Navalrai: Yes, the Sukkur Barrage will bring lots of money to you, but you will lose when the merchants of Sind who have been contributing so much to Sind to help your barrage do not go outside, they could then send you no money from there and this very House will have to enhance the subsidy that we are giving at present to the Sind Government to go on.

The Honourable Sir James Grigg (Finance Member): Not on your life.

Mr. Laichand Navalrai: But after you—so far as the Finance Member is concerned, he is very hard to deal with.

Sir, without digressing from the point, I submit that this Bill was introduced on the 9th September and rejected in 1932. At that time it was not considered fit enough even to be sent to a Select Committee. Now it might be said that that might be a different Bill. I have got the Bill with me and I was a party to it, too, and, therefore, I know much more. Now, Sir, it contained a clause 4. I have read to you clause 10 of the present Bill and you know section 4 of the Income-tax Act also. Therefore, I will not repeat them to show you what they are. Now, clause 4 of the Bill of 1931-32 reads thus:

"Subject to the provisions of the Act the total income of any year of any person includes all income, profits and gains from whatever source derived."

It comes more or less to the same thing so far as Indian domicile is concerned,—

"which accrue or arise to such person in British India during that period."

This is all right. Then comes the clause which is in dispute and that is more or less substantially the same, and it says:

"Which accrue or arise to such person in British India during that year if he is resident and domiciled in British India in that year."

So far as the Indian domicile is concerned, it is substantially word for word the same. Then coming to the distinction which they are keeping now, that was also not approved of then. After all, the foreign people, as well as the British people in India, have lived long with us, and why should they every now and then ask for these doles and say, "we should be treated differently"? Sir, we know that they are ruling, but it is not on that account that at this stage they can insist upon it. Opinion in India has changed; people are demanding that they should rule themselves, and at that stage to come here with certain distinctions and considerations for foreign people is not just. The second distinction is this:

"income which accrues or arises to such person in British India at any time if he is resident but not domiciled in British India in that year, in so far as he brings them into or receives them in British India during that year."

It is the same with regard to their business, profession or vocation. It was provided that their securities and investments should be treated on the remittance basis. Now, Sir, this very Bill was considered in 1932 with open eyes by Members of the same capacity and the same intelligence. . .

Mr. Manu Subedar (Indian Merchants' Chamber and Bureau: Indian Commerce): But Sir James Grigg was not there.

Mr. Lalchand Navalrai: Yes, that is the only difference in the outlook. We had then Sir George Schuster in whom we could place some confidence.

The Honourable Sir James Grigg: Compliments do not cost you much.

Mr. Lalchand Navalrai: But you won't get any. You are going away, leaving the legacy to others who may repent and weep over it.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member had better address the Chair.

Mr. Lalchand Navalrai: What I am submitting, Sir, is this that when a Bill of a substantial nature and with the same provisions as in the present Bill has already been rejected by this House, there is no justification to bring it before this House again. The justification for bringing it before the House can arise only when some changes of substance have happened or the circumstances have altered. That we have not heard any from the Honourable the Finance Member. He says he wants more money. From whom does he want this money? Is it for the salaries of the Government servants or is it for increasing the salaries of the Members on the Treasury Benches?

The Honourable Sir James Grigg: No.

Mr. Lalchand Navalrai: Is it for increasing the number of the British soldiers?

The Honourable Sir James Grigg: It is for the provinces.

Mr. Lalchand Navalrai: That is very good. How much have you given

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member had better address the Chair.

Mr. Lalchand Navalrai: Very well, Sir. If he were to make a proper retrenchment and curtail the number of the officers at the head and also retrench their salaries, how much more will he be able to give to the provinces. It is mere sham to say that. Sir, this is the second reason which I have advanced with regard to this objectionable provision.

I now come to the third. I submit, Sir, that this clause is bad on principle. The principle that I advocate is that the income should be taxed at the place of its growth or origin. That principle is not my own. It is a well-recognised principle. Now, about two or three years ago a Committee was appointed by the League of Nations which was called the Income-tax Committee. The Committee had six experts.

The Honourable Sir James Grigg: Who were they?

Mr. Lalchand Navai: I have told you that the Committee was appointed two years ago and you can find out the names of the members yourself. Those experts were of opinion that the income should be assessed only where it accrued or where it had its origin.

The next reason that I would like to put forward, which is also a weighty one, is this, that the Government of India give no help whatsoever to the Indian traders abroad in making their profits and, therefore, it cannot claim any tax on those profits. Now, Sir, I would like to know what help the Indian Government have given to our traders abroad? What I wish to say is that the British Government, in order to tax their income, ought to be in a position to say that they have extended their help to these traders abroad. Now, what has happened in Abyssinia? The House knows that there was an Indian firm there, known as Muhammad Ali and Company. They were trading there and during the war they were practically ruined. Everything was confiscated. What did the Government of India do for them? And this is not only the single case. I will be glad to learn from the Government of India, if this point is contested, the instances in which they have helped the traders outside. They have now got the list of traders in the opinions papers. They are trading at various places outside and they have sent resolutions mentioning their difficulties. They have complained that they are not even allowed to go to the port without a certificate. They are experiencing so many other difficulties. Have they been removed by the Government of India? We have put questions in this House to remove their troubles and the only reply we have got from Government has been that their Consul is there or their British officer is there and he will look into the matter. That reply does not satisfy us. The other day I put questions with regard to the traders who had returned from Spain and were held up on the way. We put several questions to the Foreign Secretary who invariably replied that every attempt was being done there. But what is being done there, I do not know. This is how the Government of India give them help. Therefore, I submit that this is also a ground which deserves our consideration. I think the argument which they will advance in favour of this tax on these traders will be this that these traders fly away the capital of India which would otherwise be useful to India. This is a wrong idea. I can say from my personal experience about the Sind work merchants that when they leave India they do not have much money with them. They did not develop their business abroad with the help of the Government but only because of their own assiduity and skill. I also know that a Sind work merchant went abroad against the wishes of his relatives and he took nothing with himself except a few curios. He went on hawking and he is now the well-known Pohumal and Brothers known all over the world. They have got agencies in every part of the world. Therefore, I submit that if you do not give any help to these Indian traders abroad, you cannot claim any money from them in the shape of a tax. A father who does not give any help to his sons and disregards them cannot claim and ask them to give him money when they begin to earn it. The sons may help him out of morality and out of reverence but not legally. The same principle applies in the case of these traders. The point is that the Indian Government have given them no help and no capital has flown from this country. On the other hand, more capital is brought to India. All this money is brought to India. Unless you drive them bag and baggage and ask them to settle in those foreign countries by enacting a provision like this, they are always willing to bring the money to this country so that

India may be benefited. Not only are the Sind merchants affected but also South Indian merchants who do business in Burma and other places. I, therefore, submit there is no justification for putting difficulties in their way.

The next point is the absence of mutual arrangements, between the Government of India and the foreign Governments in the matter of currency. Indians go and make money in those foreign countries. There is no arrangement with those countries as regards trade facilities. If they make money there, they cannot move it to India for want of facilities. If you want to charge income-tax on the money that is lying in those foreign countries you only induce these people to leave India for ever and settle there. Who will be the sufferer? I am told that the tax on foreign income which will accrue outside and which is not brought to India will remain in abeyance. In other words even if a small income comes here, it will be charged, and those lying outside even more than six years or any period will be charged whenever it comes. Why not directly and straightforwardly say that the income which is not brought to India will not be charged at all.

The next question is the question of exchange. It cannot be denied that the exchange question has become complicated nowadays. The exchange in foreign countries changes quickly. If the exchange difficulties are not removed, then I would call the Income-tax Bill not only complicated and intricate but also unreasonable.

Mr. President (The Honourable Sir Abdur Rahim): I cannot ask the Honourable Member to make his speech short, but I want the Honourable Member to remember that there are a number of other speakers who want to take part in the debate.

Mr. Lalchand Navalrai: I am making only a brief reference to all the points I want to make. Take the case of Shanghai, the exchange in 1936 was Rs. 200 per 100 dollars whereas in 1938, it is Rs. 50 only for 100 dollars. Imagine how detrimental it would be to tax on accrual basis.

The next question is the payment of double income-tax. You pay assessment there and also pay assessment here on the same income. This is clearly wrong. This is not fair. I learn that they propose to give allowance for the tax they pay there. But that is a fallacy. If they charge here on the income derived there as well as here and give only a tax paid there as expenses, how is it going to relieve the assessee? He is charged for the whole income outside and here with a small deduction.

Then, the next difficulty is with regard to books. The income-tax officers insist upon these assessee bringing their books into India so that they may scrutinise them. In a place like Manilla and other places they do not allow the books to be removed. That is another difficulty in the way.

Next, I come to the opinion of Provincial Governments. The opinions of Provincial Governments do recognise the difficulty and iniquity of this provision. I will not read those opinions. The House might refer to those opinions themselves. Indian merchants trading in far off places like Java, Sumatra, Manilla, Gibraltar and others, have passed resolutions and those resolutions have been incorporated in the opinion papers. In the summary, at page 8, you will find the opinions and the reasons. These

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opinions should be considered very weighty, because they have been passed in the form of resolutions by those personally affected associations. The reason they give is that if this income is going to be assessed on accrual basis, they will have to leave those places and give no more money by their trade to India and cannot settle there any more. The next opinion that I shall quote is the opinion of the Sind Government. As I belong to Sind, I will quote that opinion—only a few words; the Sind Government Secretary has said:

"I am to say that the Government of Sind are inclined to think that there is much force in the contention that an exception should be made in the case of income derived in countries which prohibit or severely restrict foreign remittances or which do not allow relief from double taxation, and suggest that the question may be given due consideration."

