

22nd November 1938

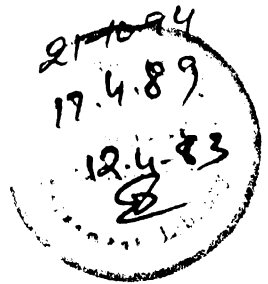
THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume VII, 1938

(10th November to 2nd December, 1938)

EIGHTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



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M437LAD

Legislative Assembly.

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LEGISLATIVE ASSEMBLY.

Tuesday, 22nd November, 1938.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

NEGOTIATIONS FOR INDO-BRITISH TRADE AGREEMENT.

1368. *Mr. Abdul Qaiyum: Will the Honourable the Commerce Member please state:

- (a) the latest position about the Indo-British Trade negotiations;
- (b) when these negotiations are likely to conclude;
- (c) whether Government have finished consideration of the non-official advisers' report, and, if so, with what result; and
- (d) whether the agreement is proposed to be placed before the House before Government comes to any decisions thereon?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b), (c) and (d). I would invite the Honourable Member's attention to the answers given to Mr. Satyamurti's question, No. 1231, on the 14th instant and to the supplementaries arising therefrom.

Mr. Manu Subedar: May I know what would be the position in view of the Anglo-American trade agreement with regard to outstanding transactions of articles to which preferences have been altered under that agreement?

The Honourable Sir Muhammad Zafrullah Khan: That is a question of which the Honourable Member has given notice and the answer will be given when it is reached.

Mr. S. Satyamurti: May I know whether in respect of the negotiations which have not been completed, and, before they are completed, the effect of the Anglo-American trade agreement will be considered by Government in conducting further negotiations?

The Honourable Sir Muhammad Zafrullah Khan: Yes, Sir.

Mr. S. Satyamurti: With reference to the answer to clause (d) of the question, my Honourable friend told the House, if my memory serves me aright, that Government are not in a position to say whether they will accept the verdict of the House or not but that they propose to place the results of the negotiations before the House. May I take it that they will be placed before the Government come to any decisions thereon?

The Honourable Sir Muhammad Zafrullah Khan: What sort of decision has the Honourable Member got in his mind?

Mr. S. Satyamurti: Decisions on the results of these negotiations. I take it there will be certain tentative proposals in the mind of both Governments. I am now asking with regard to the India Government's intentions whether they propose to place these proposals before they come to final decisions on these matters themselves.

The Honourable Sir Muhammad Zafrullah Khan: So far as any proposals to be placed before the House are concerned, some sort of understanding must be arrived at with the other side before the proposals are placed before the House but if the Honourable Member means whether after the House has expressed its opinion Government will take that opinion into consideration before deciding whether they will put the agreement into force or not, on that I can say 'Yes'.

Mr. K. Santhanam: Was the Honourable Member consulted about the changes in the Ottawa agreement which have been made in the present treaty between the United States and Great Britain?

The Honourable Sir Muhammad Zafrullah Khan: That is part of the question of which Mr. Manu Subedar has given notice.

LIFE OF THE LEGISLATIVE ASSEMBLY.

1369. *Mr. Abdul Qaiyum: Will the Honourable the Leader of the House please state:

- (a) whether Government have come to any decision about the life of the present Assembly;
- (b) whether any consultations have been held between the Governor General since his return from leave in England and the Government of India on this subject; and
- (c) if so, the nature of the consultations and the decisions arrived at, if any?

The Honourable Sir Nripendra Sircar: (a) The Honourable Member is referred to my reply to Mr. Satyamurti's starred question No. 1230 asked on the 14th November.

(b) No.

(c) Does not arise.

Mr. Badri Dutt Pande: Having failed to find a federal astrologer in India the Honourable Member went in search of one in England. Was he able to find one who could predict on this Federation?

(No answer.)

Mr. Abdul Qaiyum: With reference to part (b) of the question, I have not followed the answer. I want to know whether there was any consultation?

The Honourable Sir Nripendra Sircar: No consultation.

Mr. Abdul Qaiyum: Does that mean that the Government of India do not take any interest in the matter?

The Honourable Sir Nripendra Sircar: You may draw such inference as you like. I am only giving information in reply to the answer. The answer is 'No'.

Mr. S. Satyamurti: May I know whether Government will be in a position to say before the end of the Budget session whether they will be able to make an announcement about the future life of this Assembly?

The Honourable Sir Nripendra Sircar: I cannot commit myself on that.

Mr. Abdul Qaiyum: May I know when it will be possible to make a statement on this point?

The Honourable Sir Nripendra Sircar: I cannot say.

ALLEGED DISCOVERY OF DEPOSITS OF COAL AND PETROLEUM IN ASSAM.

1370. *Mr. Abdul Qaiyum: Will the Honourable Member for Labour please state:

(a) whether he has read the report in the *Tribune*, Lahore, dated the 10th October, 1938, about the alleged discovery of vast deposits of coal and petroleum in Assam; and

(b) whether the above report is correct, and, if so, the extent and the nature of these new discoveries?

The Honourable Sir Muhammad Zafrullah Khan: (a) Yes.

(b) Government have no information regarding any recent discovery of reserves of petroleum in Assam as the Geological Survey of India has not been concerned with exploration for oil in Assam in recent years. The figures relating to reserves of coal given in the report have been greatly exaggerated. An estimate of the reserves of coal in Assam will be found in a note on "Coal in Assam" prepared by the Geological Survey, a copy of which is being placed in the Library of the House.

Mr. Abdul Qaiyum: With reference to part (b), may I know whether it is a fact that large reserves of coal remain untapped in Assam?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member had better read the note to which I have referred.

RATE WAR BETWEEN SHIPPING COMPANIES.

1371. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Commerce Member please state:

(a) whether instances of rate-war between shipping companies have been brought to Government's notice in the last three years, and if so, in how many cases;

(b) in how many cases, they have interfered and effected a settlement between the parties concerned; and

- (c) whether Government have legal powers to interfere in the matter; if not, whether they have considered the advisability of introducing legislation to give them legal powers?

The Honourable Sir Muhammad Zafrullah Khan: (a) Four cases of alleged rate-war between shipping companies came to the notice of the Government of India during the years 1935—38.

(b) Government used their good offices in three cases: in one case they were able to effect a settlement; two cases are still under negotiation.

(c) The answer to the first part is in the negative. As regards the second part, Government's attitude on the question of legislation was explained during the debate on Sir Abdul Halim Ghuznavi's Bill to control the Indian coastal traffic and more recently in answer to the supplementary questions arising from Mr. Abdul Qaiyum's question No. 1213.

Mr. T. S. Avinashilingam Chettiar: May I know, in the cases in which the Government used their good offices, whether it has come to the knowledge of Government that the agreement arrived at has not been observed by both the parties?

The Honourable Sir Muhammad Zafrullah Khan: I have already answered questions on that on the previous occasion.

Mr. T. S. Avinashilingam Chettiar: I submit that to refer us to answers to previous questions is not proper. Either he must refer to the answer or give an answer now.

The Honourable Sir Muhammad Zafrullah Khan: A number of questions were put as to whether this agreement was being observed or not. I said that allegations had been made on both sides which were under investigation.

Mr. T. S. Avinashilingam Chettiar: I am asking about the three cases in which Government mediated and helped to arrive at a decision. In these cases, may I know if it had come to the knowledge of the Government that the agreement has not been observed?

The Honourable Sir Muhammad Zafrullah Khan: With regard to one case in which a settlement had been arrived at, the settlement is being observed. This was between the conference lines and the small companies, with regard to a particular part of the coastal traffic.

Mr. T. S. Avinashilingam Chettiar: In view of the fact that they have received allegations that the agreements are not being observed, may I know whether Government propose to arm themselves with legal powers to enforce their decision.

The Honourable Sir Muhammad Zafrullah Khan: I said on the last occasion that Government will consider the matter if they are convinced that the agreement is not being observed.

Mr. S. Satyamurti: In view of the fact that in every case Government have found great difficulty in using their good offices and the results have not been entirely satisfactory from the point of view of Indian interests, may I know what are the insuperable difficulties in the way of

Government arming themselves with suitable legislation, especially in view of the fact that private attempts at negotiation have not been conspicuously successful?

The Honourable Sir Muhammad Zafrullah Khan: That is more an argument than a question.

Mr. S. Satyamurti: What are the difficulties in the way of Government trying to introduce legislation on their own initiative, and arming themselves with legal powers?

The Honourable Sir Muhammad Zafrullah Khan: This is an attempt to argue the question out. Government have not felt the necessity for introducing legislation.

Mr. Abdul Qaiyum: Which are the two cases where they have not arrived at an agreement?

The Honourable Sir Muhammad Zafrullah Khan: Negotiations are still going on in respect of those two cases. I think it is the rate war on the Konkan coast between the Bombay Steam Navigation Company on the one side and the Indian Co-operative Navigation and Trading Co. and the Ratnagar Steam Navigation Company on the other. The second is the Haj pilgrim rate war.

Mr. Abdul Qaiyum: In both these cases Indian companies are pitted against British companies. Will Government come to some conclusion immediately and introduce effective legislation and put a stop to this practice?

The Honourable Sir Muhammad Zafrullah Khan: That is what I have been trying to answer.

Maulana Shaukat Ali: Has the Honourable Member made inquiries into the allegations which have reached us that the Scindia Company have broken the agreement. We have had reports from pilgrims that they sold tickets for Rs. 100 and on the paper charged Rs. 138. I want to ask if the Honourable Member will kindly inquire and stop this in the interests of the pilgrims. It is better that there should be honest competition rather than this kind of underhand dealing?

The Honourable Sir Muhammad Zafrullah Khan: Allegations have been received to that effect, but the trouble is that it is so difficult to prove allegations of that kind.

Maulana Shaukat Ali: Government never interfered before in these competitions. Why should they introduce a discrimination now? Would it not be better that there should be a general competition so that the rates may go down, in the interests of the pilgrims? I am talking only of the interests of the pilgrims: it does not matter what happens to the Mogul line or the Scindia line. I am talking only of the interests of the pilgrims.

(No answer.)

NEGOTIATIONS WITH THE PROVINCES WITH REGARD TO FEDERATION.

1372. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Leader of the House please state:

- (a) whether Government have made any progress in the matter of negotiations with the Provinces with regard to Federation;
- (b) if so, whether Government can make a statement in the matter; and
- (c) whether any suggestions have been made to amend the Government of India Act by any of the Provincial Governments concerned and if so, with what effect?

The Honourable Sir Nripendra Sircar: (a) I would refer the Honourable Member to my reply of 1st February last to part (c) of his question No. 40 to which I have nothing to add.

(b) Does not arise.

(c) I regret I am not in a position to furnish any information on the subject.

Mr. T. S. Avinashilingam Chettiar: May I know whether any progress is being made?

The Honourable Sir Nripendra Sircar: That is the exact question that was answered by me—whether any progress has been made—and I have given my answer. I cannot disclose that, and I have stated my reason.

Mr. Abdul Qaiyum: Sir, in view of your ruling of yesterday on the point whether any suggestions have been made by the Provincial Governments this question must be answered by the Honourable Member; only the details of the information need not be given. Is the Honourable Member in order in not giving the desired information to the House?

The Honourable Sir Nripendra Sircar: Sir, if you want to give a considered ruling, I would like the matter to be discussed; I do not mind it being discussed to-morrow. I said that it is opposed to the public interest to give certain information and if it is contended that there is a further power in the House or in the Chair to compel me to reverse that decision, this matter I may say is covered by the notes in May's Parliamentary Practice. If you want that to be discussed, I am quite ready to discuss it. The situation, as I understand, is this. It is for the Member in charge to take up that objection on the ground of public interest. If that is done, there is no further power to compel him to answer the question, but there may be other ways in which information can be sought.

Mr. Abdul Qaiyum: Sir, yesterday a similar situation arose and you were pleased to rule that the Government Member must state the fact without disclosing details. I want to know whether suggestions for amending the Act have been made by the Provincial Governments or not. As to the details of those suggestions, that of course we are not asking.

The Honourable Sir Nripendra Sircar: The question has been put to me twice and I have given the same answer, and no questions were raised.

Mr. Deputy President (Mr. Akhil Chandra Datta): What is the exact point? If the Honourable Member in charge says he is not bound to disclose the communications and insists upon that, then the matter may be fully argued to-morrow, but if the question is as to whether as a matter of fact any representations were made, on that point, as at present advised, I think the question should be answered,—i.e., only to that extent whether as a matter of fact any suggestions were made.

The Honourable Sir Nripendra Sircar: As to that, there can be only one answer: the correspondence has been going on for years because, apart from anything else, certain inaccurate and inapt expressions may have been used in the Act.

Mr. S. Satyamurti: I want to know specifically with regard to the answer to clause (a) of the question whether at any time there were any negotiations between the Government of India on the one hand and the Provinces on the other with regard to Federation, or whether there are any negotiations just now going on.

The Honourable Sir Nripendra Sircar: On the point whether there has been any progress or not, it is a matter of opinion. Though not bound to answer, I may say, in my opinion, progress has been made.

Mr. S. Satyamurti: I asked whether at any time there have been any negotiations between the Provinces on the one hand and the Government of India on the other, with regard to Federation, and secondly whether any such negotiations are now going on.

The Honourable Sir Nripendra Sircar: That question I declined to answer on the ground of public interest, and I decline to answer that question now on the ground which I have already taken, *vis.*, public interest.

Mr. S. Satyamurti: I am asking now whether, with regard to clause (c) of the question, there have been any suggestions made to the Government of India by the Provincial Governments for amendment of the Government of India Act.

The Honourable Sir Nripendra Sircar: I require notice of that question. Then I shall consider whether it can be answered.

Mr. T. S. Avinashilingam Chettiar: What does he mean by that?—that he will answer, if notice is given?

Mr. S. Satyamurti: The Honourable Member cannot claim notice of a specific question given notice of ten days before; the notice is only asked for when supplementaries are asked that are not covered by the original question.

Mr. Deputy President (Mr. Akhil Chandra Datta): I think this point is really identical with part (c) of the question.

The Honourable Sir Nripendra Sircar: I have answered part (c). The answer to part (c) was that "I regret I am not in a position to furnish any information on the subject".

Mr. S. Satyamurti: Is it on the ground of public interest?

The Honourable Sir Nripendra Sircar: That is implied.

Mr. K. Ahmed: Are the Government of India aware that the Deputy Leader of the Congress Party, Mr. Satyamurti, is trying to ask the Government of India to adopt certain suggestions and saying that he will not attack election and also for the satisfaction of himself without the agreement of the other leaders of the Congress party of whom he has incurred displeasure in the political sphere of the country

Mr. Deputy President (Mr. Akhil Chandra Datta): The Chair disallows the question.

PROPOSAL TO SETTLE THE JEWS IN KENYA.

1373. *Mr. S. Satyamurti: Will the Secretary for Education, Health and Lands please state:

- (a) whether Government are aware of any proposal to settle the Jews in Kenya;
- (b) whether Government have consulted, or propose to consult Indian opinion in Kenya in respect of this matter;
- (c) whether the Jews are going to be settled in the highlands of Kenya, to which access has been denied to Indians; and
- (d) if so, why?