This is exactly what I have placed before you today. There are also the opinions of the Karachi merchants and others. I will not read them, but I will only refer to the page. The first from the Sind Government was in Paper No. II and the one that I am now referring to is in Paper III at page 28. There the merchants association have said:

"We would reiterate that Indian merchants having business in foreign countries are of immensely more value to the country than the foreigners trading here inasmuch as while the former increase national wealth the latter drain away the national resources. It is therefore the duty of Government to see that the Income-tax Law of the country does not in any way discourage the Indian business enterprise in foreign countries."

This is what I have to say at present about clause 4. I have also sent notice of amendments to clause 4 and when the time comes I will say more.

I shall now refer to the objections to some of the other provisions. I would not take clause by clause, but only in passing say that I object to the slab system. I have read what the Select Committee have said. The Select Committee had no materials before it and I do not agree with them—they will excuse me—they are not justified in their conclusion about the slab system and it should not be introduced until we have more materials before us to come to the conclusion that that would be more profitable. Only an assertion is nothing.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): That will be in the Finance Bill.

Mr. Lalchand Navalrai: Why do you accept the system now?

Mr. S. Satyamurti: It is better than the step system.

Mr. Lalchand Navalrai: That must be proved. We are going to put the cart before the horse. We are going to consider the slab system; we are going to commit ourselves to it. The incidence of the tax will come at the time of the Finance Bill. At that time you might consider whether you should have the step system or the slab system. The opinion of the Select Committee is only provisional; they may change it.

Then, Sir, the next point is with regard to the notice to assesses for returns—the general notice to everybody that everybody should send the return. That is very hard. It will be very hard upon poor people.

You recognise that in India there are poor people who are not educated and you expect everybody to send in the return. The reason given by my respected Honourable friend, the Leader of the Opposition, that some relief has been given and that the rigour has been brought down because there will be no punishment with penalty, but that is nothing. I appeal to the Leader of the Opposition to consider how the Income-tax Officer are assessing now. Is it not very easy for the examiner to make it over Rs. 3,500—by adding a little here and a little there? If you say that Rs. 2,000 is assessable and the amount is less by 500, it is very easy for them to make up the amount by manipulation in the accounts. We know their way of additions. I suggest that the notice should not be a general one. You may give notice as at present, and not say generally that all should send the returns by putting a notice on the board as is done in courts and not looked at.

Lastly, I would refer to clause 74. Clause 74 of the Bill refers to representation of assessee before the Income-tax Officer. Now, the present system is that any man who has got no work to do can get up and represent by calling himself an expert. At present any man can go whether he has got ability, capacity or legal knowledge or not. He goes there to the Income-tax Officer, comes out and says that it is his argument that moved the Income-tax office and so on. Therefore, I object to clause 74 (iii). Barristers and lawyers will appear; registered accountants will appear; even accountants who get the certificate of the Central Board of Revenue; and why, any other so-called practitioner? I strongly object to clause (iii) which deals with definition of practitioner. In the Bill:

"Income-tax practitioner means any person who before the 1st day of April, 1938, attended before an Income-tax authority on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee."

Therefore, this is objectionable and I will have to say more on this when we come to the amendments.

In conclusion, I submit that clause 4 is the accrual system which should not be trifled with. It should be given full consideration; and if you find not in agreement with the opinion of the House in 1931 and 1932 and for very cogent reasons, then alone it may be adopted with certain modifications. I submit that even the Honourable the Leader of the Opposition was not definite on this point and left it to the House to consider whether it was good or not: he has not given a mandate or verdict and, therefore, I submit it is an open question. Considered from all these points of view I hope the House will not allow that clause to have any place in the Bill.

Dr. R. D. Dalal (Nominated Non-Official): Mr. President, in supporting the motion to take into consideration the Indian Income-tax Amendment Bill as reported by the Select Committee, I propose, with your permission, to refer to a few salient features and general considerations of the Bill.

This important measure has the following main purposes:

Prevention of the evasion of payment of income-tax by companies and individuals, production of increased revenue, introduction of the slab system for the present step system, certain concessions to the tax-payers, introduction of the system of compulsory returns of income, and an increase in the efficiency of the income-tax department.

[Dr. R. D. Dalal:]

The Honourable the Finance Member has considered sympathetically and specifically the following principles:

That the Bill provides for fair and equitable taxation and the paying capacity of the people, that the burdens of the country must be carried by the broadest shoulders, that there is no discrimination in favour of non-nationals in respect of taxation, that the effect of the provisions of the Bill is such as not to handicap the normal development of the trade and industry of the country on which is built its economic structure.

Sir, income-tax legislation must spread a net comprehensive and fine enough to cover every kind of business, every type of property, and every manner of employment: at the same time it must make provision for an elaborate array of reliefs, allowances and exemptions. The obscurities, complexities, and anomalies of the income-tax law have long been the despair of the tax-payer, the bane of business, and the subject of constant judicial remonstrance. The obscurities of the income-tax law open the door to a two-fold evil. On the one hand they encourage evasion, while on the other they lead to administrative oppression, because only too often the tax-payer finds himself unable to bear the immense costs of legal proceedings. So unintelligible many of the statutory provisions, so multitudinous and sometimes conflicting the judicial interpretations, that but for the skill and ingenuity with which the Central Board of Revenue administer it, the existing law would long since have proved unworkable. To remedy this lamentable state of affairs and with a view to producing increased revenue, the Honourable the Finance Member appointed an Income-tax Enquiry Committee to investigate the Indian income-tax system in all its aspects and to report upon both the incidence of the tax and the efficiency of its administration.

This Bill has the modest, the useful and the necessary purpose of giving effect to the recommendations embodied in the Income-tax Enquiry Report. This Bill embodies the triple virtues of intelligibility, uniformity and simplicity, and is a lucid and logical statement of the law relating to income-tax

Sir Cowasji Jehangir: Has it anything to do with vaccination?

Dr. R. D. Dalal: and it brings the substance of the law more fully into accord with existing conditions and existing needs.

The existing rates of income-tax and super-tax in India are by no means excessive, and the general scheme of taxation operates at present to relieve the wealthier commercial classes to an extent which is unusual in taxation schemes. In order to make the Indian constitutional reforms financially practicable, the Central Government have to abandon a part of the income-tax collections to the provinces. Sir Otto Neimeyer dealt with the question of the prospect of the transfer of resources to the provinces out of the proceeds of income-tax. Since for this purpose the necessary funds have to be found by the Central Government, this Bill emphasises the paramount importance of preserving the stability of Central Finances and enabling British India to enter the next stage of All-India Federation

Mr. M. S. Aney (Berar: Non-Muhammadan): Are you making out a case for or against the Bill?

Dr. R. D. Dalal: Ultimately the provinces shall receive 50 per cent. of so much of the proceeds as, under the Government of India Act, is divisible between them and the Centre. Such a sacrifice by the Central Government is out of the question until it has been able to adjust its own finances to the other changes arising out of the inauguration of provincial autonomy. Therefore for the first five years the Central Government retain the full sum realised under the head income-tax.

Now, I shall discuss very briefly the question of tax avoidance, which is the main objective of the Bill. Tax avoidance is the name given to the activities of those who evade payment of taxes by what are known as "legal methods". In legal circles it is held that the term tax avoidance gives a pleasanter atmosphere and a higher tone to the consultation between lawyer and client than the more down-right word evasion. If a tax-payer can by lawful means reduce his income, the courts will not inquire whether the transaction has any genuine business validity. It is common knowledge that an ever-growing number resort to evasive methods. Many of these methods have not yet been reached by legislation. India offers most opportunity of any country for tax avoidance. The reason lies in the formalistic attitude of the courts. Fictitious loans, sham assignments, colourable settlements all form part of the trade of that great array of experts, accountants, solicitors and barristers, who devote their time and brains to showing tax-payers the methods of reducing the incidence of taxation. There is very little hope of eradicating these practices until their essential immorality is recognised by public opinion. At present this is scarcely the case. In particular, the legal profession as a body sees nothing dishonourable in lending its skill to further the ends of the tax evader. The legal profession is of opinion that

Sardar Sant Singh (West Punjab: Sikh): Did you ever consult the legal profession?

Dr. R. D. Dalal: tax avoidance is not only legal but is not immoral or dishonourable. Further, the prudent man will take
 1 P.M. care to ensure that his property is so disposed as to bear the smallest possible burden of taxation. Furthermore, if the tax avoider acts openly and above-board and clearly conforms to the law, there is no reason why he should not do anything the law allows to lighten the load of his taxes. Sir, may I be permitted to explain in what sense the word 'law' is used. Law is the will of the people as expressed in the Legislature; it is also the rules of conduct enforced by the Courts. The two senses should coincide; but in practice they often diverge, because the Legislature has failed to express itself with sufficient accuracy or completeness. The opportunity for legal tax evasion proceeds solely from this divergence, and he who exploits it can only be defended on the ground that what is binding on the conscience of the good citizen is not the well-recognised intention of the Legislature, but the technical imperfection with which it is expressed. It is argued that the rich tax-payer is taxed without his consent; so tax evasion is the proper remedy. Cases are on record in which Members of the Legislature, who have voted to impose taxes on others, have themselves resorted to evasive operations in order to avoid the very taxes to which they have consented

Mr. B. Das (Orissa Division: Non-Muhammadan): Are you talking of English practice or Indian practice?

Dr. R. D. Dalal: Every step of the Legislature stimulates the ingenuity of the tax-evading lawyer who plays an endless game of chess with the Central Board of Revenue

Mr. M. S. Aney: Sir, may I ask whether the Honourable Member is in order in making strictures against lawyers as a class, because he accuses them of resorting to ingenious methods for evading taxes, even when they are a party to income-tax legislation?

Mr. President (The Honourable Sir Abdur Rahim): I cannot say it is altogether irrelevant to the subject, but the Honourable Member might consider whether it is in good taste.

Mr. B. D. Pande (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): What about medical certificates?

Dr. R. D. Dalal: Sir, it is high time to grapple with this evil at its root, by making illegal, not particular kinds of evasive tricks, but evasion itself. Of course, this is technically difficult, because it is a delicate matter of draftsmanship to separate by Statute the trusts and companies that exist for legitimate business from those that are founded to cheat the Central Board of Revenue. The policy of the Income-tax Act has been to deal with the most important tax-dodging devices, but as fast as one hole is stopped, another appears. Another reason for the failure of legislation is that the interpretation placed by the Courts is so technical as often to be almost puckish. Obscurity and complexity lead to many ambiguities; consequently it is always easy for the Courts to narrow the scope of the legislation and to defeat the purpose of the Legislature. Sir, it is remarkable that Government have never made a pronouncement that tax-dodging is contrary to the interests of the community. Publicity should be a very effective deterrent. Surely, Government must make clear its determination to put an end to all fictitious transactions designed to enable a tax-payer to escape those burdens, which the less astute or more honest continue to bear. I would suggest that the Central Board of Revenue should itself seek the assistance of tax experts in order to find out what tax avoiders are doing

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Is it moral legislation or financial legislation?

Dr. R. D. Dalal: The most successful methods escape, because their existence is unknown to the Central Board of Revenue. The money spent in consulting the foremost experts amongst Accountants and Barristers would result in increasing the revenue from incomes. Reluctance on the part of Commissioners of Income-tax to make use of the available legal talent is the cause of serious loss on cases where the issues of fact fall to be decided by them. The tax-payer will engage the services of a Solicitor and a Barrister, while the Central Board of Revenue will rely on their own resources to contest a case in which the issue of fact may involve the payment or otherwise of large sums of money. If a Barrister were employed at the cost of a few gold mohurs, it will save the Finance Department several

lakhs of rupees. The real remedy lies in a general provision dealing with tax avoidance as a whole. What is needed is a provision that the taxable income of an individual should be his real income, not his income after it has been bandied about from company to company in all parts of the world. Though difficult to frame, such a provision is not beyond the ingenuity of the present Finance Member, whose knowledge of income-tax law and income-tax forms is unrivalled and unique.

Mr. B. D. Pande: Is that a medical certificate of fitness?

Dr. R. D. Dalal: It should be specified that the ultimate decision, whether any particular transaction should be disregarded because of its artificiality, would lie with the Courts. This would meet the objection that disregard of form, and examination of the substance of an arrangement, would place too great a power in the hands of the Executive. As the outline of a practical policy, I would venture to suggest that a special body should be set up composed of highly-paid whole-time legal and accountancy experts, whose sole function would be to seek out and investigate all cases of suspected tax avoidance and expose methods of evasion, and to submit recommendations from time to time to the Central Board of Revenue for legislation to thwart evasive operations

Mr. Sri Prakasa: And will they pay any tax themselves?

Dr. R. D. Dalal: Now, Sir, I shall pass on to the next point. Sir, the Indian Chamber of Commerce suggest that the interest on Government of India securities received by the Ruling Princes and Chiefs of India should be subject to income-tax. I may point out that by a Notification under section 60 of the Indian Income-tax Act of 1922, the interest on securities held by or on behalf of the Ruling Princes and Chiefs of India as their private property has been exempted from income-tax. This exemption was granted at a time when the Government of India were anxious to attract subscriptions to their loans. I would suggest that this concession should not be discontinued, because no one can assert with any confidence that the time will never come when the Government of India would not again welcome contributions to their loans from the Indian States.

Now, Sir, I shall refer to a grievance that has been felt very much by the public, namely, vexatious delay that occurs in dealing with income-tax refund claims. I am in perfect agreement with the comments made by the Income-tax experts in section 10 of Chapter XIV of their report. The Income-tax department should be responsible for seeing that income-tax refund claims are disposed of promptly. A definite period should be laid down within which refund claims should be settled. In cases where refund is delayed beyond three months, the assessee should be allowed a certain percentage of interest. That would act as a certain check upon dilatory proceedings. As regards the time limit for preferring refund claims I would suggest that the present period should be extended further by one year. The reason is this. In cases where dividends are declared prior to the 31st March and paid subsequently on the 1st April, an assessee whose accounting period ends on the 31st March finds his claim time barred at the time he submits his return in respect of the year during which the dividend was received by him.

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Clause 6 of the Bill provides for the appointment of Appellate Assistant Commissioners of Income-tax. The separation of judicial and executive functions of Assistant Commissioners is a welcome feature of the Bill. It is a sound and salutary proposal; and I am sure that it will remove the present dissatisfaction with the Income-tax department. I submit that, if with the combination of judicial and executive functions, the Assistant Commissioners have so far proved fairly satisfactory, Appellate Assistant Commissioners will be much more so. Appellate Assistant Commissioners will be relieved of all administrative duties. They will be solely devoted to the judicial function of hearing and deciding income-tax appeals. They will be under the direct control of the Central Board of Revenue. Appellate Assistant Commissioners should be recruited from the department itself. There are many Assistant Commissioners of the highest probity with judicial training and a knowledge of law. They are not only bachelors of commerce with G.D.A. qualification, but they are also bachelors of law. Moreover, they have specialised in this work for years; so they are in a better position to deal with income-tax appeals promptly, efficiently, and satisfactorily. I am quite confident that the great majority of income-tax appeals will be settled in the Department itself by the Appellate Assistant Commissioners and that there will be very few appeals from their decisions. Therefore the scheme of appointment of Appellate Assistant Commissioners should have a fair trial before any further change could be contemplated. The Select Committee recommend that there should be an independent appellate tribunal for hearing appeals from the decisions of Appellate Assistant Commissioners. I shall not trouble the House with the genesis of judicial tribunals for dealing with income-tax appeals. There is no reason to suppose that Assistant Commissioners do not dispose of income-tax appeals impartially. On the contrary, the tendency of Assistant Commissioners and Commissioners of Income-tax is to interfere perhaps a little too much. During 1936-37 there were 80,000 appellants in the whole of India. Of these 24,000 got relief on appeal or on revision; the remaining unsuccessful 6,000 had no case at all. These figures do not justify the charge that the Assistant Commissioners are the judges in their own cause. I submit that a tribunal will not inspire the same confidence of the public as the High Court.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member will continue his speech after Lunch.

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

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

Dr. R. D. Dalal: Mr. Deputy President, before Lunch I referred to the recommendation made by the Select Committee as regards an independent appellate tribunal for hearing income-tax appeals from decisions of Appellate Assistant Commissioners. In regard to second appeals, the proposal that a tribunal should replace the High Court would, in my opinion, be a retrograde step. To lose the High Court and to have an accountant and a legal member of the standing of a District Judge would, in my opinion, be a poor

substitute for the High Court and a poor solace to an aggrieved assessee. In order to ensure absolute fairness and impartial administration of justice to an aggrieved assessee, the Highest Court of Justice should continue to be available to him, the judicial ability and independence of which constitute the greatest possible guarantee for the principles of justice and equity in the interpretation of law. It is true that divergent views have been expressed by different High Courts on the same question of law, but the mere purpose of reconciling these decisions would not justify the establishment of independent tribunals. Intricate questions of law can easily be referred to the Federal Court or to the Privy Council. Moreover, the consensus of public opinion is against ousting the jurisdiction of the High Courts for dealing with income-tax appeals on both points of fact and questions of law. Therefore to me it seems that the proposal for a tribunal is only a sentimental demand.

Now, Sir, I shall bring my remarks to a close. Sir, in connection with income-tax appeals there is one point which raises a public issue of very great importance; it is this, that on an appeal by the Commissioner of Income-tax or the Central Board of Revenue from a decision in favour of the tax-payer, where a point of principle not previously decided and not covered by previous authority is involved, the costs of the appeal to the High Court and to the Privy Council on both sides should be borne by Government, whatever the issue.

Mr. Sami Venkateshram Chetty (Madras: Indian Commerce): Proposing to speak from my Benches soon after my Leader, I realise how difficult a task it is to follow him in speech, however willing and respectful my loyalty to him in other matters. Sir, my Leader has spoken about the more important features of this Bill in a manner which leaves nothing whatsoever for his followers. I have neither the ability to improve upon what he has said, nor the inclination to repeat even on those big issues on which he has spoken. In conformity with his position in life and also with his position in this Party, he has evidently left smaller matters to his followers. I, therefore, propose to address myself only to matters of minor importance as compared with the bigger issues which have already been dealt with. There is another justification why I should speak only on these small matters. I come from a Presidency which is admittedly comparatively small in importance in so far as commerce and industry of this country are concerned, and I represent the small merchant, the small trader and the small factory owner of that part of the country. However small they may appear in comparison with the very big issues that have been dilated upon, the importance of those small measures and matters seem to me too big for the small man in Madras to leave without being protested against. I find that in the first place it will be useful to refer to what has not been done by the Select Committee more than what they have actually done in the committee. For such improvements as were possible to be done in the Select Committee, either with or without the support of my Honourable friends representing the Muslim League, I think the thanks of this House are due to their labours, but I must express my disappointment at the way in which the Select Committee has practically abrogated some of the most essential duties to be performed by them. I speak in this matter with considerable hesitation because I am quite aware of the fact that my Party was represented on the Select Committee by no less weighty persons than the Leader and the Deputy Leader of the Party but yet, I am quite conscious of the fact that on account of the pressure of time they were not able to bestow that considered thought

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and attention which the smaller matters deserve, at any rate, in a taxation measure of this importance. I desire to draw the attention of the House to three or four statements in the Report of the Select Committee which gave pointed force to my assertion that the Select Committee has abdicated its essential duties to the good offices of a "trustful Government" like the one we have.

In the very first paragraph dealing with the subject matter of the Bill, we find these sentences:

"The limited time at our disposal and the complicated nature of the adjustments that would be necessary for this purpose have prevented us from giving effect to our views in the Bill itself and have reconciled us to awaiting proposals on the subject which Government undertakes to put forward at the consideration stage."