Sir Girja Shankar Bajpai: (a), (b), (c) and (d). The attention of the Honourable Member is invited to the reply given by me on the 14th of this month to Mr. T. S. Avinashilingam Chettiar's starred question No. 1223.

Mr. S. Satyamurti: With regard to the answer to clause (c) of my question, may I know whether one of the proposals, or a proposal, is to settle these Jews in the highlands of Kenya to which access has been denied to Indians?

Sir Girja Shankar Bajpai: The point is that the proposal relates to giving facilities to these Jewish settlers in the highlands which, as my Honourable friend is aware, under the existing administrative practice are not open to Indians.

Mr. S. Satyamurti: May I know whether the Government of India are vigorously protesting against this racial discrimination trying to oblige people who are outside the so-called British Empire while depriving British citizens, as they are called, from occupying portions of these highlands?

Sir Girja Shankar Bajpai: I informed the House on the last occasion that that is the point on which representations have been made by the Government of India.

Mr. S. Satyamurti: Have the Government of India heard from His Majesty's Government in answer to this?

Sir Girja Shankar Bajpai: No, Sir, because representations were made only early this month.

Mr. S. Satyamurti: Will the Government of India press upon the British Government very earnestly that there should be no such insult added to the injury already committed upon the Indians in Kenya by permitting these people, who are foreigners, to settle at the expense of those who are citizens, or who are called "citizens" of the British Empire?

Sir Girja Shankar Bajpai: I can assure my Honourable friend that all relevant considerations have been taken into account in framing the representations of the Government of India.

Mr. Abdul Qayyum: Will the Government of India resign if the answer is not satisfactory? I am putting this question quite seriously.

Sir Girja Shankar Bajpai: The Government of India will consider my Honourable friend's suggestion not so seriously perhaps.

Mr. T. S. Avinashilingam Chettiar: What is the answer to clause (b) of the question?

Sir Girja Shankar Bajpai: The Indian community in Kenya submitted a memorandum to the Secretary of State for the Colonies on this point and also forwarded a copy of that memorandum to the Government of India; so the Government of India are in possession of the views of the Indian community in Kenya.

Mr. S. Satyamurti: Have the Government of India informed His Majesty's Government that the Indian Legislature—I am talking of both the Houses—is behind them in this matter?

Sir Girja Shankar Bajpai: That is the view which has been expressed by my Honourable friend now, but I am sure that the Government of India have taken all considerations into account.

Mr. S. Satyamurti: Have the Government of India told His Majesty's Government that, according to their judgment, opinion in both the Houses is entirely behind the Government of India in respect of this matter?

Sir Girja Shankar Bajpai: I can assure my Honourable friend that in presenting their case to His Majesty's Government the Government of India have laid the fullest possible emphasis upon opinion in this country in all sections of the country inside and outside this House.

WORKING OF CLOVE AGREEMENT IN ZANZIBAR.

1374. *Mr. S. Satyamurti: Will the Secretary for Education, Health and Lands please state:

- (a) the manner in which the clove agreement is now working in Zanzibar;
- (b) whether Indians are satisfied with the working of the agreement; and
- (c) whether Government are carefully watching the working of the agreement, to see that all legitimate Indian interests are adequately protected?

Sir Girja Shankar Bajpai: (a) and (b). So far as Government are aware the agreement is working well and Indians in Zanzibar are satisfied.
(c) Yes.

Mr. S. Satyamurti: May I know what is the agency by which Government keep themselves in touch with the working of the agreement?

Sir Girja Shankar Bajpai: There is the Indian National Association in Zanzibar. Apart from that, under the amended decree the Government of India's Trade Commissioner in East Africa is also an observer on the Board which regulates the working of the agreement.

Mr. S. Satyamurti: Does this Agent send to the Government of India from time to time reports on the working of this agreement?

Sir Girja Shankar Bajpai: That is what he would do. I have had no representation from him so far.

Mr. S. Satyamurti: Will my Honourable friend ask him to send a report to Government now and later on from time to time on the working of this agreement?

Sir Girja Shankar Bajpai: The Trade Commissioner has instructions to report to the Government of India on any point relating to the working of the agreement which, in his opinion, ought to be brought to the notice of the Government of India.

Mr. Abdul Qayyum: Will the reports of the Trade Commissioner in East Africa about the manner in which this agreement is being worked be published or at least copies of them be supplied to the Members who are interested in the subject?

Sir Girja Shankar Bajpai: That is a point which can be considered.

[At this stage, Mr. K. Ahmed was noticed to be reading a newspaper.]

Mr. Deputy President (Mr. Akhil Chandra Datta): The Honourable Member should not read a newspaper in the Chamber.

Mr. K. Ahmed: Sir, I am getting ready for my speech.

Mr. Deputy President (Mr. Akhil Chandra Datta): Speech or no speech, the Honourable Member should not read the newspaper. There is a limit to all this. We are here to do serious business.

MIXED MARRIAGES AND LAND OWNERSHIP IN SOUTH AFRICA.

1375. *Mr. S. Satyamurti: Will the Secretary for Education, Health and Lands please state:

- (a) the latest stage with regard to the two commissions regarding mixed marriages and land ownership in South Africa;
- (b) whether the Government of India are taking steps, through their Agent, to see that the Indian point of view is pressed strongly before these commissions; and
- (c) when those commissions are expected to report?

Sir Girja Shankar Bajpai: (a) and (c). The Commissions have not yet completed their work. It is not possible to say when they will report.

(b) The Agent General in the Union has not only helped the local Indian community in placing their case before the two Commissions but has also submitted memoranda to both Commissions.

Mr. S. Satyamurti: May I know whether the Agent General is acting in full concert with the Indian community in South Africa in presenting the evidence before these two Commissions?

Sir Girja Shankar Bajpai: My Honourable friend will permit me to read a part of my answer to clause (b). The Agent General has not only helped the local Indian community in placing their case but he has also submitted memoranda to both Commissions.

Mr. S. Satyamurti: Do the Government of India expect to get the reports of these Commissions in time for them to make such representations as they may feel called upon to make, both to the South African Government and to His Majesty's Government?

Sir Girja Shankar Bajpai: I have no doubt that the Government of India will have plenty of opportunity to study the reports and make their comments on them before any decision is taken on them.

COMING INTO FORCE OF THE INSURANCE ACT.

1376. *Mr. S. Satyamurti: Will the Honourable the Commerce Member please state:

- (a) whether the rules to be framed under the Insurance Act are now ready; if so, when they will be placed on the table of the House;
- (b) whether Government intend to introduce an amending Bill of the Insurance Act; if so, when; and
- (c) when the Insurance Act will be brought into force?

The Honourable Sir Muhammad Zafrullah Khan: (a) The Rules under the Insurance Act, 1938, are not yet ready. It is expected that they will be placed before the House by the end of February, 1939. Meanwhile draft Rules were published in the Gazette of India dated the 19th November, 1938, and opinions and criticisms have been invited.

(b) Yes. Government hope to introduce an amending Bill in the forthcoming Budget Session.

(c) The attention of the Honourable Member is drawn to the Press Communiqué issued by the Department of Commerce on the 3rd October, 1938.

Mr. S. Satyamurti: With reference to the answer to clause (b) of the question, may I take it that the scope of the amending Bill to the Insurance Act will be confined to drafting points or to obvious defects disclosed by a subsequent study of the Act?

The Honourable Sir Muhammad Zafrullah Khan: They are all minor amendments.

Mr. K. Santhanam: If the Act is going to be enforced soon, will the opinions and criticisms be received by the 1st of January, 1939?

The Honourable Sir Muhammad Zafrullah Khan: That is dealt with in the communiqué to which I have referred.

BOYCOTT OF INDIAN SHOPS IN MANDALAY.

1377. ***Mr. T. S. Avinashilingam Chettiar:** Will the Secretary for Education, Health and Lands please state:

- (a) whether the news in the *Hindu*, dated the 30th September, 1938, (page 9) that Indian shops are boycotted in Mandalay, is true;
- (b) whether Government have enquired into the matter; and
- (c) what is the present state of affairs, and what steps Government have taken in the matter?

Sir Girja Shankar Bajpai: (a), (b) and (c). Such an incident was reported to have occurred in the beginning of October. So far as the Government of India are aware, there has been no recurrence since.

Mr. T. S. Avinashilingam Chettiar: What was the reason for this boycott? Was there any private reason or was it due merely to the hatred towards Indians?

Sir Girja Shankar Bajpai: I could not very well say what exactly the reason was. I gather that a certain number of *phongyis* started the boycott.

Mr. T. S. Avinashilingam Chettiar: Have Government read the report of their Agent in Burma and whether he had inquired into this matter?

Sir Girja Shankar Bajpai: If I had not read his report, I would not have been able to answer this question this morning.

Mr. Abdul Qaiyum: Who are these *phongys*?

Sir Girja Shankar Bajpai: They are Buddhist priests.

Mr. T. S. Avinashilingam Chettiar: I never meant to say that the Honourable Member has not read the report. What I meant to say was whether the reports of their Agent in Burma can be read here so that we may have the first-hand information?

Sir Girja Shankar Bajpai: Unfortunately I have not got a copy of the report here. But my Honourable friend may take it for certain that whatever I have said in the House is based upon that report.

Mr. Badri Dutt Pande: Are there any Indian shops which are still boycotted?

Sir Girja Shankar Bajpai: That is the point which I have already answered. The incident took place early in October and, according to our Agent, there has been no recurrence of these incidents.

Mr. K. Santhanam: Will the Honourable Member kindly place a copy of the report on the table of the House?

Sir Girja Shankar Bajpai: I cannot say, because communications between the Agent and the Government of India are normally confidential.

Mr. S. Satyamurti: Where is the end to this? Every day I hear this. We began with the Secretary of State, then the Provincial Governments and then the Agents. I can understand with regard to certain types of communications the Government of India saying that they relate to really confidential matters. But when we want to know about the state of Indian life and property in Mandalay and when we ask for some information about it, why should my Honourable friend say that it is confidential? Which is the law which says that all communications between the Agents and the Government are confidential? They seem to claim confidentiality for all their doings.

Sir Girja Shankar Bajpai: I am afraid my Honourable friend has misunderstood the purport of my answer. I did not say that all communications, even those intended for publication, are confidential. What I wanted to convey was that normally the correspondence between the Government of India and the Agent is in the form of demi-official letters which are confidential.

Mr. S. Satyamurti: Confidential as against strangers! But we are Members of this House and we claim to have a right to know the facts which are available to Government.

Sir Girja Shankar Bajpai: I have communicated to the House the facts which I have heard from the Agent.

Mr. K. Santhanam: Will the Honourable Member get a report which can be published?

Sir Girja Shankar Bajpai: My Honourable friend may rest assured that the Agent in Burma will follow the practice of Agents in other countries, namely, prepare a six monthly report of his activities.

Mr. C. N. Muthuranga Mudaliar: May I ask if this report will be made available to the Members of the Standing Emigration Committee?

Sir Girja Shankar Bajpai: I have already answered this on the question of publicity put by Mr. Santhanam. It will be available to the members of the Committee or to anybody else.

Mr. Abdul Qayum: In view of the importance of the problem in Burma, will the Government consider the desirability of curtailing the period of six months, which seems to be too long a period?

Sir Girja Shankar Bajpai: It is a normal rule that the Agent presents his report every six months. If there is an emergent situation which calls for a special report, that is a point which can be examined on its merits.

Mr. K. Santhanam: Will not the Honourable Member call a meeting of the Standing Emigration Committee to consider this point?

Sir Girja Shankar Bajpai: A sporadic incident of which there has been no recurrence since the beginning of October is not a matter of sufficient importance to justify the calling of a meeting of the Standing Emigration Committee.

Dr. Sir Ziauddin Ahmad: In view of the great excitement among the public will Government consider the advisability of publishing this report at an early date?

Sir Girja Shankar Bajpai: Sir, I think there is a misunderstanding. I have already told the House that the Agent in Burma like the Agents in other parts of the British Empire will prepare a report for publication every six months. He has not been there for more than two months and so there is no report at present in the possession of the Government of India that can be published.

Dr. Sir Ziauddin Ahmad: In view of the special circumstances of the case, will Government instruct the Agent to issue at least a communiqué every fortnight till the whole unrest is over?

Sir Girja Shankar Bajpai: I have tried to give all the information to the House in answer to questions and at the present moment as I have already informed the House, the position is one of tranquillity and so there is nothing for the Agent to report.

IMPOSITION OF AN IMPORT DUTY ON COCOANUTS.

1378. ***Mr. T. S. Avinashilingam Othettiar:** Will the Honourable the Commerce Member please state:

- (a) whether Government had considered the representations made to them by the cocoanut growers on the advisability of imposing an import duty on cocoanuts;
- (b) if so, what is the result of the consideration; and
- (c) whether they have taken any action in this matter?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b) and (c). At the request of the Government of India, the Provincial Governments concerned are collecting certain essential statistical information relating to the cocoanut industry. No decision can be reached on the question of assistance to the industry until this information becomes available.

Mr. T. S. Avinashilingam Othettiar: May I know whether Government expect to introduce any amending Bill in the coming session on this matter?

The Honourable Sir Muhammad Zafrullah Khan: No decision can be taken till we have this information.

Mr. Manu Subedar: May I know whether any decision can be taken in view of the Ottawa arrangements applying at present to Ceylon and in view of the fact that Ceylon would be particularly affected in this?

The Honourable Sir Muhammad Zafrullah Khan: That is more or less a hypothetical question.

Mr. Manu Subedar: May I enquire whether this representation is not mainly against the competition of cheap stuff coming from Ceylon into this country and since these people are asking for protective tariff against the importation of cocoanut products whether the Government of India are free under the Ottawa arrangements to impose such a tariff?

The Honourable Sir Muhammad Zafrullah Khan: Yes.

Prof. N. G. Ranga: How long is it since Government began to get at the facts in regard to this country?

The Honourable Sir Muhammad Zafrullah Khan: I cannot give the exact date.

Prof. N. G. Ranga: Is it not a fact that this thing has been hanging fire for over three years?

The Honourable Sir Muhammad Zafrullah Khan: The question has been agitated for some time. Since the last deputation came up the question has been examined in the Departments concerned in the Government of India and as a result of that examination this information has been asked for.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government can tell us what are the particulars on which they want information?

The Honourable Sir Muhammad Zafrullah Khan: I would require notice.

Prof. N. G. Ranga: Is it not a fact that this agitation was stopped primarily in view of the fact that Government gave answers to questions in this House that they were considering the special report submitted to them by, I think, Mr. Patel or Mr. Parameswaran Pillai or somebody who was specially deputed and that thereafter they would come to their own conclusions as to what action they should take?

The Honourable Sir Muhammad Zafrullah Khan: Which one does the Honourable Member refer to? Dr. Patel's report or Mr. Pillai's representations?

Prof. N. G. Ranga: Both of them.

The Honourable Sir Muhammad Zafrullah Khan: Mr. Parameswaran Pillai had no business to make a report.