The reason why they have allowed the whole responsibility to be taken by Government is stated by themselves. And that reason is the complicated nature of the adjustments that would be necessary. If the adjustments that would be necessary are so complicated, I think, Sir, that must have been a sufficient reason for the Select Committee to deal with the matter themselves instead of leaving the matter to be brought forward by the Government and again in a later paragraph they say: In the first paragraph on page 2 we again see that the Select Committee has developed a good deal of faith and confidence in this Government. They say:

"We have received an assurance that administrative arrangements can and will be made to obviate any hardship that might be imposed, in consequence of the change to the accrual basis of taxation, on persons prevented by laws in force in the country where their money may be lying from remitting money to British India as and when they wish."

Sir, if there is one matter which has troubled the minds of those pioneers of commerce and industry who have gone out of this country to foreign lands, it is this change from the remittance to the accrual basis and yet on that matter the Select Committee has definitely left it to be decided by the Government on the assurance given by the Government. I am afraid the Honourable Members of the Select Committee are far too experienced to put any reliance whatsoever on the assurance given by the Government. As regards clause 8, the Select Committee say:

"Some apprehension was expressed that under section 7 of the Act as now amended, an employee might find himself called on to pay income-tax on salary which was not and never would be paid to him."

There, again, Sir:

"We have received an assurance that administrative action can and will be taken to obviate any such hardship."

May I know how many such hardships are not there in the archives of the Government which have not yet been rectified under administrative action? Sir, they say:

"Government have given us an assurance that the new rates consequent on the change from the cost basis to the written down basis will be discussed with the interests concerned before they are fixed, and that the new provisions will not be brought into operation until the rates have been so fixed."

I shall leave that statement without any comment. Then on page 8 again with regard to clause 23 they say:

"It has been made clear to us that notwithstanding such publication of notices Government intend that notices shall as hitherto be served on all persons believed to have incomes liable to assessment."

Sir, if the Government intend doing what they have hitherto been doing, why should they object to a change in the wording of the clause? Again, Sir, they say, with regard to clause 45, on page 4:

"The limited time at our disposal has prevented us from making specific provision to this end in the Bill, but we understand that Government will bring forward proposals on the subject at the consideration stage."

But here, it is not only placing confidence and reliance on an assurance but I am afraid the Honourable Members of the Select Committee themselves felt some doubt and, therefore, they left it by saying that they understand that Government will bring forward proposals; evidently there has not been a direct statement made by the Finance Member that he will bring forward such proposals

Mr. S. Satyamurti: There was.

Mr. Sami Vencatachalam Chetty: Sir, this may make us wonder, apart from other reasons which I shall refer to in the course of my few remarks, why, in spite of this great handicap of time, we should allow the consideration of this Bill to be supported by us. Sir, the Honourable the Finance Member has very successfully pinned us to a time-programme in the matter of the passing of this Bill. Sir, the Honourable Member got the House to agree to the Select Committee being called at Delhi in October and to the convening of a special Session to consider this matter at an exclusive sitting of the Assembly, and he thought he was really obliging this House and this country by giving them some chance to consider this measure in all its aspects, but I find that, having taken a promise from the Opposition and other Groups that they would be willing to sit in a November Session, he has actually taken their consent to have this Bill passed at any cost. I hope my statement will be belied by the action which the House will take

The Honourable Sir James Grigg: What do you mean by "at any cost"—do you mean "bribing"?

Mr. Sami Vencatachalam Chetty: Sir, I do not know. The reasons which the Honourable the Finance Member stated in support of the consideration of this measure are these,—that the passing of this measure will bring in more revenue to the provinces, and, secondly, that the tax-dodgers would be roped in. Sir, in regard to the first reason, I am afraid he is using it as a trump card. I have heard this argument used for the last two or three occasions. Any time during which he wants to bring in a taxation proposal or a legislative proposal, there is the question of the inducement of higher contributions to the Provincial Governments. So it was that his Honourable Colleague, Sir Thomas Stewart, was able to get his Motor Vehicles Bill passed.

The Honourable Sir James Grigg: Outrageous.

Mr. Sami Vencatachalam Chetty: And then, secondly, there was an attempt, fortunately infructuous, made by the Honourable the Finance Member in regard to some Stamp Duty Bill.

The Honourable Sir James Grigg: What has your Prime Minister to say about that?

Mr. Sami Vencatachalam Chetty: By quoting that, my friend has practically put the Opposition into the Government lobbies because my Party, having been in power in nine out of eleven provinces, Honourable Members representing that Party somehow feel as if it is their duty somehow or other to provide money for their own administration. It is true that they exercise responsibility there but they have a greater responsibility, and I am afraid my Party has forgotten the responsibility on which alone it has been returned to this Assembly and on the strength of which alone the administration has now come into our hands. We have given our promises and our pledges to the general electorate and to the commercial and other electorates that it will be our fundamental duty to see to the reduction of the incidence of taxation on the poor.

Now, Sir, the Finance Member is exploiting the sentiments of the poor as against the rich and I know if my Honourable friend, Prof. Ranga, had been here, he would also have shouted along with the Honourable the Finance Member in this matter.

Now, this income-tax measure is not a matter between the rich and the poor but between the smaller rich and the bigger rich. Now, according to the amendments made by the Select Committee, it is my assertion, all that the big businessmen wanted to have done has been done and the smaller man has been neglected. Now, I ask whether, in the interests of the very poor for whom my friends and more particularly the other side appear to be very sympathetic, they have considered as to what it is that is actually oppressing them so far as this measure is concerned.

Sir Cowasji Jehangir: What is it that you want us to do?

Mr. Sami Vencatachalam Chetty: Please let me refute the assertions made by the Honourable the Finance Member first. The professed object of the Honourable the Finance Member in bringing this measure, as I stated earlier, is to put down the tax-dodging. I quite realise that the Honourable the Finance Member comes from a place where tax-dodging is a fine art.

The Honourable Sir James Grigg: In India it is a business.

Mr. Sami Vencatachalam Chetty: As though his experience is not enough, he has also imported another gentleman, Mr. Chambers. Nobody finds fault with either the Honourable the Finance Member or the Government for trying to put down tax-dodging. We shall do our best to help him to prevent this tax-dodging provided he helps us in putting down law-hedging by the executive of the Income-tax Department. All the dodging that he might complain of in India is practically due to the income-tax administrators misinterpreting the law and prosecuting the assessees. And it must be admitted to the humiliation of the Honourable the Finance Member himself that the more important cases of dodging which have appeared in the Indian Courts were cases of dodging perpetrated by my Honourable friends, the Englishmen, in this country.

The Honourable Sir James Grigg: There are a good many others also.

Mr. S. Satyamurti: But you set the example.

Mr. Sami Vencatachelum Ochetty: But if you take the quantity of the amount involved in Indian cases as against the quantity of the amount of money involved in the few cases of these English merchants, you will then see the disparity in the cleverness of dodging the income-tax rules.

Now, Sir, I am sure the Honourable the Finance Member will not deny that there is an Association in the United Kingdom whose purpose is to assist the assessee to evade the income-tax rules. Nor is he in a position to deny, I am sure, that there is a book written by one of the cleverest man in England as to how to dodge the income-tax law. It will be interesting to know how many issues of that book are sold in England and how many in India. So, when he speaks of putting down the dodging of income-tax rules, he is not speaking really with the full knowledge of the offenders against this law. If he knows who the offenders are, then he only wants to pretend his ignorance of them and throw the whole blame upon Indians. I do not deny that there are cases of evasion of income-tax on the Indian side but they are of such a trivial nature and are such disingenuous attempts on the part of the illiterate and half-educated merchants of this country that they are not worth taking notice of.

Now, I come to those matters on which the small man feels very much. First of all, I will refer to the invidious provisions of this law. If really the increase of revenue was the only consideration for a measure like this, the Honourable the Finance Member ought to be very fair between all sections of the people of this country, whether resident, domiciled or non-domiciled. It is only then that he can prove his *bona fides* as to the fair dealing with regard to matters of taxation. Sir, in this matter I beg of my Honourable friends of the European Group not to misunderstand me when I have got to repeat what has been so often repeated by them,—fair field and no favour. It is exactly 'fair field and no favour' that we, the smaller merchants and smaller traders and commercial men, are asking now. This appeal is not only addressed to the European Group but also to the magnates of other provinces because they ought not to rest satisfied with what they have secured in this matter and leave us in the lurch.

Sir Cawasji Jehangir: What is it that you want?

Mr. Sri Prakasa: We want to rob you!

Mr. Sami Vencatachelum Ochetty: Now, Sir, I beg of you to compare and contrast the provisions of the United Kingdom law with the law either as it is or as it is going to be hereafter. It was pointed out by my Honourable friend, Mr. Lalchand Navalrai, that in 1931 or 1932 there was a Bill of a similar nature which was rejected by the then Assembly. The then Assembly, according to us, was not as popularly representative Assembly as we claim to be today.

Sardar Sant Singh: And that is why they rejected it then.

Mr. Sami Vencatachelum Ochetty: Therefore, when a less popular Assembly was able to reject a similar Bill in 1931, I do not see any reason how a more popular Assembly today can even look at this Bill, not to speak of the support that the Honourable the Finance Member has been able to secure from the Opposition.

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Now, Sir, I consider that if the Government of India Act had provided against discrimination against Englishmen, this Act is either perpetuating or making sufficient provision for discrimination in favour of Englishmen.

The Honourable Sir James Grigg: Nothing of the sort.