Prof. N. G. Ranga: I distinctly remember that Government said that they were considering a particular report and after finishing their consideration, they would be able to come to some definite conclusion as to what kind of protection should be given to coconut and copra industry of this country. In view of that answer the agitation was stopped. What is it that Government have done thereafter?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member is very far out in his facts. Dr. Patel's report has nothing to do with the present situation.

EXCISE DUTY IMPOSED ON IMPORTS OF YARN FROM BRITISH INDIA INTO MYSORE STATE.

1379. ***Mr. Sami Vencatachalam Chetty:** (a) Will the Honourable the Commerce Member please state whether Government are aware that the Mysore Government have imposed an excise duty on imports of yarn from British India into the State territory?

(b) Are Government aware that no countervailing duty on Mysore manufactured yarn is levied in British India?

(c) Do Government propose to consider the advisability of levying a countervailing duty on the imports of Mysore State yarn into British India? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan: (a) No such duty has been imposed by the Government of Mysore.

(b) and (c). Do not arise.

AMENDMENT OF THE INDIAN MEDICAL COUNCIL ACT.

1380. ***Mr. Abdul Qaiyum:** Will the Secretary for Education, Health and Lands please state:

- (a) whether the Indian Medical Council have requested Government to amend the Indian Medical Council Act to bring it in conformity with section 120 of the Government of India Act;
- (b) whether it is desired to vest additional reciprocal powers in the Indian Medical Council in regard to the recognition of British medical qualifications; and
- (c) whether Government have taken, or intend to take, any action in the matter; if not, the reasons therefor?

Sir Girja Shankar Bajpai: (a) No such recommendation has reached Government so far.

(b) and (c). Do not arise.

Mr. Abdul Qaiyum: May I know whether it is a fact that the Indian Medical Council is not vested with the same powers as the British Medical Council in the matter of recognition of foreign degrees?

Sir Girja Shankar Bajpai: My Honourable friend can verify what the powers of the Indian Medical Council are by reference to the Indian Medical Council Act.

Mr. Abdul Qaiyum: Can they refuse to recognise British degrees?

Sir Girja Shankar Bajpai: It is not possible for me to repeat here the provisions of the Indian Medical Council Act which runs into 24 sections.

FAMINE PREVAILING IN THE RURAL AREAS OF THE DELHI PROVINCE.

1381. ***Mr. Badri Dutt Pande:** (a) Will the Secretary for Education, Health and Lands be pleased to state the nature and extent of scarcity and famine prevailing in the rural areas of the province of Delhi?

(b) Have any relief works been opened? If so, where?

(c) Have any remissions been made in the land revenue? If so, in which area?

(d) Have any *taccavi* fodder, or seeds, been distributed among the suffering people?

(e) Have any arrangements been made for the supply of water in villages where there is scarcity of water?

Sir Girja Shankar Bajpai: (a) The failure of the *kharif* harvest on unirrigated land has caused a severe scarcity of fodder in the Delhi Province. The scarcity is general, but is most severe in the Dabar and Kohi assessment circles (round Najafgarh and Mahrauli respectively).

(b) No. But the road fund programme has been accelerated and additional work is being put in hand between Najafgarh and Kapas Hera, and also between Puth Khurd and Ochandi.

(c) The question of suspension of land revenue is under consideration.

(d) For petty repairs to wells and for seed Rs. 45,000 have been distributed. For wells in villages recently consolidated Rs. 10,000 have been or are being distributed. Rs. 35,000 are being used for the financing of fodder distribution against *taccavi* loans.

(e) Yes, where canal water can be made available.

Prof. N. G. Ranga: If no relief works have been started, is it because there is no unemployment prevailing in that area?

Sir Girja Shankar Bajpai: That is precisely the position.

Prof. N. G. Ranga: Have Government started any test works and as a result thereof found there were not sufficient numbers of workmen forthcoming?

Sir Girja Shankar Bajpai: My Honourable friend is perfectly well aware of the procedure prescribed by the Famine Code. Test works are generally prescribed when ordinary works cease to provide employment for the people concerned. As it now happens that the ordinary public works programme of Government absorbs all people who offer themselves for work, no test works are provided.

Mr. Badri Dutt Pande: In view of the fact that the scarcity is very great, may I enquire if any poor houses have been opened in any part of the country?

Sir Girja Shankar Bajpai: The Chief Commissioner's report is that hitherto the need for gratuitous relief has not arisen.

Prof. N. G. Ranga: Are Government co-operating with the private famine relief committee that was recently started in Delhi?

Sir Girja Shankar Bajpai: That is a point which is within the knowledge of the Chief Commissioner and not within my knowledge.

Prof. N. G. Ranga: Is it a fact that full land revenue collections are being made from this area from peasants?

Sir Girja Shankar Bajpai: I should hardly think so because the Chief Commissioner in his letter definitely states that he proposes to make suspensions and remissions of land revenue.

Mr. K. Ahmed: Are Government aware that the wages of labourers in the City of Delhi are three to five times higher than in any other Province?

Sir Girja Shankar Bajpai: No, Sir. I have not made a study of the comparative wage rates of Delhi and other cities.

Mr. K. Ahmed: The wages of a mason here in Delhi, for instance, are from Rs. 1-2-0 to Rs. 2-8-0? Is it not a fact?

Sir Girja Shankar Bajpai: Not being a contractor who employs masons, I cannot say.

Mr. K. Ahmed: The Public Works Department being under the Government of India, and my Honourable friend has got something to do with it

Mr. Deputy President (Mr. Akhil Chandra Datta): That question does not arise. Next question.

1382. *Mr. Badri Dutt Pande: Question No. 1382 having been answered already, I will put the next question, No. 1383.

FAMINE IN AJMER.

1383. *Mr. Badri Dutt Pande: Will the Secretary for Education, Health and Lands be pleased to state if there is famine in Ajmer and, if so, what steps Government have taken so far to cope with the situation?

Sir Girja Shankar Bajpai: According to reports received from the Chief Commissioner, Ajmer Tahsil and the northern half of Beaswar Sub-division have been badly affected by the scanty and uneven rainfall during the last monsoon. The usual measures, namely, the provision of fodder for cattle, the distribution *taccavi* and remissions of land revenue will be taken and it may become necessary to open test works later on.

Prof. N. G. Ranga: Is it proposed, or has it already been done, to suspend the collection of land revenue there?

Sir Girja Shankar Bajpai: The Chief Commissioner has, I am sure, taken all the action that he considers to be opportune.

Prof. N. G. Ranga: What is the information of Government? Have they satisfied themselves whether land revenue collections are suspended or not?

Sir Girja Shankar Bajpai: My Honourable friend comes from Madras. He probably knows the procedure there better than he knows the procedure in Northern India. With us, the *Jinswar*, that is to say, the return of produce is not received by the Administration much before the beginning of November. Therefore, it is not possible for me to say what the measure of the remissions or suspensions that may be made by the Chief Commissioner will be.

Prof. N. G. Ranga: Is the supply of fodder made free or at concession rates?

Sir Girja Shankar Bajpai: I take it that that depends upon the necessity of the individual concerned. In some cases it may be distributed free; in other cases it may be given at concession rates.

PAMPHLET REGARDING PROVISION OF FACILITIES FOR HIGHER EDUCATION TO INDIANS IN MALAYA.

1384. *Mr. Badri Dutt Pande: Will the Secretary for Education, Health and Lands be pleased to state if he has seen a pamphlet regarding provision of facilities for higher education to Indian youths in Malay issued by 18 Indian Associations in the Federated Malay States? If so, have Government given any thought to it?

Sir Girja Shankar Bajpai: Government have read the memorandum submitted by the Central Indian Association of Malaya to the Commission on Higher Education in Malaya, to which the Honourable Member presumably refers. The Agent of the Government of India is in touch both with the local Indian community and with the Commission in regard to this matter.

Prof. N. G. Ranga: Will Government consider the advisability of advising their Agent to press for the introduction of adult education facilities for our labourers there on the estate?

Sir Girja Shankar Bajpai: As far as I can make out, this particular Commission is dealing with secondary and higher education, not with adult education for labourers.

Prof. N. G. Ranga: In view of the fact that the provision of adult education facilities is much less costly than High School education facilities, will Government consider the advisability of pressing for this also?

Sir Girja Shankar Bajpai: I submit that I can only answer questions which arise out of this question. If my Honourable friend is interested in adult education in Malaya, perhaps he will be so good as to give me notice of a question and then I shall deal with it.

Dr. Sir Ziauddin Ahmad: With reference to higher education, may I ask whether there exists any College or University in the whole of Malaya?

Sir Girja Shankar Bajpai: There is no University. My information is that there are two Colleges, one called the Raffles College in Singapore, and another a professional College dealing with instruction in medicine.

Mr. Badri Dutt Pande: May I ask if Indians are admitted to those Colleges?

Sir Girja Shankar Bajpai: My Honourable friend has a question about that later on. I will answer that in due course.

Dr. Sir Ziauddin Ahmad: The standard of the first College is not higher than that of the school here.

Sir Girja Shankar Bajpai: That is probably the position. I think it really corresponds to the Intermediate.

Dr. Sir Ziauddin Ahmad: Less than that.

DENIAL OF FACILITIES FOR HIGHER EDUCATION TO INDIANS IN THE FEDERATED MALAYA STATES.

1385. ***Mr. Badri Dutt Pande:** Will the Secretary for Education, Health and Lands be pleased to state why Indians, who have contributed so largely to the progress of the Federated Malaya States, are denied any facilities in the matter of higher education, and Chinese and Japanese are given preference over them in these States?

Sir Girja Shankar Bajpai: Government are not aware that there is racial discrimination against Indians in Malaya in regard to facilities for higher education.

Mr. S. Satyamurti: In view of the allegations made in this memorandum, will Government cause inquiries to be instituted through their Agent or by means of other agencies as to whether there is in fact or in law any discrimination against Indians in respect of facilities for higher education?

Sir Girja Shankar Bajpai: What the memorandum says is not that there is discrimination against Indians. What it says is that the provision for higher education is inadequate to the requirements of different sections of the community. That is the point which is being examined by the Commission. On the subject of discrimination I may inform my Honourable friend that Mr. Sastri, in his Report, stated categorically that he had satisfied himself that there was no discrimination in the matter of admissions to the institutions stated.

Dr. Sir Ziauddin Ahmad: Are not Government aware that a large number of Malaya students come to Indian Universities for admission?

Sir Girja Shankar Bajpai: That is not because, as my Honourable friend is as well aware as I, there are not adequate facilities in Malaya for higher instruction.

Mr. S. Satyamurti: Have Government found out that such facilities for higher education, as exist for Chinese and Japanese students, are not available to the same degree or extent to Indian students?

Sir Girja Shankar Bajpai: That is the point which I made earlier—that Mr. Sastri went into the question of discrimination against Indians and he recorded a definite and clear finding that in the matter of admission no discrimination is made against Indians as compared with any other section of the community.

INADEQUATE REPRESENTATION OF MUSLIMS IN THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS AND CERTAIN OFFICES ATTACHED TO IT.

†1386. ***Syed Ghulam Bhik Nairang:** (a) Will the Secretary for Education, Health and Lands please state whether it is not a fact that in the Department of Education, Health and Lands the number of persons whose salary is Rs. 850, or more, is five, of whom none is a Muslim?

(b) Is it not a fact that in the Imperial Agricultural Research Institute, out of 17 officers, 15 are Hindus and no Muslim, and in the Agricultural Marketing Department, there are eight officers, seven of whom are Hindus and no Muslim?

Sir Girja Shankar Bajpai: (a) No. There are ten such officers at the moment of whom six are Europeans, three are Hindus and one an Indian Christian. The substantive incumbent of the post of Joint Secretary is a Muslim.

(b) No.

INADEQUATE REPRESENTATION OF MUSLIMS IN THE OFFICES SUBORDINATE TO THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

†1387. ***Syed Ghulam Bhik Nairang:** Will the Secretary for Education, Health and Lands please state whether it is not a fact that in all the Departments subordinate to the Department of Education, Health and Lands, there are 71 officers, of whom only one is a Muslim?

Sir Girja Shankar Bajpai: No. A statement showing the distribution of posts among Muslim, Hindu and other officers in the Departments

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

subordinate to the Department of Education, Health and Lands is laid on the table.

Statement showing the distribution of posts among Muslim, Hindu and other officers in the Departments subordinate to the Department of Education, Health and Lands.

	Total number.	Number of Muslim officers.	Number of Hindu officers.	Number of European and other officers.
(a) Posts to which the orders relating to communal representation in the services apply.	117	22	52	43
(b) Posts excluded from the scope of the orders relating to communal representation in the services.	147	11	63	73

INADEQUATE REPRESENTATION OF MUSLIMS IN THE OFFICES SUBORDINATE TO THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

†1938. ***Syed Ghulam Bhik Nairang**: Will the Secretary for Education, Health and Lands be pleased to state the name of any Muslim in any office subordinate to the Department of Education, Health and Lands appointed since 1933 and retained for two years?

Sir Girja Shankar Bajpai: A statement giving the information in respect of gazetted officers is laid on the table. Information about non-gazetted staff is being collected and will be supplied to the House in due course.

Statement showing the number of Muslim gazetted officers in the offices subordinate to the Department of Education, Health and Lands appointed since 1933 and retained for two years.

Serial No.	Name of offices.	Name of officer.	Date of appointment	Remarks.
1	Archæological Survey Department.	Mr. Mohd. Abdul Hamid (Curator, Central Asian Antiquities Museum, New Delhi).	4-8-1933	Still in service.
2	Zoological Survey of India.	Dr. H. A. Hafiz (Assistant Superintendent).	5-9-1935	Do.
3	Imperial Agricultural Research Institute Class II.	Dr. Tashkir Ahmad (Assistant Entomologist).	14-10-1935	Do.
4	Ditto	Mr. S. M. Jamaluddin, Cattle Superintendent, Agricultural Sub-Station, Kernal.	2-3-1936	Do.
5	Survey of India, Class II	Mr. Mohd. Allauddin (Extra Assistant Superintendent).	27-11-1933	Do.
6	Ditto	Mr. Kabir Ahmad Sheikh (Extra Assistant Superintendent).	27-11-1933	Do.
7	Imperial Veterinary Research Institute, Class I.	Mr. Syed Raizul Hassan (Officer in charge of Biological Products Section, Izatnagar).	5-11-1934	Do.
8	All-India Institute of Hygiene and Public Health, Calcutta.	Dr. Bashir Ahmed, M.Sc., Ph.D. (London) (Assistant Professor of Bio-Chemistry and Nutrition).	2-1-1934	Do.

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

LIFE OF THE LEGISLATIVE ASSEMBLY AND MODIFICATION OF THE FEDERAL SCHEME.

1339. *Mr. C. N. Muthuranga Mudaliar: Will the Honourable the Leader of the House be pleased to state:

- (a) when the life of the present Legislative Assembly, whose term has been extended to 1st October, 1939, will come to an end;
- (b) when it is proposed to bring the Federal Scheme into operation;
- (c) whether there is any proposal to modify the Federal Scheme in any material particulars;
- (d) whether it is proposed to convene a round table conference, or adopt any other method, to consult public opinion in this country;
- (e) whether Government are aware that the Indian National Congress is stoutly opposing the Federal Scheme as envisaged in the Government of India Act, 1935; and
- (f) whether the Government of India have communicated to the Secretary of State the public opinion in this country with regard to the Federal Scheme?

The Honourable Sir Nripendra Sircar: (a) The Honourable Member is referred to my reply to Mr. Satyamurti's starred question No. 1230 asked on the 14th November.

(b) I have no information.

(c) and (d). I am not aware of any such proposals.

(e) Government are aware of the attitude of the Congress towards the Federation.

(f) The Secretary of State is also aware of the attitude of different parties in the matter.

Before supplementaries are put, will you allow me to give a reference, to which I alluded on a previous occasion, today? I won't argue the matter. I am referring to page 240 of May's Parliamentary Practice:

"An answer to a question cannot be insisted upon, if the answer be refused by a minister on the ground of the public interest; nor can the question be replaced upon the notice paper. The refusal of a minister to answer a question on this ground cannot be raised as a matter of privilege while a motion for the adjournment of the house under standing order * * * to discuss a similar refusal has been ruled out of order."

This is what I referred to on a previous occasion.

Mr. S. Satyamurti: I find that May's Parliamentary Practice is constantly quoted, whenever it suits the Treasury Benches. I want to make a submission. I do not want a final ruling. You can take time to give a ruling. May's Parliamentary Practice applies to a House in which the Government can be sent out of office by a vote of no-confidence. So far as our rules and standing orders are concerned, they are complete in themselves; and it is only where there is no contradiction and where there is nothing inconsistent with our rules and standing orders that you should rely on May's Parliamentary Practice to the extent

to which the Chair thinks it is binding. But I do submit with some confidence that for the Treasury Benches to quote May's Parliamentary Practice whenever it suits them and try to confine themselves to the rules and standing orders when it suits them to do so is to try to make the best of both the worlds. I submit that each question should be judged on its merits, and May's Parliamentary Practice should not be conclusive in respect of a House to which these gentlemen are not in any way responsible at all. My Honourable friend did not want any ruling. I do not also want any ruling, but I want to know, Sir, with reference to clause (c), whether there have or have not been in Government Departments themselves notes made and suggestions made for amendment of the Government of India Act, 1935, in respect of administrative and other difficulties which have already arisen or are expected to arise in the working of the Act.

The Honourable Sir Nripendra Sircar: The question was whether there is any proposal to modify the Federal Scheme in any material particulars and I said I was not aware of any such proposals.

Mr. S. Satyamurti: I want to know whether in the Government Departments themselves notes have not been put up and suggestions have not been made for amending the Government of India Act in respect of administrative difficulties which have arisen or which are expected to arise in the working of the Act.

The Honourable Sir Nripendra Sircar: That does not arise, but there is not any subject under the Sun on which there are not to be found notes in the archives of the Government of India.

Dr. Sir Ziauddin Ahmad: Has any note been put up as regards the manner of election of the Members of the Federal Legislative Assembly?

The Honourable Sir Nripendra Sircar: I submit, Sir, he cannot ask me that question. As regards Mr. Satyamurti's point, I do not want to argue the matter at length. When the occasion comes I shall do so. My friend brushed aside May's Parliamentary Practice saying that this is not Parliament in the strict sense of the term. There is a ruling of the President. Mr. Satyamurti argued at great length. It is on page 387 of the Legislative Assembly Debates of 12th August, 1938, Vol. IV, No. 4. The President ruled:

"The Chair thinks that question was raised before. It is quite open to Honourable Members to put questions as regards the communications that have passed between the Government of India and the Secretary of State, but at the same time, the Chair thinks, the Governor General has authority to disallow any information being given which he considers to be detrimental to public interest, and when Honourable Members, sitting on the Treasury Benches, representing the Government of India, refuse to disclose any communication that has passed, it is to be presumed that they do so on grounds that it will be detrimental to public interest to disclose any such information."

The matter can be reconsidered.

Mr. Manu Subedar: May I inquire whether Government have considered the meaning of the word 'public' as used in 'public interest', and the word 'public' as it is used in 'public opinion'?

Mr. Deputy President (Mr. Akhil Chandra Datta): Before the Honourable Member puts that question, the Chair really does not know whether any ruling is invited from the Chair on this matter. The Chair understands that there is no ruling wanted now.

Mr. Manu Subedar: I repeat my question.

The Honourable Sir Nripendra Sircar: Will my Honourable friend make it clear how it arises from this question?

Mr. Manu Subedar: May I make it clear? The Honourable Member said he was entitled to refuse to give any information when the refusal is based on the ground that it would be detrimental to the public interest. I merely want to know from him if the connotation of the word "public" as used in "public interest" is distinct from the word "public" used in "public opinion".

The Honourable Sir Nripendra Sircar: The Honourable Member can put supplementary questions only to question No. 1389 and not supplementary questions on the arguments which have been advanced here. As regards the meaning of the word "public", I refer my Honourable friend to the Oxford Dictionary.

Mr. Lalchand Navalrai: May I know from the Honourable Member if he can refer me to May's Parliamentary Practice and say if this phrase "public interest" is defined anywhere there?

The Honourable Sir Nripendra Sircar: I would ask my Honourable friend to read the book: apparently he has not seen it so far.

Mr. Lalchand Navalrai: The Honourable Member is Law Member and knows much more than I do and, therefore, I am asking where that definition is to be found in May's Parliamentary Practice or anywhere?

The Honourable Sir Nripendra Sircar: I do not want to deprive my Honourable friend of the pleasure of going through the book or authorities to find out what the definition is.

Mr. S. Satyamurti: With reference to the answer to clause (f), may I know whether the Government of India communicated to the Secretary of State that the Indian National Congress, the All-India Muslim League, and the All-India Liberal Federation and all political parties in this country have expressed their opinion against the Federal Scheme?

The Honourable Sir Nripendra Sircar: My Honourable friend's question is limited to the Indian National Congress

Mr. S. Satyamurti: No. I am taking part (f).

The Honourable Sir Nripendra Sircar: Yes.

Mr. S. Satyamurti: Have Government communicated to the Secretary of State the opinions of these bodies?

The Honourable Sir Nripendra Sircar: I do not understand what is meant by the question whether the Government of India have communicated these opinions: but all these opinions which have been expressed have gone to the Secretary of State in the ordinary course.

Mr. S. Satyamurti: What is the ordinary course?

The Honourable Sir Nripendra Sircar: The ordinary course is for somebody to send all relevant papers from here to the Secretary of State.

Mr. S. Satyamurti: The Government of India send them?

The Honourable Sir Nripendra Sircar: That I cannot say; but he gets them without the help of the Government of India.

Mr. S. Satyamurti: I should like to have a serious answer to a serious question; my Honourable friend may try to answer it by raising a laugh, but it is a matter of some importance to us, though not perhaps to him. I am asking whether the Government of India as a Government have communicated to the Secretary of State the public opinion of all political bodies in this country that they are against the Federal Scheme.

The Honourable Sir Nripendra Sircar: That is quite a different question. He now wants to know what is the communication which has passed between the Government of India and the Secretary of State on this matter

Mr. S. Satyamurti: No, I am not asking that. I am simply asking, as a matter of fact, whether the Government of India have communicated the opinions of the public bodies I have named in this country to the Secretary of State that they are against the Federal Scheme as envisaged in the Government of India Act, 1935?

The Honourable Sir Nripendra Sircar: My Honourable friend can go round and round. As I said, the papers are before the Secretary of State. What the Government of India have said or if they have said anything at all I do not propose to disclose, nor as to who sent them.

Mr. S. Satyamurti: I do not want that at all. May I take it that the Government of India have formally communicated these opinions without any comments? Or if they have made any, I do not want to know what they are.

The Honourable Sir Nripendra Sircar: I am not prepared to say whether it was formal or informal. It has gone through the post. (Laughter.)

Mr. S. Satyamurti: Through what? I could not hear him.

The Honourable Sir Nripendra Sircar: It has gone through the post.

FALL IN THE PRICE OF PADDY AND RICE.

1390. ***Mr. C. N. Muthuranga Mudaliar:** Will the Secretary for Education, Health and Lands please state:

- (a) whether the price of paddy and rice this year has fallen below the level of last year; and
- (b) what action Government propose to take to raise the price level of rice and paddy?

Sir Girja Shankar Bajpai: (a) and (b). The Government of India are not aware of any decline in the price of rice which calls for any action open to them. Figures for the price of paddy are not available.

Mr. C. N. Muthuranga Mudaliar: May I draw the attention of the Honourable Member to the statement of the Director of Industries, Madras, dated the 11th November, which appears in the *Hindu* of the 14th, and ask him to give me a correct answer?

Sir Girja Shankar Bajpai: My answer is based upon a study of quotations for prices from different markets received up to the end of October.

SECURING OF FULL RIGHTS OF CITIZENSHIP TO INDIAN SETTLERS IN KENYA.

1391. ***Mr. C. N. Muthuranga Mudaliar:** Will the Secretary for Education, Health and Lands be pleased to state:

- (a) whether the attention of Government has been drawn to the state of great alarm that exists amongst the Indian settlers in Kenya and Tanganyika that they may be handed over to Germany; and
- (b) whether the Government of India are prepared to take steps to secure full rights of citizenship to the Indian settlers in Kenya?

Sir Girja Shankar Bajpai: (a) The attention of the Honourable Member is invited to the reply given by me on the 17th November, 1936, to Mr. Abdul Qaiyum's question No. 1294. Government are not aware of any agitation in regard to Kenya.

(b) I have informed the House on a number of previous occasions what action the Government of India have taken regarding Indian rights in Kenya and have nothing to add.

Mr. K. Santhanam: May I know whether the attention of Government has been drawn to the news in this morning's papers that 10,000 square miles are going to be allotted to Jews in British Guiana?

Sir Girja Shankar Bajpai: I have read that statement in the morning's papers, yes.

Mr. K. Santhanam: Will the Government of India press upon His Majesty's Government that Indian settlers should be given at least the same facilities?

Mr. Girja Shankar Bajpai: As far as I am aware, in British Guiana there is no differentiation between Indians and anybody else. Land can be bought by any one.

Mr. K. Santhanam: If another 10,000 square miles can be allotted, will the Government of India be able to acquire the land same as the others?

Sir Girja Shankar Bajpai: The Government of India cannot take steps to acquire any areas for the Indians there. The Indian community can acquire lands for themselves.

Mr. K. Santhanam: I am asking whether the Government of India will take steps to acquire land for the Indian community here for Indian settlers.

Sir Girja Shankar Bajpai: In India? That question does not arise out of this.

Dr. Sir Ziauddin Ahmad: Is it not a fact that the British Government is acquiring land for the benefit of Jews, and will not the Government of India follow this example and acquire land for the benefit of Indians also?

Sir Girja Shankar Bajpai: My Honourable friend is perhaps unaware that Indians in British Guiana can acquire land for themselves.

TERMINATION OF THE INDO-BURMA TRADE AGREEMENT.

1392. ***Mr. O. N. Muthuranga Mudaliar:** Will the Secretary for Education, Health and Lands be pleased to state:

- (a) when the Indo-Burman agreement terminates;
- (b) whether the Government of India propose to impose an import duty on Burma rice immediately on the termination of the Indo-Burman agreement; and
- (c) whether Government propose to consider the advisability of fixing a quota on the import of Burma rice into India in the meanwhile?

The Honourable Sir Muhammad Zafrullah Khan: (a) I would refer the Honourable Member to the answers given by me on the 14th instant to part (a) of Mr. Santhanam's starred question No. 1235 and its supplementaries.

(b) Does not arise.

(c) The Government of India are precluded from fixing a quota for imports of Burma rice by paragraph 3 of Part II of the India and Burma (Trade Regulation) Order, 1937.

MEETING OF THE EMIGRATION COMMITTEE.

1393. ***Mr. O. N. Muthuranga Mudaliar:** Will the Secretary for Education, Health and Lands be pleased to state whether no meeting of the Emigration Committee was held during the last Simla Session of the Legislature? If so, why?

Sir Girja Shankar Bajpai: As no subject of major importance was at a stage at which the Committee could usefully be consulted, no meeting was held during the last Simla Session.

GIRLS OF SCHEDULED CASTES RECEIVING EDUCATION IN THE CENTRALLY ADMINISTERED AREAS.

1394. *Mr. Sham Lal: Will the Secretary for Education, Health and Lands be pleased to state the number of girls of each scheduled caste respectively under instruction on the 31st March, 1938, in mixed schools and girl schools conducted in centrally administered areas by Municipalities, District Boards and the Government?

Sir Girja Shankar Bajpai: A statement showing the number of depressed class girls reading in recognised schools in the centrally administered areas during the year ending 31st March, 1937, is placed on the table of the House. Similar figures for the year ending 31st March 1938, will be available by about July, 1939. Separate figures by castes and sub-castes are not available.

Statement showing the number of depressed class girls reading in all recognised schools in the centrally administered areas during the year ending 31st March, 1937.

Areas.	Number of pupils.		
	General education.	Vocational and special education.	Total.
Delhi	316	36	352
Coorg	53	..	53
Ajmer-Merwara	188	..	188
Baluchistan
Bangalore	1,268	..	1,268

Mr. Sham Lal: May I ask if special facilities are being provided to encourage female education amongst the scheduled classes?

Sir Girja Shankar Bajpai: I would like to have notice of that question: I could not say off-hand.

Mr. Abdul Qayyum: May I know what tests are applied by Government to find out whether a boy or girl belongs to the depressed classes or not?

Sir Girja Shankar Bajpai: I do not know that there is any specific test: common repute.

RESEARCH WORK FOR GROWING TOBACCO FOR THE MANUFACTURE OF CIGARETTES AND CIGARS.

1395. *Mr. Sham Lal: Will the Secretary for Education, Health and Lands be pleased to state:

- (a) whether any research work for growing in different soils of India different varieties of tobacco meant for the manufacture of different kinds of cigarettes and cigars on factory scales is being undertaken by the Imperial Council of Agricultural Research; and

- (b) if so, whether the results achieved so far are being placed by the All-India Industrial Bureau before the public for industrial purposes?

Sir Girja Shankar Bajpai: (a) The research work undertaken is not yet of so comprehensive a character. The Imperial Council of Agricultural Research has initiated two schemes of research on tobacco:

- (i) The first is a co-operative scheme of flue-curing experiments in Bombay, Bengal, United Provinces, Punjab, Bihar, Central Provinces and Berar, Baroda and Hyderabad;
- (ii) The second is the establishment of a tobacco sub-station at Guntur in the Madras Presidency to investigate manurial and curing experiments, chemical analysis of leaf, breeding of new types, etc.

(b) The schemes have been in progress only for a short time and the results are not yet ready to be brought to the notice of the public.