Mr. Sami Vencatachelam Chetty: So we are unconsciously becoming abettors in continuous crime of exploiting of India by other than its own nationals. Discrimination seems to be the feature of this income-tax law. Please for goodness sake compare and contrast the United Kingdom law with this law in many of its provisions. Sir, in the first place it looks as though it ought to be taken as a well-admitted presumption that every Indian is a dishonest man, that every Indian is a tax-dodger, that every Indian is interested in keeping the true state of affairs concealed and that there should be neither privacy due to him nor confidence reposed in him. Otherwise how do we justify the provision of empowering the Income-tax officer to enter the premises of a possible assessee or a would-be assessee and demand inspection of accounts? May I ask the Honourable the Finance Member who always has the United Kingdom law as his authority for doing things whether there is similar provision in the English law?

The Honourable Sir James Grigg: We only keep one set of books there.

Mr. Sami Vencatachelam Chetty: That means that the second set of books has not been discovered in the United Kingdom. With regard to this very important provision all that the Honourable Members of the Select Committee have been able to do was this. That the Income-tax officer must be armed with the authority of a Commissioner.

Sir Cowasji Jehangir: May I point out to the Honourable Member, that was not what the Select Committee did. Please do not blame the Select Committee or the minority of the Select Committee for something that they did not do. You know that it is not permissible in this House to divulge the number or the names of the minority. You are now putting the blame for a certain clause on the minority which it does not deserve, as you have been doing throughout your speech.

Mr. Sami Vencatachelam Chetty: I am sorry the Honourable Baronet from Bombay has completely misunderstood me. I neither mentioned names of the Honourable Members of the Select Committee nor divulged what I do not know. I do not know the proceedings of the Select Committee, except what appears in the report. I find in the amended Bill that all the amendments made by the Select Committee are underlined and the underlined sentences are stated in the heading of the Bill to be the changes or additions made in the Select Committee. I am proceeding upon that assumption. They are satisfied only if the Income-tax officer is armed with the power of a Commissioner to enter the premises of an assessee. I have often heard both on this side of the House and on the other side that it is going from tweedledum to tweedledee. What distinction do Honourable Members think there would be in the power of the Income-tax officer and in the power of the Commissioner of Income-tax? It is a higher officer in the same hierarchy. For instance the Secretary of the Finance Department is the subordinate officer of the Honourable the Finance Member. But behind this Assembly we

do not know whether the tail wags the dog or the dog wags the tail. Sir, this difference between an Income-tax officer and a Commissioner of Income-tax is nothing. I warn this House to be mindful of the oppressive nature of an unwarranted search like that. Apart from the fact or otherwise of the dishonesty of a particular man, it seems to me castigating the whole of my countrymen with suspicion and distrust if we allow an officer of the stamp of an Income-tax officer to search the premises of an assessee. Now, Sir, there is no question of limitation of time. There is no question on what occasion he has got to enter. There is no previous notice. He can enter the premises at any time. Of course, probably he will be guided by what are called the general clauses governing the hours of search, which must be between sunrise and sunset. I am sure that there will be many private matters transacted between sunrise and sunset. I am only citing as an illustration the nature of the oppression which this law is going to cause in so far as smaller men are concerned. I am sure there will be no visitation of that sort in the premises of my Honourable friend, Sir Cōwasji Jehangir.

Mr. S. Satyamurti: Why not?

Mr. Sami Vencatachelum Chetty: I know of instances of the Income-tax officers coming in as guests and worming out information. Probably a visitation of that nature might happen in the case of the Honourable Baronet from Bombay.

Another point which I should like to bring to the notice of my Honourable colleagues is with regard to the state of Indians in foreign lands. Now, even with the conservatism of this Government it must be admitted to their discomfiture, to their humiliation, to their shame, that this Government was not able to offer any sort of protection to foreign traders of my country, and yet we exact every pie from those people on businesses carried on simply on their own energy, skill, wisdom and adventure and that must be a matter of some concern to Honourable Members of the Government.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Who gave you passport to go to foreign countries?

Mr. Sami Vencatachelum Chetty: Passport or no passport, if only my Honourable friend, Mr. K. Ahmed, had blocked the way, no one could have gone.

Sir, so far as foreign income is to be taxed on remittance basis, I have very little to say against it, but, if as is suggested it should be taxed on accrual basis, I hope Honourable Members will see the injustice and the iniquity of a step of that sort. Sir, in the first place, it will be impossible to substantiate to the satisfaction of the assessing officers the accuracy of their reports of income. There will be a demand for the production of account books which might well nigh be impossible to produce from distant places and to prove to the satisfaction of the assessing officers. I know in one small district of Guntur a very over-zealous Income-tax Officer (an Assistant Income-tax Officer at that) was able to persecute a successful merchant for years together so much so that that merchant had to reduce his commercial activities to a considerable extent. If that is the case in a small district like that, what should happen in regard to those enterprising gentlemen who have got branches all over the world? It will be

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impossible for the account books to be brought over here and prove to the satisfaction of the Income-tax Officers. I was sorry, Sir, the Honourable the Law Member was not on the Select Committee.....

The Honourable Sir Nripendra Sircar (Law Member): I was glad, Sir.

Mr. Sami Vencatachelam Chetty: Because I know that when a similar representation was made by foreign insurance companies with regard to production of their accounts how sympathetic the Honourable the Law Member felt in regard to the difficulties in producing accounts in India and, I am sure, with his experience of particularly clever manner in which foreigners used to dodge various laws and Acts in this country, he would have sympathised with the demand of these Indian commercial men who are doing foreign business. I hope, if his sense of fairness is not entirely suppressed by his loyalty to his Colleague, it will be exercised on this occasion, and that he will advise his Colleague how to mitigate the rigour of this measure. Sir, secondly, with regard to exchange restrictions that are prevalent in various parts of the world, it has become a peculiar feature of recent years that every country is anxious to reserve its economic resources and cash resources to itself. In these circumstances it has become impossible for these traders in foreign countries to remit either their profits or even to close their business and remit their assets. I see that there was again an assurance given by the Government that some method will be found in regard to these countries where exchange restrictions are current. What the nature of those arrangements will be it is impossible now to divine and knowing as I do that the Government is habitually prevaricating and procrastinating I should not be surprised if they would not take this matter into consideration after this Bill is passed. The Honourable the Finance Member has every consideration to the Englishman who does business in the country. In fact, Sir, he went to the length of putting forward an argument yesterday which was condemned and repudiated by my Honourable Leader in most scathing terms and it is a great surprise that the Honourable the Finance Member could not find a more valid reason to uphold his contention in regard to that matter, but that is a different matter. We shall argue that point out when it comes up. I am only mentioning that matter in order to say that while the Honourable the Finance Member is so very solicitous about even the inconveniences of the English merchants here, I expect him to be at least fair to Indian merchants either here or outside this country.

The Honourable Sir James Grigg: Why should they not produce audited accounts?

Mr. Sami Vencatachelam Chetty: Have you made provision that Income-tax Officers will be satisfied with audited accounts? You have not.

Now, Sir, tacked on to this question of foreign income is the question of Indians in Burma. Sir, the history of Indians in Burma which is considered to be a most distinguished history of Indians in that country has now become a most tragic matter and also a matter for great humiliation. Now, I do not think it is necessary to go through all that has occurred in order to force the necessity of separation of Burma from this country. But there it is. Burma has been separated, and now we are under a sort of agreement with Burma in respect of duties and other

trade matters. But it is a matter of great regret that we forgot about the Indian businessmen who are now in Burma. In this connection, my Honourable Leader made a passing reference and I want to supplement that reference with a few more details. It is often supposed that those who have gone to Burma from India were all Chettiers from Southern India. In the first place I want to disillusion those gentlemen of that impression. It is not only Chettiers from South India but also Muslims from South India and Muslims from Bombay and some from Bengal and the United Provinces and the Punjab and Sind. I am sorry that some of my Honourable friends to my left have not realised the extent of trading activities of their co-religionists in that country. I am very glad to be informed that they are beginning to realise it. In this connection, one of the matters concerning these people who may now be called emigrants from India is with regard to agricultural income. It is true that agricultural income being not only subject to the possibility of another tax by the Provincial Governments, but on the fact that these proprietors are very poor people, should be exempt from taxation and that Burma being no longer a part of India, any income derived from that source should be treated as non-agricultural income. The possession of these agricultural lands by these moneylenders was not of their wish. They had not gone there in order to acquire land. They had gone there only to do money-lending business. Very often we confuse the issues by repeating to ourselves certain slogans. Whenever the moneylending profession is mentioned it is considered to be not a very decent profession. At any rate that will be one way of emphasising one's own patriotism or one's own concern for the poorer people when one condemns moneylending. But I do not think any country has ever progressed commercially or industrially without moneylending in its smaller shape or banking in its bigger shape.....

Mr. K. Ahmed: Not at such high rates of interest!

Mr. Sami Venkatachalam Chetty: My Honourable friend in his usual humorous way has intervened by saying "Not at such high rates of interest." But it is on that high rate of interest that this Government want to tax and to share. Apart from that, I will dispel the idea that it was at a high rate of interest. What is the high rate of interest? In England, the present rate of interest is less than one per cent. But in India even the bank rate is about three per cent. Therefore, the financial conditions of this country lead to interest-racking or interest-profiteering even. Similarly, if you compare one group of commercial men and another group of commercial men, you will find variation of interest to a great degree. It is just possible that a person who cannot raise credit has had to pay a higher rate of interest than one who is able to get credit in the financial market. But whatever high rate of interest they may have charged on the Burmans, this fact cannot be effaced from history—the very great certificates which have been given by the successive administrators of Burma with regard to the moneylending business of these Chettiers and South Indians, they have admitted in very glowing terms that the agricultural prosperity of Burma is due mostly, if not entirely, to the financing of South Indians. Apart from that, when the capital came to be repaid, you will be horrified to know at what rate of interest and what great sacrifice these moneylenders have had to take these lands. They may have charged 24 per cent. or 18 per cent. or 15 per cent.; but when the money could not be realised, when they were

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threatened with murder and assassination, when State laws were promulgated to expropriate them without compensation not only in Burma but in many other foreign countries they had to take these lands not with interest but with considerable sacrifice of the principal itself. Therefore, what I submit is, not that I want that agricultural income from Burma should be treated as exempted as such, having regard to peculiar nature of the case of these Indians in Burma, they should be treated with as great a consideration for all time to come as with other provinces, or at least for a certain number of years, during which time it may be possible for them to clear off bag and baggage from that country.