Mr. M. Thirumala Rao: With reference to the answer to part (b), and the station at Guntur, I find that the grant of Rs. 20,000 has been reduced to Rs. 13,000. Is it the explanation that the research is going to be stopped or the station abolished?

Sir Girja Shankar Bajpai: There is no question of abolishing the station. 12 Noon. The grant is to be spread over a period of five years.

Mr. M. Thirumala Rao: Has the gentleman in charge of the station represented to the authorities saying that the funds placed at his disposal are not sufficient to carry on elaborate experiments which he is expected to do?

Sir Girja Shankar Bajpai: I have no knowledge of any such representations.

Mr. Manu Subedar: May I know, Sir, if it is a fact that Indian tobacco is exported to Hamburg where cigars are made on a large scale, and if it is so, have Government looked into this question as to why these cigars cannot be made in India?

Sir Girja Shankar Bajpai: That question does not arise out of this. If my Honourable friend puts down a question on paper, I shall try to answer it.

Prof. N. G. Ranga: I understand this grant of Rs. 25,000 is made over a period of five years, if so, do Government propose to get these experiments made on the grounds of the local agricultural demonstration farms?

Sir Girja Shankar Bajpai: As far as I know, it is not a grant of Rs. 25,000 spread over a period of five years. It is a grant of over a lakh spread over a period of five years. The farm is owned by Government, and it is only seed distribution to the cultivator which takes place there.

Mr. K. Ahmed: Are Government aware that in my constituency in the district of Rangpur, there is good soil for growing Manilla cigars and for research work, but nothing is being done there?

Sir Girja Shankar Bajpai: Sir, I did not know that cigars grew out of land.

(b) WRITTEN ANSWERS.

PURCHASE OF LANDS FROM CULTIVATORS IN THE DELHI PROVINCE.

1396. ***Mr. Sham Lal:** Will the Secretary for Education, Health and Lands be pleased to state:

- (a) whether it is a fact that in the Delhi Province notified agriculturists, who have taken to Government services in the Civil Departments and held posts carrying a monthly salary of more than one hundred rupees, or who have adopted professions such as Law or Medicine, are purchasing land from actual cultivators and are themselves becoming non-working land-holders; and
- (b) if so, whether any action is intended to be taken in the matter for the Province of Delhi?

Sir Girja Shankar Bajpai: Information has been called for and will be furnished to the House as soon as possible.

PROPOSAL TO ESTABLISH AN ALL-INDIA INSTITUTE FOR ANIMAL HUSBANDRY AND ANIMAL GENETICS NEAR DELHI.

1397. ***Mr. Sham Lal:** Will the Secretary for Education, Health and Lands be pleased to state:

- (a) whether there is a proposal to establish an All-India Institute for animal husbandry and animal genetics somewhere near Delhi; and
- (b) if so, when it is likely to mature?

Sir Girja Shankar Bajpai: (a) No.

(b) Does not arise.

GRADING OF GHEE.

1398. ***Mr. Sham Lal:** Will the Secretary for Education, Health and Lands be pleased to state:

- (a) whether any scheme of getting *ghee* (clarified butter) graded into classes after laboratory tests has yet engaged the attention of the Imperial Council of Agricultural Research; and
- (b) if so, what the result has been?

Sir Girja Shankar Bajpai: (a) Yes.

(b) The scheme has been put into operation. A Central Ghee Control Laboratory has been established and eleven firms have been authorised to grade and mark ghee in accordance with the rules made under the Agricultural Produce (Grading and Marking) Act, 1937. Further applications

for similar authorisation have been received and are under examination. Quantitatively, about 15,000 maunds of ghee valued at approximately Rs. 7½ lakhs have been graded and packed.

VILLAGE FRANCHISE ORDINANCE PASSED BY THE CEYLON STATE COUNCIL.

1399. *Seth Govind Das: Will the Secretary for Education, Health and Lands please state:

- (a) whether his attention has been drawn to the Village Franchise Ordinance passed by the Ceylon State Council recently;
- (b) whether he is aware that the amendment which excludes all the estate labourers from franchise has been regarded by Indians as the most unsatisfactory solution of the rights of Indian labourers;
- (c) whether it is a fact that Mr. H. M. Desai had placed his viewpoints of the Indian labourers in Ceylon before Government bearing on this matter;
- (d) the attitude of Government in the matter;
- (e) actions, if any, taken by Government in the matter;
- (f) whether it is a fact that His Excellency the Governor of Ceylon has referred the amended Bill to His Majesty's Government for fresh consideration; and
- (g) whether Government have represented the grievances of Indian labourers in Ceylon to the Secretary of State for Colonies with regard to this amended Bill?

Sir Girja Shankar Bajpai: (a) to (c). Yes.

(d), (e) and (g). The attention of the Honourable Member is invited to the reply given to Mr. Satyamurti's question No. 1300 on the 17th November, 1938.

(f) The Bill has been reserved by the Governor of Ceylon for the signification of His Majesty's pleasure.

TERMINATION OF THE INDO-BURMA TRADE AGREEMENT.

1400. *Seth Govind Das: Will the Honourable the Commerce Member please state:

- (a) the duration of the current Indo-Burma Trade Pact and when it terminates;
- (b) whether he has been contemplating to renew the Trade Pact or terminate it for replacement by a fresh agreement; and
- (c) the chief industries that were benefited in India as a result of the Trade Pact?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). The attention of the Honourable Member is invited to the answers given to part (a) of Mr. Santhanam's question No. 1235 on the 14th November, 1938, and to the supplementary questions arising therefrom.

(c) Judged by the value of the export trade to Burma the chief Indian industries which have benefited are the cotton textile, jute, tea, tobacco, sugar, coal and the oil crushing industries.

DECREASE IN THE EXPORTS FROM INDIA TO ARGENTINE.

1401. *Seth Govind Das: Will the Honourable the Commerce Member please state:

- (a) whether it is a fact that exports from India to Argentine have decreased during the past six or seven months;
- (b) the extent to which the volume of trade with Argentine has been reduced during the past six or seven months;
- (c) the value to which such trade has been reduced corresponding to that of last year;
- (d) causes for the decrease in trade; and
- (e) actions, if any, he has taken to prevent further decrease in business in future with Argentine?

The Honourable Sir Muhammad Zafrullah Khan: (a) No.

(b) to (e). Do not arise.

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

Mr. Deputy President (Mr. Akhil Chandra Datta): The House will now resume consideration of the following motion moved by the Honourable Sir James Grigg:

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

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, when the House rose yesterday, I was on clause 4, and I was endeavouring to show that no injustice of any kind was going to be done to Indians by the amendment of clause 4 as it has emerged out of the Select Committee, and that, if there was any invidious distinction, that has been removed. My point was and still is that everybody should be placed on the same level. Now, how is it done? Till now, foreign income was liable to taxation provided it was brought to India. The only difference which is made by the amendment of clause 4 is that not only the income which is brought into British India will be taxed, but even if it accrues outside to a person who is resident in British India for more than 182 days, it will be liable to tax, and you cannot say that any injustice will be caused thereby to any one. There appears to be some misapprehension in the minds of some of those who are living in India and carrying on business in Burma, Ceylon or other parts of the British Dominions that they will be taxed doubly, in that they will be taxed not only in those countries but also in India, but I can assure them that they will find there is no foundation for this apprehension, when they go through the clauses of the Bill carefully. Another fear in the minds of such people who have trading connections outside British India is that they may be asked to produce their account books from long distances and they may not be able to produce such books from places outside British India for placing the documents before the Income-tax officer in India. That also, I may assure them, is an apprehension which cannot have any foundation. Nobody will be asked to bring his account books from such long distances. What Government will probably do will be this, the Income-tax officers in India will be directed to accept all the accounts which have been accepted by the Income-tax officers in those countries outside British India and proceed

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to examine the accounts on that basis. For instance, if an Income-tax officer in Burma has accepted a man's income in Burma as, say, a lakh of rupees, Government cannot ask the same person to produce his account books again here.

Now, Sir, after having dealt with clause 4, there is not much left in the Bill where we differed, except sections 17 and 49, otherwise the Select Committee seem to have been practically unanimous in other matters. With regard to clause 17, my friend, the Leader of the Opposition, and Sir Cowasji Jehangir said there was some difficulty about incomes arising from trusts. My friend, the Leader of the Opposition, only wanted a change to be made in respect of irrevocable trusts. I think the majority of the Committee would have agreed to any definite proposal if it had been made somewhat to the effect,—that if a trust was created for people other than for legal heirs, or if a trust was created with *bona fide* intentions to benefit the public, and not to benefit one's own wife or children in order to escape income-tax. There may be some *bona fide* cases, because as everybody knows there are some people who create trusts to benefit their own wives and children, there may be children from a deceased wife and the man in order to escape from being influenced by his second wife may be inclined to create a trust for the benefit of his children by the first wife. There may be cases like that. When one creates a trust in favour of his own legal heirs, who are bound to inherit his property after his death, in his life time, then there is a suspicion whether this is a *bona fide* transaction or not. The law says that that will be considered to be the income of the settlor. I am not an expert in trust law and I have never practised on the side where trusts are created. I cannot, therefore, give my opinion as to how a trust can be legally created or whether it will be valid or not or if it is irrevocable or not if the corpus is reserved to the person or not. I have not seen that kind of trust being created but one thing I can understand, that there was a desire in the Committee that people be allowed to keep up the corpus to themselves for their whole lifetime and only divest themselves of the income arising out of the corpus. If the ownership does not remain in the man, that of course is the real trust but if anybody wants to retain the ownership in the property to himself and give only the income to his children and call it a trust so that it may not be included in his income, then in fairness it ought to be considered his income. It is only a family arrangement in order to provide his children in a particular manner. It is quite a different thing if it is given to some other people. If such an amendment had been moved in the Select Committee then the majority would have been on that side.

An Honourable Member: What about *wakf*?

Sir Muhammad Yamin Khan: The Honourable Member is a lawyer and he ought to know that, when a *wakf* is created, a man divests himself of the ownership of the property for ever, while here the income only is transferred. If my Honourable friend, the Leader of the Opposition, could convince the House that there will be real hardship, then there is no harm in giving this benefit to the real and *bona fide* trusts and not to those intended only to escape income-tax or super-tax.

The only other thing about which there was some disagreement in the Committee was about section 49 or clause 58. My Honourable friend, the Leader of the Opposition, made a brilliant and very eloquent speech on this point and he succeeded to a great extent in creating the impression that an Englishman comes like a beggar and he tells us: "You are rich people living in this country. You make a gift to us". I do not see the point in this light. I do not think that an Englishman comes like a beggar or I would have been willing to give him double income-tax relief as a charity if he had come to me as a beggar. I stand on one principle only. It is this. Whatever may have been the reasons, the Englishman finds himself carrying on trade for several centuries in India. He has invested his capital in this country. He finds it pays more. There is no such thing as patriotism in business. An Englishman sees to his business first and wherever he can make money he is ready to go. He found that investments in this country are more profitable than in other countries. He has helped to make certain improvements in this country. Unfortunately, I have to confess that we Indians did not think of sinking our capital in industries at the time when the Englishman was finding his way and developing this country. We are copying them now. The entire money of our capitalists was invested in money-lending to the zamindars and the tenants. Therefore, our capitalists did not invest the money in developing our country. Now, it is a question whether it is justifiable or not to place these Englishmen at a disadvantage. That is a proposal that cannot be supported on equitable grounds. If an Englishman carries on business in this country and if he is resident in this country, then his income is liable to taxation in this country under clause 4. If he has got a branch in this country and he has got several branches elsewhere, under clause 4, he is bound to make a return of all the income which he has got outside this country. Section 49 only gives him this relief that whatever tax he pays on his income which he has not made in India, that amount will be paid back to him. (*Cries of "No, no". "Read the section."*) Please listen. I ask those gentlemen who say "read it" to read it a hundred times and they will not understand.

Then, Sir, with regard to the amount of relief which is given to them, there is in some quarters this apprehension that if an Englishman is taxed at five annas six pies in England, then the relief which is going to be given to him will be half of the relief of the tax on the rate of five annas six pies which he pays in England. I say that is an absolutely wrong impression created on their minds. The wording and proviso say that the relief in no case shall exceed half the rate of Indian income-tax. People are thinking that if an Englishman is paying on his ten lakhs an income-tax in this country and on five lakhs in England, when he gets back the tax which he paid at the rate of five annas six pies in England, that being higher, then he will claim half of this ten lakhs which he has paid because three annas six pies happen to be the lesser rate, and that he will benefit because he was charged at the rate of five annas six pies there. I say this is an absolutely wrong impression created on them, because, the clause clearly lays down that the relief will be based in India on the rates prevailing in India and not on the rates which are obtaining in England. So that impression is totally wrong. But leaving that aside, I want that there should be no double taxation for anybody. If an Englishman wants to save himself from double taxation, he is saved from paying double tax, and I want Indians also to be saved from

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double taxation. I do not want any Indians to be subjected to paying double income-tax in this country when he is already subjected to one income-tax outside India. The only thing is that at present the Government is giving relief about the dominions and the other British possessions or the Indian States, but there will be some difficulty about those Indians who are carrying on their business in countries other than British dominions or possessions or Indian States and those people will be subjected to paying income-tax in that country as well as in this country. Surely, Sir, the relief may only come to this extent that whatever income-tax they have paid in a foreign country that will be deducted from the total income in this country, but that is a poor relief. With regard to the Indians who are carrying on their business in foreign countries, we should, of course, see that this may not cause hardship to them or that they should not be driven away to change their residence from India to other foreign countries. One difficulty has been pointed out by some Honourable Members and some of my friends from a certain Presidency, viz., that agricultural income which is earned outside India will be taxed in this country. If a man is owning land in Burma, then the income arising from that agricultural land in Burma is becoming taxable in this country. Certainly, Sir, when we know how this land was acquired, we know that this property was built up entirely from the Indian capital and it was out of the earnings in the shape of interest on the Indian capital that this property was acquired. We know that certain individuals went out to Burma or to other countries carrying on their money-lending business there while they were carrying on business here in India also but they found it more profitable to lend their money outside India. They did so. This is how these people have acquired their land in Burma. Indeed the income which is coming from the agricultural income from what has become agricultural property has become their property on account of the money-lending business, and because the debtors in that country could not repay back the lands on account of decrease in price of agricultural products, their lands were sold and these Indians purchased them. Well, they are in the same position as that in which we find several money-lenders having purchased lands here in India and having become zamindars.

An Honourable Member: What about you? You are a Zamindar?

Sir Muhammad Yamin Khan: I did not become a Zamindar through money-lending, nor any of my family for generations. But the position of these people cannot be different to that of people who are owning land in this country.

Now, in the Congress provinces, wherever Congress has got the power, they are introducing a kind of income-tax on agricultural income. Then, is there any justification that the man who is living within the province should pay the tax on his agricultural income but he should not pay any tax on the agricultural income which he derives from outside his province, if in that province there is taxation on the agricultural income? Take the case of a man living in Madras owning his agricultural property in Madras. He says that "I am liable to pay taxation in Madras because I have got my agricultural income here", but supposing he lives in Madras but purchases the property in Burma, he may then say, "oh, no, Burma is outside Madras". Of course the Madras Government cannot tax him because the

Madras Government has got only power within their own jurisdiction, that is, the Madras Presidency. But the man is living in Madras and he is drawing his income from Burma. Therefore, his income is not liable to taxation by the Madras Government. Then the Indian Government comes in and says: "Why not this thing come to us?" Certainly, I would have been the last person to support any agricultural income to be taxed at all in this shape if I had found that the taxation of the zamindar's property had not been taken up by the Congress Ministries in several provinces. When they have begun to tax the agricultural property in those provinces where they have got the majority, then it is not justifiable for some people to say: 'Oh, do not tax those people because that tax will go to the Indian Government and not to our province.'

Now, they said that they will pay income-tax in Burma. If they are paying income-tax in Burma, they will get the relief and if they are escaping any income-tax in Burma, they will have to pay tax in British India. So, it is not a double tax upon them. A man who owns his property in the United Provinces and also in the neighbouring State of Benares is liable to taxation under this Bill on his property at both the places. Is it reasonable that because a man is owning his property in the neighbouring district, he should be made to pay the income-tax, but if he is deriving all his income from a place just a few yards away, he should not be asked to pay the income-tax? So, I do not think any kind of hardship is created in this behalf when everybody is going to be placed on the same level. Some people suggest that as long as the Congress has not brought into effect the income-tax on the agricultural income, till then it may be deferred in case of that agricultural income which arose out of the other provinces. Well, that is a different matter. The only question now is that it is one of the proposals of some Provincial Governments who are guided by one Central authority, and which directs them to do a certain thing whether it suits the other provinces or not and we think that that authority should recommend taxing these people also simultaneously. There may be some justification for saying that it may be deferred up to that time when everybody will be placed on the same level.

Sir, there is nothing more for me to say except to make a few comments about my Minute of Dissent. There has been a misapprehension in the minds of certain Members that the waqf-alal-aulad is a private waqf and it is not a charitable waqf. There was a ruling of the Privy Council to the effect that the waqf of the property which is made in favour of the family or the benefit of which goes mainly to the family is not a charitable waqf and, therefore, it was not treated as a legitimate waqf. When the Muhammadans came to know about it, they brought the matter before the Indian Legislature and, in 1913, the Waqf Validating Act was passed which has clearly laid down that any waqf created in a manner by which the major portion of the income goes even for the benefit of the family is a valid waqf provided ultimately the benefit of it is for the good of the public at large. The principle of this kind of waqf is not based really on any other ground except on the Koranic words, where the words are:

"Zawil qurba wal yatama wal masakeen."

The meaning is that you have to give in charity first of all to your nearest relations, which may include children, brothers or sisters. Then

come the orphans and then the other needy people. The general public comes in the third category.

MR. M. S. ANSRY (Bihar: Non-Muhammadan): That is, *kafirs*.

SH. MUHAMMAD YAKIN KHAN: Even *kafirs* can get the charity. I can inform my Honourable friend that the Holy Koran enjoins a Muslim to make no distinction in his charity between a Mussalman and a non-Mussalman. In this connection, I will mention the story of the Prophet Abraham. He never used to take any meals without having at least one guest. He went out in search of a person to eat with him for three days, but he could not find any. On the fourth day, he found a man who was a wood-cutter. He was an old man of 80. The Prophet Abraham brought him home and asked him to eat along with him. This old man did not begin his meals with the name of Allah and the Prophet Abraham got angry with him and told him: "How is it you have not begun with the name of Allah who has given you this good food?" The old man replied: "I do not believe in God." Then a quarrel ensued and the old man left his place. After this incident, the Prophet Abraham did not have any revelation for many days and then he prayed to God and said: "Oh, Allah, why are you angry with me? What sin have I committed?" The reply came: "You are a messenger sent by us. We gave food to the man who was your guest for 80 years although he does not believe in us? You are our messenger and you could not tolerate him even for a day."

DR. G. V. DESHMUKH (Bombay City: Non-Muhammadan Urban): So, no difference between domicile and non-domicile.

SH. MUHAMMAD YAKIN KHAN: So, Koran has not laid down that a Mussalman may not give his charity to any non-Muslim or not to tolerate the *kafirs*, as my friend has put it. I do not use the word '*kafir*' at all. The Koran lays down the highest morals by which we abide ourselves and we follow them blindly because we believe in their eternal truth. The law as applied by us is the right law, it is the most humane law and we have to fight for the maintenance of that law so far as we are concerned. Therefore Waqf-alal-Aulad stands on the same footing as other waqfs under the Muhammadan law. Here in clause 4 a distinction is sought to be made between a charitable waqf and non-charitable waqf. The one is considered to be a kind of charity and the other is not called a charity. Here a man divests himself altogether from the ownership in the property; he has got no ownership left in the property at all and his children and children's children cannot claim any ownership in the property. They may be given some money by way of charity, but they do not hold any proprietary rights. They are only provided for poor people. I submit these people also should be placed on the same footing because they can neither sell nor convert it into capital. They cannot sell their interest in the income of the property. The position being what it is, we were justified in putting forward our minute of dissent. We were not able to explain at this length to other Honourable Members. I think we will have to make an amendment in this respect that income arising out of trusts should not be taxed as one entity. Of course, we have to discuss this point at length later on and we have also got to see how we can accommodate other people's views. I have explained my point of view and with these few words, I give my support to the Bill as it has emerged from the Select Committee.

Sir H. P. Mody (Bombay Millowners' Association: Indian Commerce): Mr. Deputy President, income-tax payers may be divided into three categories: dishonest, not quite honest and fools. By fools I mean those innocent minded people who declare their full income and pay up without a murmur. The Bill before the House is calculated to sharpen the wits of the dishonest and to worsen the lot of the innocent. There is a principle which is held as one of the great principles of British criminal jurisprudence and that is that it is better that a hundred guilty men should escape than that one innocent man should be condemned. The Bill before the House is based on a different principle altogether, and that is that it is better that a hundred innocent men should suffer than that one guilty man should escape.

The Honourable Sir James Grigg (Finance Member): Rubbish.

Sir H. P. Mody: What is rubbish. I agree that the principle is rubbish.

The Honourable Sir James Grigg: What the Honourable Member said.

Sir H. P. Mody: I will take my Honourable friend straight on to that point. What is the principle underlying clause 4? What has been its greatest justification not only in the present discussion, but also at the time when Sir George Schuster introduced a similar provision in 1931? It is that some multi-millionaires send their investments out of the country and do not pay income-tax, forgetting, on the other side, that there are thousands and tens of thousands of honest traders and industrialists who send out their money from this country not because they want to evade income-tax, but because they are plying a trade, and who, for various reasons, do not bring their income back to this country. If the principle of clause 4 is to penalise the many for the sins of the few, why does not the Finance Member carry the principle into the domain of public morality? There are people who carry on flirtations in public parks. Why does not my Honourable friend come forward with legislation which would compel every couple which goes about for a stroll to be followed at a respectable distance by a policeman? I am sure the greatest indignation, if this law were to be enacted, would well up from the Treasury Benches. I should like to see a few policemen following my Honourable friends over there, when they stroll about in the parks.

Income-tax law being what it is, is it any wonder that there are people who keep three sets of books, one set for themselves, another for their partners and a third for the Income-tax Department. In this connection, I want to voice the complaint made by my Honourable friend, Mr. Aikman, and by one or two others that instead of amendments of the law Government should have recodified the whole piece of legislation on income-tax; it could then have been made much simpler, and more intelligible, to use the words of my Honourable friend, to the meanest intelligence, instead of us all having to look up the Act, then the Bill and then the Select Committee's report and then finally the various amendments which are being put before the House. Instead of this, there should have been a new Act, entire by itself, which might have become more intelligible. It is not a reflection upon Honourable Members that nobody understands the Income-tax law. As a matter of fact, the only man who in the United Kingdom understood income-tax, outside the Board of Inland Revenue which my Honourable friend once adorned, was recently sent to a mental home! If

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I may make a suggestion, instead of cheap reprints of the amended Act, let there be a booklet illustrating with pictures, if necessary, what income-tax law means, and if the income-tax people have any leisure I would also suggest that they may hold morning and night classes for income-tax payers!

Sir, it would almost appear as if I was unmindful of the many inequalities sought to be removed by this piece of legislation. There is one which has gratified me particularly, and that is, the provision with regard to carry forward of losses. Some of us have in this House been for many years crying aloud about it, and it is a matter of great satisfaction that the Finance Member has recognised the necessity of doing justice to business men in this respect. But I am afraid the justice has been done in a rather half-hearted fashion. My Honourable friend, the Leader of the Opposition, in his very illuminating speech on the position of the Income-tax law in this country, said that relief was not to be given in the matter of carry forward of losses unless the losses arose out of the same kind of business. What is the principle of carry forward of losses? The principle is that you tax income and not capital. To illustrate, supposing I made a profit of Rs. 3 lakhs this year and a loss of Rs. 5 lakhs next year. I am taxed on Rs. 3 lakhs this year but I get no satisfaction on my loss of Rs. 5 lakhs. But to me, in these two years, the net loss is Rs. 2 lakhs, and yet I have been taxed on a profit of Rs. 3 lakhs. In other words, it is a sort of capital levy, and if the provision in the Bill were to stand as it is, it will still remain a capital levy. Suppose I have got business in cotton and seeds and I make a loss in cotton this year and next year I make a profit in seeds. Well, the loss is there. Why should it not be deducted out of my profits on seeds. Otherwise, it would be a tax on my capital.

The other satisfactory feature of the Bill is the slab system. I do not know who invented the word "slab", but it seems to me to be a very appropriate word, because huge slabs of income are going to be taken off us. Now, the Finance Member claimed—and rightly claimed—that he was tempering the wind to the shorn lamb, and that the main feature of the slab system would be that people enjoying a modest income would have to pay less and people enjoying larger incomes would have to pay more. I am not quarrelling with that principle. It has become the fashion all the world over to soak the rich, and up to a point I agree that it is the right thing to do.

The Honourable Sir James Grigg: Up to what point?

Sir H. P. Mody: Up to the point at which it will touch me. On that issue we shall see what the Finance Member has to say when he comes to us with his proposals next March. I want to tell the Finance Member that I really enjoyed the little dig he had at those people who urged him in telegrams to resist very strongly the proposals of Government. It was a good joke. My enjoyment was heightened when I saw the Select Committee Report. If I may refer to it, it says:

"The Bill proceeds on the assumption that the 'slab' system of rates of tax will be adopted. We are of opinion that this system is definitely preferable to the present 'step' system, but we wish to reserve our right to criticise any particular application of it which may be included in the annual Finance Bill."

(Sd.) P. J. GRIGG, etc."

Sir, I take my hat off to P. J. Grigg for the very impartial attitude which he is going to adopt towards the proposals of the Finance Member in March next. I am very glad when he says "We reserve our right". I hope he will criticise himself. Now, Sir, in whatever way you work the slab system and fix the scales, one thing at least ought to be made clear. To use the words of the Chief Justice of Nagpur, this must not be made a pretext for larger revenue. By all means alter the incidence; soak the rich; lighten the burden on the people with modest and small incomes; but do not make the slab system a pretext for getting in the aggregate a larger amount of income-tax than what the country has been paying. In this connection, I would like to invite the Finance Member's attention to what his predecessor said, namely, that attempts to extract heavy taxation from a limited class seemed almost to have reached their limits. Nor, I hope, is the slab system going to be a device for the purpose of incorporating into the income-tax the surcharges on income-tax which the Government solemnly promised on more than one occasion to remove at the earliest possible opportunity.

Then, Sir, I want to make another suggestion, and here I will put myself forward as the friend and father of the poor. I say, fix your minimum at a smaller figure than what you contemplate. Do not make it Rs. 1,500 or Rs. 2,000; make it even Rs. 1,000, and give allowances for wife and family. Why should a man with 7 or 11 children have to pay the same.....

An Honourable Member: Whose fault?

Sir H. P. Mody: I hope it is his own. Why should a man with 7 or 11 children have to pay the same rate of tax as a bachelor? It seems to me that the hand of the Finance Member and of the Income-tax Department is heavy against domestic life. Otherwise, what was the meaning of the proposal which figured in the original Bill that the husband's and the wife's income should be aggregated and tax levied on it? God knows that there are enough trials in married life without this being added. If you want really to follow the English law and equitably distribute the burden, I say, it is essential that you should fix the minimum lower, but, at the same time, give allowances for wife and family, as is being done in England, and I strongly press for that. Of course, the Finance Member has got a sort of fear that we in this country are in habit of producing large families. To use the words of a South African native who was turned out of his employment, "We are very bewifed and much childrenised gentlemen."

There is one other point which also arises from the topic on which I am now on, and that is in respect of irrevocable trusts. My Honourable friend, the Leader of the Opposition, pressed on the first day that so far as irrevocable trusts are concerned, the income should not be taxed in the hands of the donor but in the hands of the person in whose hands it has passed. What is more natural than that a man should make a trust in favour of his wife? Why, otherwise, marry at all? And if a trust is made in favour of one's wife, I do not see why the income should not be pursued in the hands of the wife rather than that the donor should be taxed.

Now, Sir, I come to clause 4 on which my Honourable friend, Sir Cowasji Jehangir, spoke at some length yesterday, and on which he gave many arguments arising mostly out of the discussion in 1961. In view

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of that, I do not propose to go over the same ground. I will run through very quickly what I wanted to say. The first thing that I want to impress upon the Finance Member is that there was vehement opposition in 1931 on this very provision from most of the officials and Provincial Governments. The analogy with Great Britain is very misleading. There, there is an enormous amount of capital which is always seeking employment in other countries. That being the case, and millions of pounds being involved, if this accrual basis had not been established there, though with certain qualifications, then there would have been inequalities between one class of tax-payer and another, and that is why in England it was thought necessary that, not remittances, but the accrual basis should be established.

Now, much has been said about the flight of capital. I shall quote what the Commissioner of Bhagalpur Division said on this point. He said:

"The most ignorant of us know perfectly well"—(this is not an allusion to any particular Member of this House)—"that the flow of money for investment outside India has very little to do with the income-tax but is mainly due to the lack of opportunity for profitable investment in the country and the shaken condition of India's credit."

Another Commissioner stated:

"All that could be hoped if the Bill were passed would be that the conscientious would pay and the unscrupulous would not."

That, I think, is a good statement of the case, particularly in view of the fact, which we all know, that double income tax relief does not obtain in all countries and that if foreign income was to be taxed, then it is quite possible that it would be taxed twice over in the same hands.

But there is a stronger argument and that was put forward in the course of the discussion, but I forget by whom; and that argument is that the Government of India—and I say so without any disrespect to them—do very little to promote and foster Indian trade abroad; and as a matter of fact Indian trade abroad is carried on in the face of a great many difficulties created not only outside in those countries where the trade is being carried on but also from this end. I want to quote to them in this connection, not the view of any Chamber or association or individual, but no less an authority than the Madras Government, and the old Madras Government at that—not the present one. This is what they said in their representation in 1931:

"One of the opinions received by the Madras Government was 'that the taxing in India of income earned abroad without any assistance from the Government of India is unjust. The analogy with the English system is unsound, in that the Government of the United Kingdom contributes towards the protection of British trade the whole world over, and renders political, commercial and financial assistance to such trade.'"