Now, Sir, I want to mention one word with regard to reopening of assessment. The reopening of assessment is extended up to eight years, and it is also provided or at any rate it was understood that this reopening was only in respect of fraudulent or deliberate concealment of income. But when it was about to be put into actual drafting of the section, the reopening of assessment was made possible in respect of cases coming under section 28 (1) (c) (i). Under that clause it is not necessary that there should be fraud in regard to the submission of returns or accounts. It is enough if any other kind of concealment is discovered to enable an Income-tax officer to re-open the assessment for a period of eight years. Here again the longer you extend the period of re-opening the assessment, the greater is the trouble or the difficulty of an assessee to produce accounts to substantiate his statement.

Now, Sir, with one word with regard to the sneering comment of the Honourable the Finance Member on propaganda, I shall close my speech. This is not the first occasion, Sir, when he felt triumphant at reading telegram from persons affected, the intention of which was to make the House reel with laughter and to show that these people are imagining grievances which do not exist in fact, and that, therefore, they ought not to be regarded with any seriousness. I am glad, Sir, we have not fallen victims to that kind of sneering reference to some of the telegrams which he has received. The wearer knows where the shoe pinches, and so long as the Finance Member is an Englishman, and, more than that, a Member of the Government, I am sure no shoe would pinch him . . .

Mr. Sri Prakasa: Give him a Chinese shoe and it will pinch him.

Mr. Sami Vencatachelam Chetty: It is just possible, as often happens, that the grievances of assesseees are in several cases exaggerated,—I do not deny it,—but there has been sufficient cause for apprehending that the worst will happen in so far as this Government is concerned, because proceeding on the basis that the Indian assessee needs no sympathy whatsoever, the next place for him, apart from his business, is the prison or conviction, it will be really surprising if an Indian assessee does not fear that the Government would go on increasing the rigour of its rules. Whatever the rules are, in their actual administration, they have proved to be very oppressive. I do not want to refer to small incidents which generally happen in income-tax offices, but one cannot deny it that when often times it is not possible for one to get a decent seat in that office for an Indian assessee, one can imagine the indignities to which Indian assesseees are put in respect of other matters.

In the first place, the same kind of mentality prevails right from the Finance Member down to the chaprassis in the income-tax offices,—there is that sneering disregard of the grievances of Indians. You go to the Commissioner of Income-tax, and he says: 'Oh, no, do you think my officer is so unreasonable as to misunderstand your position? Certainly not. I am inclined to believe him more than I can believe you'. That is the way in which everybody goes on. This will be a sort of new experience so far as my English friends are concerned. They do not know what sort of indignities and humiliations to which we are put, how many times we have to carry our books, bag and baggage in cart loads to the income-tax offices. Sometimes a Tamil man is posted in a Canarese District, or an Urdu man is put in a Canarese District. Then it devolves upon us to translate the accounts for him and explain all details. There is no doubt that some improvement has been made now in regard to this matter, but I am only mentioning the very petty and minor tribulations and difficulties we, the small men, have to undergo, and this measure gives added force to these things being done continuously and unchecked, by these income-tax officers. I hope this House and the Government will see that these things are rectified by putting down in the legislation itself sufficient provisions to disable these officers from troubling the assesses, in the manner in which they have been accustomed to do heretofore.

Now, Sir, apart from that, there are one or two reasons why it seems to me very necessary that we should reject the consideration of this Bill. Now, Sir, the Honourable the Finance Member started with bargaining. He said that he would see that the notifications issued under section 60 would be withdrawn if this measure was passed in substantially the same form as it is now before the House, and, therefore, he started the bargaining. I think there is nothing wrong in our bargaining on similar terms with the Members of the Government, and why should we not say that unless section 49 is allowed to be amended by us we shall not look at this Bill.

Mr. Lalchand Navalrai: Also section 4.

Mr. Sami Vencatachellam Chetty: I do not know why we should develop this kind of affection for this measure. So far as Provincial Governments getting more revenue is concerned, in the first place I am not sure, having regard to the Government's desire to thrust Federation upon us, how long the Congress Ministries are going to remain in office in those provinces. Having regard to that insecurity, why should we assume responsibility for the provinces, especially, as we fear they will not continue in office for long. It seems to me contradiction in terms if we do not resist this while we are proclaiming resistance to Federation. Then, Sir, if the money question is the only consideration with the Provincial Governments, I am sure they will be able to realise this money even from the very class of people whom you are subjecting under this Act by adjusting certain inequities and inequalities that exist at present. Why should you accept a measure which perpetuates the humiliating and insulting and invidious distinction between Englishmen in India and Indians in foreign lands? I, therefore, think that our Party will be well advised to reject this measure.

Mian Ghulam Kadir Muhammad Shabbah (Sind Jagirdars and Zamindars: Landholders): Sir, I need not mention that the measure under discussion is a highly technical one. The Departments of the Government of India, which evolved out this measure, deserve all praise, for the great

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amount of work that has been done. The Honourable the Finance Member deserves congratulations for the manner in which he piloted this Bill in the Select Committee, the result of which is writ large on almost every page of the Bill in the improvements that have been effected. The Select Committee also deserves congratulations on the very patient work that appears to have been done, which is apparent from the large measure of agreement that is in evidence in the Report.

The Bill before this Honourable House in the main seeks to give effect to the recommendations of the Income-tax Inquiry Committee which was appointed by the Government of India two years ago to explore the whole field of this vast and complex subject. The present Bill is the final result of that inquiry. I have every confidence that this measure, into whose making so much careful labour has gone in, will receive a very sympathetic treatment in this House.

The present measure seeks to enable the State to exact its pound of flesh from the taxpayer. But it is up to the State, to whom the interests of the people should be as dear as its own interests, to see that no unnecessary blood is spilt in the process. This will, in fact, militate as much against the interests of the State as against those of the people. For, to vary the metaphor, any undue exaction on the part of the State will only kill the goose that lays the golden eggs.

The main purpose of the present Bill is to prevent evasions of the tax as far as possible, and thus to secure to the State the maximum amount of revenue that can be obtained from this source. Of course, it is perfectly proper, and, indeed, necessary for the State to take due order to prevent evasions of any lawful due or legal liability on the part of any person or persons. But, at the same time, we must also see whether the fault does not lie as much with certain provisions of the Act itself or with those who administer it. For, every attempt to bring in more revenue must be regulated and controlled by the principles of equity and good conscience, so that while the income of the State is enhanced no undue hardship is caused to the people.

I will now dwell very briefly on the salient features of the present Bill which appear to me to call for modification. Within the time at my disposal it is not possible for me to deal with them as completely as I would have wished. I will, therefore, content myself with indicating the main lines of such improvements in the Act as appear to me to deserve consideration. I will refer to the amendments, rather in order of their importance as it appears to me, than in the order in which they stand in the Bill.

The Bill places the taxation of foreign income on an entirely new basis. It replaces the present "remittance" basis by the proposed "accrual" basis. On the former basis, only that part of the foreign income of an Indian resident which is received or brought into British India or is deemed to accrue or arise to be received in British India, is subject to taxation. On the latter basis the whole of the foreign income of a domiciled Indian resident is proposed to be taxed, whether it is brought into British India or not. In considering this change that is sought to be newly introduced, we have to take great care to see that this change will not have a bad effect on Indian trade in foreign countries.

No one will dispute that it is a very good sign that so many of our nationals go abroad to spread their business and to eke out an honest living. They certainly deserve all encouragement. Encouragement is necessary in the case of Indian trade in foreign countries on account of the various disabilities under which it is labouring. A large number of enterprising British Indians are engaged in business in foreign countries. The people of my own Province of Sind have established about 5,000 shops all over the world; more than 12,000 Sindhis are engaged in them in various capacities; and about 60,000 Sindhis are dependent on this foreign business. Therefore, we have to take particular care that trade does not receive a set back as a result of proposed amendment.

Even the United Kingdom Tax Codification Committee, 1936, expressed itself in favour of the continuance of the remittance basis in the taxation of income from foreign business, and also in this very Government a similar amendment which was brought in 1931 was not supported. Even at present our merchants doing business abroad are subjected to double taxation. For, on the very remittances on which they pay tax in India they have already paid tax in the countries in which they carry on their trade. Far from getting any relief from double taxation, they are now to be mulcted still further even on the income which they do not remit to India. This is a position which requires very careful examination.

There will also be a number of difficulties in the practical working of this amendment, such as, examination of foreign account books, varying rates of exchange, foreign exchange control and the like. Even though these are matters of detail, they are very important details and on a successful solution of the problems raised by these details will depend the ultimate success or failure of the measure before us.

The provision regarding compulsory returns of income is also an innovation in this country. Illiteracy in India is the almost universal rule, and literacy the very rare exception. It will be practically impossible for the uneducated masses to submit their returns, and they will thus be subjected to unnecessary harassment. Innocent people will be penalised, not for wilful disobedience of the law, but for their sheer ignorance. India is very far from ripe for this measure, which will only cause hardship to the vast bulk of people, and safeguards are necessary to see that it causes no unreasonable hardship. After all, legislation must always adapt itself to the conditions prevailing in the country in which it is sought to be introduced, and the conditions precedent for this provision are not universal in India.

Another departure is the proposal to tax capitalised profits. This is, no doubt, the law in Australia, but that is no reason why it should be law in India. The present proposal affects the reserves set aside by some companies towards their capital requirements. When these reserves are not so utilised, they are then distributed amongst the shareholders. The practice of putting such reserves towards capital has been in existence long before the Income-tax Act came into operation. And the present Act itself recognises them as capital and not as income. The proposed amendment will, therefore, have the effect of taxing what is really capital, as income.