The Madras Government goes on to add:

"The Madras Government consider that there is much force in these criticisms and endorse them for the consideration of the Government of India."

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): What about our Trade Commissioners?

Sir H. P. Mody: How many Trade Commissioners are there?

Mr. K. Ahmed: At least half a dozen.

Sir H. P. Mody: If they were of the size of my Honourable friend, I would say that there was a very weighty representation of India!

Now, there are a few matters to which I really must take exception. One is the provision about depreciation. A new basis has been adopted in the Select Committee; they did a great deal to modify the rigour of the provision as it stood originally; but all I can say is that if the only justification for the written-down value is what was stated in the Income-tax Enquiry Report, namely, that it is at least as good a system as the present one, then I say that it is a very poor argument for changing the law. The law has worked reasonably well, and it ought not to be changed. At any rate, we should want to know early on in the course of the discussions on this Bill what rates of depreciation Government are going to allow, because that was one of the points which were left over, and on it would naturally depend the view which we take of this particular provision.

Again, another matter on which the Select Committee have come to a conclusion which I have not been able to follow is with regard to clause 25 which refers to the powers given to the income-tax officers to lay down in the case of companies in which the public are not substantially interested, that is to say, not interested to the extent of 25 per cent, that if those companies have reserves which exceed their assets, then all the profits of the company should be distributed more or less wholly. I do not know whether it is right that such powers should be invested in the income-tax department; I know a great many companies in Bombay, Calcutta and other places whose reserves built up in times of prosperity are greater than their assets, and it is quite possible that in their case owing to the large interest held by, say the managing agents or their friends, it may be that the public are not interested to the extent of 25 per cent. In their case, regardless of the conditions which may face them, regardless of what the position of those companies would be, are they to be compelled by the income-tax department to distribute the whole of their profits? I think the Finance Member was led away by the frauds perpetrated by what are more or less bogus firms. Probably his experience has been unfortunate. He is thinking of the sort of partnership in which two Hebrew gentlemen entered, and in which the first term was that in the event of failure the profits were to be equally divided!

Then, I want to know why there should be any sort of obligation to make a return on the part of every man who enjoys an income of say Rs. 8,500, and more. Why should any one be asked to do the income-tax department's job? I do not see that at all. After all, here is a department which is adequately staffed: if it is not, let it be adequately staffed. But why should there be an obligation on anybody that he should make a return? Are they going to put in advertisements in the newspapers and see that the newspapers are sold in every district, taluk and village, or are they going to beat batakis and bring home to the people concerned that income-tax is due, and whoever does not send in a return, does so at his own risk and cost?.....

The Honourable Sir James Grigg: I do not want to interrupt the Honourable Member: but if he had attended our debates rather more frequently, he would have found that an answer was given to his questions on an earlier occasion.

Sir H. P. Mody: If my Honourable friend had given an actual answer, probably it would have been shorter. If I had been present in the House as often as he has, I am quite sure I would have had to go to sleep on

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many occasions; but in any case he is obliged to be here, and I am not. Why should I be here and listen to the discussions when the sum and substance of it all is that my throat is to be cut? Am I to add to my agony by listening to all kinds of arguments as to why I should be executed?

Here, Sir, let me quote the opinion of the Revenue Commissioner of Orissa. He says:

"It is difficult to conceive any single provision which would offer a wider scope for departmental corruption or be more conducive to departmental inefficiency. As the Collector of Ganjam has remarked, the provisions of this clause and of clause 32 seem to be designed to give to the Income-tax Officer a life of leisure, and to the assesses a life of harassment, and no amount of tax evasion, or in fact any other consideration would, in my opinion, justify such a proposal. The proposal displays a complete failure to appreciate conditions in this country or the consequences of such a change."

There is one point, and that is, why should the tax-payer be made an agent of the department? The employer has to fill in a return of the income-tax of his employees. An obligation has now been sought to be imposed on the employer to calculate the super-tax as well. I do not see the necessity of the employer being made to do all these things, and his being subjected to the harassment and worry of ascertaining exactly what sums have to be deducted. There is still another imposition. In the case of banks which up to now have been sending in returns of interest earned of a thousand rupees or more, the limit is now to be reduced to Rs. 200. The position was bad enough, if I may give the instance of a Bank with which I am concerned, we already have to go through 75,000 accounts in Bombay city alone in order to be able to prepare a list for my Honourable friend, and what is actually supplied is thirty sheets containing nearly a thousand items. It takes a month and several clerks to compile this list, and if instead of a thousand rupees the Bank has to look into small accounts of Rs. 200 and more, then the task will become a much heavier one, and I see no justification as to why it should be imposed on the shoulders of any class of assesses. I do not see why without payment I should be asked to do any sort of work for the Income-tax Department. If I want a copy of a simple thing from the Government, they charge so many rupees for so many folios, even though their typists may be doing nothing in the office, but if it comes to a question of our having to undergo an amount of labour and our having to employ special staff for the job, we do not get paid for it.

There is only one other point with which I wish to deal, and that is about the company super-tax, and here I shall content myself with merely drawing attention to the arguments advanced by the Millowners' Association, and which are to be found at page 324 of the large volume of opinions which have been circulated. I want to know whether the Company super-tax is really an addition to the income-tax or is regarded as a corporation tax. If it is to be a corporation tax, is it to be allowed as an item of expense before assessing profits? It cannot be both at the option of the Government. I will content myself, as I said, by merely drawing the attention of the Government to the opinions advanced by the Millowners' Association.

And, finally, Sir, I would like to echo the plea for sympathy put forward by my friend, Mr. Aikman, yesterday. I am not suggesting for

a moment that the department are harsh, or anything of that kind,—the treatment of myself, for instance, by the department has always been very good.—but I say that the income-tax law being so complex and so unintelligible even to the brightest intelligence, it should be administered with a degree of sympathy. How poor people are harassed I can only put before the House in the language employed by a shopkeeper of Jullundur in 1932. I think I have quoted it once, but it will bear repetition:

“Opened a petty shop without experience, only the last year, no gain, rather loss of capital. Income-taxed for income of Rs. 1,200. Good God! Poverty and starvation facing. Exercising utmost economy. Trying invention of any means by which body can live without food, still a failure. Disposing of old members and stopping of further generation by living alone, forced by public laws.”

I am quite sure, there will be a great many more individuals who will be stopping “further generation” if income-tax is going to press any harder on the people, and I cannot do better, in conclusion, than to appeal to the Income-tax Department and to the Honourable the Finance Member not only to frame a law which is sympathetic and which takes into account all the inequalities, but also administer it sympathetically.

Mr. N. V. Gadgil (Bombay Central Division: Non-Muhammadan Rural): Sir, after having heard a very brilliant speech from the representative of the Millowners' Association, a dry speech from one who has not much to do either with business or with capitalists will not be very much relished before Lunch.

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

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

Mr. N. V. Gadgil: Sir, I am a sworn opponent of the capitalist system. I can assure the capitalist Members of this House, whether they are sitting mostly on the other side or a few on this, that there is absolutely no present intention on my part to touch their throats, although the present intention of the Finance Member seems to be to touch their pockets somewhat roughly and in that attempt I think most of us will co-operate. This Bill has been brought with a view to perfecting the machinery of collecting the income-tax and from that point of view it has been criticised in the course of the last three or four days, and the tax dodger has been very prominently in the picture.

Sir, if you refer to the report on the administration of income-tax for the year 1936-37 published by the Central Board of Revenue, you will have some idea of the amount which, if the returns made by the persons concerned had been accepted, the Treasury would have lost. In the year 1935-36, nearly Rs. 3,21,75,012, which works out to a percentage of 27.7, would have been lost if the returns made by the assesses had been accepted as they were. In the year 1936-37, the same figures are 2,85,46,861. That works out to a percentage of 25. That shows to what extent persons return their income less. I am of opinion that those who

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have taxable income must pay, whether that income is earned in India or outside. They must pay, because it is an obligation of citizenship that they must pay the taxes. With respect to this tax dodging, a provision has been made in the Bill so as to make the returns compulsory. That provision is one to which I have some objection on different grounds. Some objections were urged by Sir Homy Mody this morning. I first want to know whether those persons who are liable to pay taxes have really escaped from the all pervading activities of the income-tax department during the course of the last so many years. If you turn to the figures given in this report for the year 1936-37, you will find that 4,20,866 notices were issued and the persons who paid income-tax on account of their salaries were nearly 1,32,315 and when we take these facts and compare with the total number of assesses at the end of the year which is 4,97,221, I fail to see how there has been a tremendous demand for bringing in those who are not paying taxes. On the other hand if we look to the activities of the department, you will find that, in the report to which I made reference, namely, 1936-37, the new discoveries for the year amounted to 68,780, although the struck off number is 34,491 and it is remarkable from the figures that the Madras Presidency leads with 20,753. The point that I wanted to make was this, that the department is already working in such a manner as to leave little chance for anybody who has really any taxable income. What really happens is this, that those who make the returns make the returns for less income. That is really the trouble, and I think even in that respect department is doing some vigorous work. Therefore, I am opposed to this provision of making compulsory return, although it may be a good provision for a country like England, where people are literate, are more educated and more tax minded than in a country like India where the literacy is hardly more than 8 per cent. If there has been a good deal of tax dodging, there has been over-jealousness on the part of the department also. If we look to the number of appeals filed in the year 1936-37 you will find that in this year 29,025 appeals were filed and out of these 15,080 appeals were completely or partially successful. That works out to a percentage of 52 of successful appeals. There were 6,490 reviews by Commissioners and there too the successful number of reviews comes to 2,980. References to the High Court were 77, out of which 32 were successful. So, from these figures it is apparent that more than 50 per cent. of references or reviews or appeals have been successful and it is not a very good tribute to the efficiency and impartial working of the department, but the point becomes of greater importance when we find what was the amount as a result of these appeals that was decreased from the total; this amount is Rs. 92,13,139 and compare this amount of 92 lakhs roughly with the net income of the income-tax department and it works out nearly to a percentage of 7. That shows the over-jealousness of the income-tax department. In my opinion, this provision for compulsory return ought to go, although the Select Committee has reported that some modifications ought to be made and those whose income would not come to 3,500, if they failed to make a return, should not be penalised. That is not enough. But the whole provision in connection with compulsory return ought to go. (Babu Baijnath Bajoria: "Hear, hear") I am glad that you agree with me once. I do not agree with my friend, Mr. Bajoria, that there should be no income-tax.

Babu Baijnath Bajoria (Marwari Association: Indian Commerce): I never said that.

Mr. N. V. Gadgil: You may not have said that, but nobody would be more glad if the whole income-tax system is abandoned. So, as I have stated, I stand for the principle that whosoever has taxable income, whether earned inside or outside this country, if he resides in this country, he ought to pay, subject to just exceptions and deductions. From that point of view, I am in general agreement with the principle of taxing the foreign income of those who are resident in India, whether they are domiciled or whether they are not domiciled.

In 1931, we are told that a Bill to tax foreign income was brought and the Bill was rejected by this House. Several years have passed. Because it was rejected then, that is no argument why it should be rejected now, unless we are convinced on the merits of the case. The present law is that they are taxed on the remittance basis and Government are not getting much as would appear from the report to which reference was made by me just now. Speaking of the income-tax generally in the Madras Presidency, the All-India Income-tax Report says, "there was a decline in the earnings of the S. I. and M. and S. M. Railway Companies. The income of the Nattukottai Chettis underwent a decline owing to the low rates of interest prevailing in Burma and the Federated Malay States and also to smaller amounts of remittance received from foreign concerns. A good part of their capital, being locked up in lands in Burma, is unproductive from the point of view of income-tax". So, if there has been a loss on that account and if there is a possibility of getting more money from that source, subject to just deductions and exceptions as I have stated, I see no reason why we should not tax it, and the reason that least appeals to me is that such a Bill was rejected in the year 1931. The situation is not the same. The responsibilities of the new order are there and money must be found. Millions of unemployed are there in this country waiting for employment, and the problems of poverty, destitution, insanitation and education cannot be solved unless there is money. If I plead for the taxation of foreign income of Indians or residents, I cannot stand the differentiation existing between Indians and non-Indians and the difference that is sought to be made in the proviso. Exemption provided for the non-domiciled resident is something which no man with any sense of justice and fair play will stand. If we are entitled to review our position with respect to this foreign income, I put it on the same ground that we are entitled to review our position with respect to section 49 of the old Act. If the argument is that the exigencies of the State are of a higher nature and there cannot be any sanctity of contract as against the exigencies of the State, I think that applies with greater force with respect to the relief granted under section 49 of the old Act. When I say that I am prepared to tax the foreign income of resident Indians and non-Indians, I cannot at the same time take a different position except that the relief that is being granted under section 49 ought to go. We were told by the Finance Member that since 1920 this reciprocity is there and people have acted on certain understandings and expectations. If that is a standard for judging all financial matters or all public questions of high politics, I think there would be no progress. Where then was the justification for changing the Companies' Act and putting an end to several managing agencies and giving them only a period of twenty years,

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although there were agency contracts lasting till the doom of eternity? The argument then advanced was that there could not be any sanctity of contract against the State, no matter whether the ultimate result would not be beneficial to a few persons here or there? This double income-tax relief started with an agreement in 1920 by way of reciprocity. That agreement was embodied in section 49 of the Act of 1922. Therefore, I am putting it on the ground of agreement? Why was it accepted then? There may be many motives for acceptance, but a reference to the debates that took place while the Income-tax Bill of 1922 was under consideration will show that Sir Malcolm Hailey, the then Finance Member, then stated that there would be no loss to the Indian revenue and the same thing was reiterated by Mr. Sim later on after the report of the Joint Committee when he said that there would be no loss to the Indian revenue. That was the position in 1922. Today the loss to Indian revenue, accepting the figures which were supplied by the Honourable the Finance Member a few days ago, to be correct, which, however, I do not accept, because they are not complete, is considerable. The position today, however, is different, and, after all, have the expectations been fulfilled? How many countries have entered into this agreement of reciprocity?

The Honourable Sir James Grigg: Twenty-eight.