I also wish to make a suggestion in connection with the exemption granted in the case of income devoted to any "charitable purpose", which purports to include any object of "general public utility". I consider

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that the term "charitable purpose" should include pensions to widows, orphans, children, etc., as is the case in the English Statute; and the term "general public utility" should include trusts for the benefit of any particular section or community and also what is known as "Wakf-alal-Aulad". I think that these points should be provided for in the Bill.

The proposed bifurcation of the present single post of Assistant Commissioner of Income-tax, into two separate posts of Inspecting and Appellate Assistant Commissioners of Income-tax, is commendable. At present, both the inspecting and appellate work is done by a single officer, the Assistant Commissioner of Income-tax. The separation of these two functions will be to the advantage of the taxpayer.

These are a few suggestions which I have ventured to put forward before this Honourable House for their earnest consideration. This piece of legislation is very far reaching in its effects. It touches the people in a matter of the most vital concern to them. Expenditure is racing forward in every direction, while income is not able to keep pace with it. The State is mainly concerned with its revenue and with the means of increasing it by every possible means. But we, as the accredited representatives of the people and the custodians of their interests, have a solemn obligation to fulfil towards them. It is for us to see that while the State is not deprived of any of its legitimate dues, the people do not suffer any undue hardship. It is with this twofold aim in view that I have put forward a few humble suggestions of mine before this Honourable House, and I feel sure that they will receive whatever consideration is due to them.

With these observations, Sir, I support the motion.

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadian Urban): Sir, The Income-tax Amendment Bill, as it was originally introduced in this House last winter, contained defects of a very serious character, and the Select Committee have been able to remove only a few of them. "No fundamental alteration", to use the words of the Honourable the Finance Member, has been made in this Bill. This is to be deplored, especially in view of the fact that the opposition was led by an astute lawyer and a great advocate like Mr. Bhulabhai Desai, to whose extraordinary knowledge and skill a handsome tribute was paid yesterday by the Honourable the Finance Member. We were also told that the Honourable Sir James Grigg mellowed during the deliberations of the Select Committee. It is unnecessary for us to discuss whether this was the effect of age or the influence exercised on him by the mild climate of the country and the non-violent behaviour of its people. But the fact remains that, in spite of the best efforts of Mr. Desai and the cool temper of the Finance Member, the Bill, as it has come before us, still contains many objectionable features. One reason may be found in the fact that the strength of the opposition in the Select Committee was not proportional to the strength of the opposition in this House. But perhaps a more important reason was to be found in the hurry, the indecent hurry, with which the Select Committee finished its deliberations.

The Honourable Sir James Grigg: Is it in order to refer to the proceedings of the Select Committee as indecent? I deny the allegation completely. There was no indecent hurry at all.

Dr. P. N. Banerjee: In many places in the Select Committee's Report itself, as has been pointed out by my Honourable friend, Mr. Chetty, there is evidence of this hurry. It has been admitted by the signatories to the report that there was hurry. They had no time to discuss some of the most important matters.

In this connection, I desire to point out that undue haste has characterised the procedure in regard to this Bill through all its stages. It was only in 1935 that a committee was appointed to enquire into the income-tax system of the country. Before a year had elapsed this committee submitted its report, and before another year had come to a close the recommendations of the committee had been put in the shape of a Bill and placed before the Legislature.

The Honourable Sir James Grigg: How long do you want? A century?

Dr. P. N. Banerjee: I will tell you presently. When the proposal was made to refer the Bill to a Select Committee, many of us on this side of the House urged that the Bill be circulated for eliciting opinion thereon before it was referred to a Select Committee, but this proposal was not accepted by Government. So the result is that within the brief period of three years an important measure like this is going to be placed on the Statute-book. By way of a contrast, I may refer to what has been done in a similar connection in England? The Codification Committee was appointed more than ten years ago, if I remember aright; and the Codification Committee took no less than six years and a half to finish its deliberations and to submit its Report. This Report was submitted three or four years ago, but no Bill has yet been placed before the British Parliament. Mark the contrast.

Sir, the third reason for the inability of the Select Committee to deal with this Bill in the manner in which it ought to have been dealt with was to be found in the fact that in respect of some matters the sanction of the Governor General was needed. When we discussed this matter last year some of us urged that the sanction of the Governor General should be obtained by the Finance Member in regard to these vital matters, but this was not done. The last reason for the unsatisfactory character of the Report which has been presented is that the Bill is an amending measure and not a consolidating Bill.

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

When an amending measure is placed before the Legislature, it is precluded from considering the Bill in the manner in which it ought to consider it. It is unable to look at all the different aspects of the income-tax system, and this grievance of ours is not only with regard to the substance but also with regard to the procedure. All Members of this House who have tried to table amendments to this Bill have found the greatest difficulty. The Honourable the Finance Member told the House yesterday that an income-tax measure is intricate and complicated in all countries and at all times. This is true, but that is no reason why unnecessary complications should be introduced by defective drafting and by the creation of confusion, where confusion could be avoided. We find that even the figures and letters which indicate the clauses, sub-clauses, parts and sub-parts of the Bill have not been correctly used. I do not

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know whether this has been due to deliberate design or to incompetence on the part of the office; but the fact is that we have been placed in great difficulty, and a great deal of the time of the House will be taken up when Members of the House will attempt to explain the tenor of their amendments and to make clear what their real intentions are. Who will be responsible for the waste of the valuable time of the House?

Coming to the Bill itself, one is tempted to ask, what is the main purpose of this Bill? It is true, as has been pointed out by the Finance Member, that a number of poor persons will stand to benefit when the slab system is substituted for the step system. I welcome this change, and I express my gratitude to Sir James Grigg for the concession he has made. But I must say that this concession is only an incidental one . . .

The Honourable Sir James Grigg: Not incidental at all. It is fundamental.

Dr. P. N. Banerjee: It is incidental to the introduction of the slab system. You cannot deny that. However, we should now consider the standpoint from which this measure has been approached. Is it the standpoint of a tax-reformer, or is it the standpoint of a tax-gatherer?

The Honourable Sir James Grigg: Both.

Dr. P. N. Banerjee: Yes; but it appears to most of us that the stand-
 4 P.M. point is more that of a tax-gatherer than that of a tax-reformer. It will be clear from a look at the Bill that the Bill has been brought forward mainly with the object of increasing the revenue of the Government. Only in two clauses of the Bill the Government have agreed to sacrifice the revenue of the country, namely, the clauses relating to the distinction which has been made between domiciled residents and non-domiciled residents and the provision relating to the relief of double taxation. I am not one of those who think that the resources of the country should not be enlarged, but what I do insist upon is that proper means should be adopted for this purpose. I should insist that the means adopted for enlarging the resources of the country should be fair and just.

Sir, the Bill is based on the recommendations of the Income-tax Enquiry Committee, but the recommendations of this Committee have been departed from whenever it has suited the purpose of the Government. The English system of income-tax law has been followed in general in the Bill, but this system has been departed from whenever the interests of the Government dictated such departure. Sir, the result of this attitude on the part of the Government has been that the principle of 'ability to pay' and the principle of convenience to the tax-payer and to the general public have been ignored in many cases, and in not a few cases have provisions been inserted which are harsh, oppressive or arbitrary. I am one of those who sincerely desire that evasion should be stopped, but surely it ought to be possible to stop evasion without recourse to harassment and oppression. It may not be irrelevant in this connection to refer to the oppression and harassment which were caused by the income-tax measures enacted in the years 1869 to 1872 and the consequent discontent which,

to use the words of Lord Mayo, the then Governor General of India, was "a political danger the magnitude of which could hardly be over-estimated". Such a conflict should be avoided by all means on the present occasion.

Sir, I shall now discuss very briefly some of the more important provisions in the Bill. The definition of the word "dividend", as given in the original Bill, was borrowed from Western Australia. Now this provision was intended to prevent the avoidance of payment of super-tax in cases in which assets are distributed to assesses. The amendment which has been made by the Select Committee in this regard has improved the definition to some extent, but this amendment does not go far enough. If the amendment as it stands now is allowed to stand in the Act, it will be difficult to distinguish between capital and income, and it may sometimes happen that assets and not income will be assessed. I, therefore, suggest that the whole of this part of the clause should be deleted.

Sir, the amendment to section 4 of the Bill seeks to enlarge the scope of taxation of income. There are two matters which should be carefully considered in this connection. In the first place, in this clause a distinction is drawn between domiciled residents and non-domiciled residents. I do not know what justification there exists for drawing this distinction but I must say there is a very strong feeling against this discrimination and I would urge on the Honourable the Finance Member to consider whether he should not drop it. What is the motive behind this distinction? I will not ascribe any motives to the Finance Member, but people say—I do not say it—that the motive behind it is to assist English companies in India; but to my mind it appears

Mr. President (The Honourable Sir Abdur Rahim): Order, order. The Honourable Member said that the use of certain letters and figures in the Income-tax Bill was not correct and showed the incompetence of the office. So far as the Assembly Office is concerned, they only took the figures and letters as they were given in the Bill, as they were handed over to them by Government.

Dr. P. N. Banerjee: I did not say that it was due to the incompetence of the Assembly Office—I meant the office of the Drafting Department.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member said "office".

Dr. P. N. Banerjee: I meant the drafting department office, I was discussing the question of the distinction which has been drawn between domiciled residents and non-domiciled residents. To me it seems that the effect of this distinction is to benefit the British exchequer at the expense of the Indian Treasury. I hope that the Honourable Member will not deny it.

The Honourable Sir James Grigg: I certainly deny it. It leaves the existing situation unchanged. The British exchequer does not get one penny of benefit out of it.

Dr. P. N. Banerjee: In the name of fairness and equity, I urge that this discrimination should be dropped.

[Dr. P. N. Banerjee:]

The other objection to this clause of the Bill is that the whole of the foreign income of a resident national is sought to be taxed. Now, the difficulty with regard to this is that it discourages the trading activities of Indians abroad. At the same time, if this sub-clause is dropped altogether, a great deal of loss will accrue to the Indian exchequer. Therefore, I suggest that the income derived from business only should be taxed on the remittance basis, while the rest of the income should be taxed on the accrual basis. This would result in minimising the loss to the treasury and, at the same time, it will encourage Indian enterprise.

I fully sympathise with the motive which underlies the amendment of section 4(2) of the Act which seeks to exclude the income of a private religious trust from the benefit of the exemption. I agree that we should not sympathetically consider the case of a trust which does not emute to the benefit of the public. But it should be made perfectly clear what is understood by the term 'public'. It may often happen that a trust is created in favour of a class, or a section, or a community, and such a trust should not be deprived of the benefits of the exemption. As regards the restrictions which are sought to be imposed on the business carried on by the charitable institutions and by local authorities, I do not think that they are justified. I do not believe that the removal of these restrictions will harmfully affect the Indian treasury.

The proposed amendment of sub-section (1) of section 7 which seeks to add the words "which are due to him from, whether paid or not," is wholly unjustified. You can tax a person's salary only when it has been received, but you ought not to tax it when the salary has not been received. Is this proposal fair? This is not consistent with the principle of ability to pay. I have a salary due, but I have not obtained it, and still I have to pay the tax. Is this, I ask, consistent with the principle of the ability to pay, which is the most fundamental principle in income-tax law. I hope, therefore, that the Finance Member will see his way not to insert these words.

The amendment which was sought to be made by the original Bill in section 9, sub-section (a) of the Act has been considerably modified by the Select Committee. But, unfortunately, the Select Committee have not taken into consideration the fact that the deletion of the proviso to sub-section (2), as proposed in the Bill, is likely to hit many poor and middle-class persons very hard. Now, this proviso restricts the taxation of the annual value of property to ten per cent. of the total income of the owner. This is strictly in accordance with the principle of ability to pay, and I do not see what justification there can be for the removal of this restriction. It often happens that poor descendants of a family which was at one time rich live in their ancestral house, sometimes out of sentiment and sometimes because of the fact that this big house does not in fact fetch much rent, if let out. In such circumstances, to tax this house on the full annual value would be wholly wrong.

Mr. K. Ahmed: What do you do in the Calcutta Corporation?

Dr. P. N. Banerjee: That is not an income-tax. That is a consolidated rate which is levied by the Corporation. Here we are considering an income-tax Bill. You can tax only the income, but you cannot go beyond that. You cannot tax property under this Bill. If you do not remove the restriction, then you will be taxing property and not income.

Sir, the proposed amendment of section 10, sub-section (2), of the Act, which seeks to substitute the written down value in regard to the depreciation of buildings, machinery, etc., possesses some theoretical advantages. I admit it, but it should be remembered that the business community of the country is strongly opposed to the change. They fear that it will hamper industrial development, and this point of view should be carefully considered by the Honourable the Finance Member.

I now come to settlements. It is clear that the intention of the Government is to put revocable and irrevocable settlements on the same footing. Is this just and fair? If a settlement is irrevocable, then it should not be presumed that the object of the settlor is to transfer the property in order to evade taxation. If, on the other hand, it is a revocable settlement, then that presumption may legitimately be drawn. I, therefore, suggest that a distinction should be drawn between revocable and irrevocable settlements, and that in the case of a revocable settlement the income from the property in the hands of the settlor or disposer should be taxed; but this should not be done in the case of an irrevocable settlement.

Sir, the amendments proposed in clauses 20(a) and 30 of the Bill regarding the supply of information to the Income-tax Department with regard to transactions between an assessee and his clientele do not seem to me to be fully justified. Under these clauses, it is expected that information should be given with regard to the financial positions of all persons with whom an individual assessee, or a bank, or a company has transactions amounting to Rs. 200. Now, this lowering of the limit from Rs. 1,000 will be a source of great annoyance and trouble to many firms, companies and individual assessees.

One of the most objectionable provisions of the Bill is to be found in the amendment sought to be made in section 22 of the Act by which the submission of a return is to be made practically compulsory. The Select Committee has introduced slight modifications in the amendment, but these modifications do not go far enough. It is argued on the Government side that such a system exists in England, but there could be no real analogy between conditions in England and conditions in India in view of the fact that, whereas in England 100 per cent. of the people are literate, in India literacy is confined to only eleven per cent. There is also another fact to be taken into consideration, namely, that the percentage of people who pay income-tax in India is much smaller than in England. In view of these differences in the conditions of the two countries I hope this proposal will be withdrawn and that the giving of notice will be made compulsory, as it is at present.

The clause providing for penalties seems to be in some cases very drastic. I have no sympathy with the tax dodger. The Honourable the Finance Member says that this Bill has been stiffened up against the dodger. So far that is a correct statement. I am in entire agreement with him. But we should not forget the fact that the tendency of income-tax administrators is to place the guilty and the innocent on the same footing. Even in this Bill we find that there are provisions for the punishment of innocent persons. For instance, a penalty of Rs. 25 is provided for non-submission of a return, even when it is proved that the would-be assessee has no taxable income. So, in this case, an innocent person is sought to be punished. If the Honourable the Finance Member is true to himself, I hope he will withdraw this provision of this Bill.

[Dr. P. N. Banerjee:]

It is a matter of great satisfaction to us that the Government have agreed with the Opposition to set up an independent tribunal of appeal for all questions of fact and of law. It is eminently desirable that the executive and the judicial functions with regard to income-tax administration should be completely separated. Even if this tribunal is set up, I would urge that the first appeals in income-tax cases should not be heard by Appellate Assistant Commissioners but by a separate class of judges who may be called Income-tax Judges. The advantage of this will be that you will inspire confidence in the general public and in the minds of the taxpaying community. I admit that the provision in the Bill relating to the appointment of Appellate Assistant Commissioners is a slight improvement on the present position, but this does not go far enough. These Appellate Assistant Commissioners will have to depend for their pay, promotion and transfer on the good graces of the Central Board of Revenue which is the final authority in matters of income-tax administration. I, therefore, suggest that the first appeals in income-tax cases should be heard by Income-tax Judges, who may be officers of the rank of District Judges, or Additional District Judges, or subordinate Judges.

The clause relating to the entry of business premises by income-tax officers has been slightly modified by the Select Committee. But the sting has not been wholly taken away. The word "visit" has been substituted for the word "entry", but the spirit remains the same. This has been regarded as a serious menace to the liberty and self-respect of assesses or persons who are expected to possess taxable income.

Lastly, I pass on to the question of double taxation relief. This question can be viewed from two standpoints, namely, the standpoint of principle and the standpoint of revenue. Considered from the first standpoint the Indian system is wrong, for it is generally recognised that in the matter of relief from double taxation the priority of tax claim should be given to the country of origin. But even more important than the question of principle is the question of revenue. During the 14 years 1923-24 to 1936-37, the total amount given in relief of double taxation amounted to about 14½ crores, and out of this total amount of relief nearly 13½ crores were given to British companies. The amount of relief which was given in 1936-37 was 1½ crore. Now, this is a large amount for a poor country like India to sacrifice. Even if the deductions mentioned by the Honourable the Finance Member were made, the annual saving to the Indian treasury would be substantial. If this saving could be utilised for strengthening the financial resources of the Centre and for assisting the development of nation-building services in the provinces great good would arise to the whole country. It may be noted in this connection that only two countries in the Empire, namely, India and Australia, have so far agreed to give reciprocal relief to the United Kingdom. India is a dependent country, and her consent is really the consent of the United Kingdom. Is it right, I ask, on the part of the British Government to saddle India with a heavy item of expenditure not for her own benefit but for the benefit of Britain? Besides, there is no real reciprocity in the arrangements for the relief given in the two countries, for, we find that the relief given by the United Kingdom is exceedingly small compared to the relief given by India to British companies. The system is thus extremely unfair to India and cannot be justified on any principle, legal or moral. It is high time that it is stopped.

Mr. President (The Honourable Sir Abdur Rahim): Order, order. The House has decided that we should rise at 4-30 during the Ramzan days. The House will, therefore, stand adjourned till 11 o'clock on Saturday.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I wish to bring to your notice that I am asked by the different parties to request you not to have meetings on Saturdays this Session. There should be no sittings on Saturdays.

Mr. President (The Honourable Sir Abdur Rahim): Is that the desire of the House?

The Honourable Sir Nripendra Sircar: So long as I am not blamed for not finishing the Select Committee meetings on Mr. Kazmi's Bill by the 9th December, I have no objection to Members not sitting on any particular day. I am asked that the Select Committee's Report on Mr. Kazmi's Bill should be ready by the 9th December, and I cannot possibly do it, because, if the House is not sitting this Saturday, they will object to have a meeting of the Select Committee as well. I presume reluctance to attend the House extends to attending Select Committees.

Mr. President (The Honourable Sir Abdur Rahim): It is a matter for those who are interested in Mr. Kazmi's Bill. If there is no meeting tomorrow and the Select Committee cannot meet on Saturdays, the Select Committee Report on Mr. Kazmi's Bill may not, as the Leader of the House says, be finished by the 9th December.

The Honourable Sir Nripendra Sircar: What I gather from my Honourable colleague is that it is not likely to be finished by the 9th December, even if we sit on Saturdays.

Mr. President (The Honourable Sir Abdur Rahim): If that is the position, and the House desires that there should be no meeting next Saturday or any other Saturday. . . .

The Honourable Sir James Grigg: Only this Saturday.

Mr. President (The Honourable Sir Abdur Rahim): I will adjourn the Assembly till next Monday.

The Assembly then adjourned till Eleven of the Clock on Monday, the 21st November, 1938.