Mr. N. V. Gadgil: Only Australia from the Empire countries. Sir, If the relief which is being given under section 49 and the exemptions given under section 60 alone are taken into consideration, I submit the Indian treasury stands to gain more than three crores. How many exemptions are there? Under the Government of India Act the amounts of interest on sterling loans are out of reach, although we pay every year nearly Rs. 16.78 crores by way of interest on these sterling loans, and then there are sterling debentures raised by the British companies operating in India. There the debentures are worth Rs. 232 crores, and taking the rate of interest at three per cent. and a half, you will find that nearly eight crores are lost to the Indian revenue. So, taking into consideration the interest that is being paid by Indians or from India on the sterling debts raised by the Secretary of State, also the sterling debentures raised by the British companies operating in India, the net loss to the treasury is considerable, and if you add the double income-tax relief, the pensions and the leave allowances and also the pensions and the leave allowances of private employees and local authorities. I think the whole total, making a very modest estimate, cannot be less than three crores. The same estimate was made by Sir Rahimtoola Chinoy in his speech presiding over the Federation's annual meeting a few months ago, although the figures were called ridiculous by the Finance Member then. Now it is open to my Honourable friend to challenge his figures and to say that it is less than three crores. And even if the figure may not be three crores but one crore, why should India lose? It makes no difference whether the money goes to the Provinces or is retained at the Centre. It is no good telling us that only 60 lakhs are available to the provinces. That is one side of the picture. We want every farthing to be taxed and that tax to be retained in India for the benefit of the Indian people. May I tell the Finance Member what the great Indian Mahatma Gandhi did when he

left South Africa for the last time? He laid down a great principle of conduct that whatever a man earns in a country which is not his own, he must leave everything there when he leaves the shores of that country, and Mahatma Gandhi left South Africa with enough money for his passage and one pound for himself and his wife. That is an example for some of my European friends who stay here, do business, run industries and then take everything away. I am prepared to consider their case for an additional extra pound but the principle of conduct enunciated by Mahatma Gandhi must be substantially carried. You do not agree with Gandhi's non-violence nor with his weekly silence, but at least agree with him in this one thing and you may go back to your country much happier than you would go loaded with your dividends and interest. It is easier for a camel to go through the needle but very difficult for a rich man to go to the Heaven and I am very anxious that the English capitalist and industrialist should go straight to the Heaven and therefore I want to relieve him of this burden of mundane wealth. It is much better that he should leave it here on the Indian shores and not take it to the English shores for nobody knows what will happen there. I am considering two points, one under section 49 and the other under clause 4 under one and the same principle, namely, that you cannot have leave for taxing foreign income and at the same time say that relief ought to be granted because it has been granted during the course of the last 15 years. During the last 15 years 14.78 crores have already been granted. How much more do you want? You have taken crores and crores of rupees and it seems that you are not yet satisfied. Time has come when, if you are not satisfied, some stronger measures must be taken to inflict satisfaction on you in a non-violent constitutional legislative manner.

Then, Sir, speaking about the income earned in foreign countries, much was made by Sir Muhammad Yamin Khan. Possibly his speech was the better half of the half speech made by the Finance Member.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Was that intended to be a compliment to the Finance Member?

Mr. N. V. Gadgil: It all depends upon one's understanding. The point really is that there is discrimination. There are other points and difficulties raised towards taxing the foreign income—exchange difficulties and control of exchange and flight of capital or penalising foreign enterprise—they may all be good,—it is also true that this Government did nothing to encourage or help the Indian traders and Indian businessmen outside India. They failed to protect their lives and they failed to protect their reputation. The policy of this Government with respect to their nationals in the South African Colonies and elsewhere is a policy of which I do not think this Government will ever feel proud. All the same, if these people claim to be Indians, and that is the point on which I want to base my arguments, whether they reside for a few days in a year or one year in a period of four years, if they claim to be Indians and claim the rights of citizenship, its attendant dignity, its attendant reputation irrespective of the fact that the present Government situated as it is has made no efforts to protect their lives and property, I think this country is entitled to ask them to pay something by way of tax. At the same time, in the case of those who are non-Indians and yet reside here, I cannot tolerate the discrimination made that the income they earn from business, profession and avocation should only be taxed and not income

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from other sources. Why should you have this differentiation? If you want to tax, do not make any difference. Have a just, fair and equitable system. It was said that equity and income-tax are strangers. I thought that it was a mere euphemism but when I read this Bill closely I was convinced that there is something more in it than appears on the surface. From some of the provisions it is clear that equity and income-tax, at any rate, as it is embodied in this Bill, are strangers. Then, Sir, there was a point made about the agricultural income and it was suggested that it should be exempt. I fail to see why it should be exempt. It is not going to remain exempt in India. Province after province is passing legislation that it ought not to be exempt. If there is any exemption, it ought to be on the principle of earned income and unearned income. The great thing that I am missing in this Bill is a distinction which is a fair, just and a socialistic distinction between income earned and income unearned.

Prof. N. G. Ranga (Guntur cum Nellore: Non-Muhammadian Rural): It is a liberal distinction.

Mr. N. V. Gadgil: It is an immediate alternative to socialism. But I fail to see why the landlord should be exempt. My esteemed friend, Mr. Sri Prakasa, was very anxious to take care of the income of this world, as also of the other world. As he comes from Benares, I can very well understand it. The people of Benares are always anxious to take care of the belongings of this world of the pilgrims who happen unfortunately to be there, so that they may leave for the other world without a single belonging. From that point of view, I say that everybody without any exception, unless the exception is based on earned and unearned increment and with allowance for children, to which I will refer later on because I have good many of them, should be taxed. Every man who makes money on the bullion exchange, every man who makes money on the stock exchange and every landlord who sits in his quiet bungalow and makes money whether from his paternal "few acres" or many acres must be taxed and must be taxed at higher rates than those who earn it by intellectual or manual labour. That distinction ought to have been made and I regret to say that it has not been made.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadian Rural): Supposing a man gets Rs. 10,000 a month and works only for two hours a day, is it all earned or unearned?

Mr. N. V. Gadgil: There will be an exemption limit to the extent to which his intellectual labour justifies the earning of Rs. 10,000 a month. I know the gentleman to whom my Honourable friend is particularly referring and I hope that gentleman will be right glad to part with Rs. 9,000 if it comes to that. You really concede then that there ought to be a distinction drawn between the earned income and the unearned income. Anyway, it is a matter on which further examination is possible. But in this Bill no distinction has been made. On the contrary, the distinction that is sought to be made is a distinction between resident Indians and non-resident Indians. That is a most unscientific distinction and cannot be justified except on the ground of selfishness.

Then, Sir, as I said, there must be just deductions and just exceptions.

3 P.M. Now, take the case of the life insurance premium. The provision in this Bill is one-sixth. In this particular matter, it would have been far better if those principles which are to be found in the Income-tax Act of the United Kingdom were to be followed. In England from 1854, for good many years, all premiums paid were deducted, exception being made in case of policies taken from non-British companies. Such a thing can be done here. If you grant exemptions to those policies which are taken from Indian companies and do not grant exemptions to those policies which are taken from foreign companies, then it is something which will satisfy some of the poor policy holders from the lower and upper middle classes. At the same time, it will encourage life insurance industry in this country. Then, Sir, there is another injustice done in this case. While taxing the assurance companies, it is not merely the income that is taxed but even, with the alternative formulas that have been embodied in this Bill, to some extent the capital which comes to the policy holders by way of bonus is taxed. It is not just nor scientifically perfect. But it is a matter on which there has been an agreement and I do not want to pursue the matter further. I agree with my Honourable friend, Sir H. P. Mody, that the income-tax limit may be still further lowered to Rs. 1,000 because in my opinion in India taking into consideration the general economic state of the country, one who earns a thousand rupees a year is a man who ought to pay something by way of income-tax. Every cultivator who has got an inch of land has to pay land revenue and a man like me, a man who belongs to the middle class, earning a thousand rupees and more unless his income amounts to Rs. 2,000, has not got to pay a single copper coin to the State although all the services which the State initiates and carries through will be availed of by him as much as anybody else. Indirect taxes every citizen has got to pay to the extent to which he buys articles. There is no direct tax which a man has got to pay whose income is less than Rs. 2,000. My submission is that the limit may be lowered to Rs. 1,000; although this is a matter which cannot be discussed now but only in the Finance Bill, I put forward this suggestion of lowering of the limit to Rs. 1,000. I want at the same time that there must be allowance made for the number of children which a man has. That is the provision in the English Act. The limit in England is three children, but in India it ought to be six children, otherwise few will get relief. Allowance must be made to the extent of six children in India.

An Honourable Member: What about more than one wife?

Mr. N. V. Gadgil: I cannot talk on that subject because I am not concerned with it. My Muslim friends who may take up to four wives will look after themselves. Coming to the point, I agree with Sir H. P. Mody that the income-tax limit should be lowered to one thousand rupees on this condition of giving allowances for children. Otherwise, the Honourable the Finance Member might accept only the first part of my suggestion and he might not pay any heed to the latter part. There must be exemption for every child. In England even if the proverbial mother-in-law comes to look after the children there is an allowance of £25. I do not say that there should be such allowance in every case. But in relevant cases where they come to look after children or the household, there must be a fair amount allowed. Therefore I submit that the proposal should be taken as a whole. Otherwise the Honourable the Finance Member, clever as he is, will only

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quote the first part of my speech in March next. That is not allowed. With these just and fair exemptions, every person having assessable income must be taxed.

I have not much love for the industrialists and capitalists. They must be taxed as much as possible subject to the condition that taxation should not affect the sufficiency and efficiency of the present industrial plant nor the possibilities of its expansion in national interest. Subject to that everybody must be taxed. I support the Bill with the following amendments to be made therein, that is that all foreign income without any distinction of domicile must be subject to tax. Relief under clause 49 ought to go. Pensions and other allowances ought to be subject to tax. If the Honourable the Finance Member is going to make any recommendation as is stated to be in the report of the Select Committee, why not ask him to make a recommendation even about the interest on sterling debts and debentures. Let it be thorough and logical. That is the test of his sincerity. If he is out to touch the pockets of the rich, we will be with him provided he also touches the pockets of the rich Englishmen. If he does not do that, he cannot have any moral right to ask us to touch the pockets of our own countrymen. With these words, I support the motion.

Babu Baijnath Bajoria: Sir, in the words of my Honourable friend, Pandit Krishna Kant Malaviya:

"One and one idea alone, from the beginning to the end, persists in the Bill. The desire of the Honourable the Finance Member is to collect as much revenue as possible. . . . The Bill, as it is drawn up, takes no account of the needs of the taxpayer or of the question whether any initiative will be left for assesses to show enterprise in business. 'Realise income-tax', 'realise more income-tax', 'realise most' seems to be the motto of the amending Bill."

Sir, I can easily understand the anxiety of the Honourable the Finance Member to secure more revenues for the State. I have got no quarrel with him on that score. But, Sir, the methods employed by him in this Bill to secure his end is to say the least the most objectionable. Sir, he has given little consideration to the capacity to pay of the already overtaxed taxpayer especially the middle class man who has to provide for and maintain a large family. The Honourable the Finance Member has little consideration to the innumerable difficulties which we, of the trading classes, have to contend with in the course of our business to make out a living. Some of the proposed changes are so revolutionary and drastic that they will kill the goose that lays golden eggs for the Honourable the Finance Member. Sir, it is just like milking the small cows of Bengal by the *phooka* process. *Phooka* has been made penal by a recent enactment. These small cows have already been milked and the Honourable Member now proposes to draw out the last ounce of milk together with drops of blood. At the same time the best breed of English cows and the best breed of Sahiwal or Kathiawar cows are left half milked or unmilked at all. As we all know this process of *phooka* is resorted to after the usual process of milking is over, in order to extract the extra ounce of milk which the cow is supposed to keep concealed by a natural instinct for the calf. I am sure the House understands to what clauses I am referring. Clause 49 exempts the Britishers. Clause 60 exempts the Ruling Princes. There are other exemptions also which, in my opinion, if properly tapped would fill the pot of the Honourable the Finance Member

with milk, whereas such milking of the small cows will give him no milk but will only draw blood from them. Excepting the provisions of clause 4 which have already aroused very great indignation and resentment from all quarters, I have grave doubts whether the other provisions of the Bill will give the Honourable the Finance Member the money which he expects to get. This money, which will be drawn by this process of extortion, will neither do good to the Government nor to the public at large. Sir, I agree with my Honourable friend, Mr. Sri Prakasa, the Charlie Chaplain of this House, that this Bill is more like an amendment of the Indian Penal Code than of the Income-tax Act

Mr. Abdul Qayum (North-West Frontier Province: General): Is it Parliamentary for an Honourable Member to call another Charlie Chaplain?

Mr. Deputy President (Mr. Akhil Chandra Datta): It was observed in very good spirit.

Babu Baijnath Bajoria: Sir, this Bill presumes that every tax-payer is a tax-dodger and he must be hanged for even the slightest offence against the Income-tax Bill. This Bill also presumes at the same time that every officer of the Income-tax Department is an apostle of honesty, integrity, sweet reasonableness, courtesy and all the virtues in a man which even a saint dare not claim and, hence, there is no harm in giving him every imaginable powers under the Act as it is presumed that he could do no injustice and no harassment to any assessee. But an officer of the Income-tax Department is also a human being—much the same as an assessee—and if there are shortcomings natural in a human being, in a tax-payer, I submit there are similar shortcomings in the officers of the Income-tax Department also. If, due to this human nature, some of the tax-payers try to save a little money and there are some of the officers of the Income-tax Department—I am not making any allegation; I would rather say that the higher officers as a class have improved considerably than before; but there are their subordinates whom also we have to consider. They also do not hesitate to exercise their powers fully and by all means to harass the poor assessee and to extract the last ounce of blood from him. Indeed, if the defects on both sides are weighed in a scale, I do not know which side will be heavier—whether the poor assessee will be the greater sinner or the Department. Therefore, in my opinion, such wide and autocratic powers, as have been provided in the Bill, should not be given to the Department as that would cause untold sufferings to the innumerable assesses and even bring about possibly the ruin of some of them.

Sir, a cursory glance through the Bill would convince one that the object of this amending Bill is to nullify the effect of judicial pronouncements of His Majesty's Judicial Committee and also in some cases the judicial findings of High Courts in India in regard to questions of law. In some cases it will be seen that the law of the country, for example, the Contract Act, the Transfer of Property Act, the law relating to endowments and trusts and Hindu and Muhammadan Law, has been seriously interfered with. Wherever in the High Court or in judicial courts decisions have gone against the Government, they have tried to rectify the defects by resort to this amending Bill. In one case, I will say they have gone even further and have forestalled the judgment of a High Court and have made provision in the Select Committee therefor. I am referring to the

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section about the managing agency system. I do not mean to say that this is unjust, but I am just referring to it. They have forestalled the judgment of the Bombay High Court. They have incorporated the clause about the managing agency system. The High Court itself has been in favour of the assessee.

Another impression which I have got on reading the Report of the Select Committee is that the big guns, I mean the big industrial magnates, both Indians and Britishers, have got the items, which affected them most, corrected to a considerable extent. I am referring to the definition of the words "dividend", "depreciation" and "managing agency system". I am not making a complaint of this. They have been done in the right way. But what I am making a complaint of is that the points which vitally affected the middle class men like ourselves

An Honourable Member: Oh!

Babu Baijnath Bajoria: We are a middle class in this respect that we are always in the middle. I am speaking as a community, Sir. My community are always in the middle. We market the manufactured goods.

An Honourable Member: Say you are a middleman.

Babu Baijnath Bajoria: The points which affect this class have not been rectified. I am referring to compulsory returns. When I said about this, Mr. Gadgil was very much afraid. It does not touch me. I am getting income-tax returns. Then there is the provision of the right of the income-tax officer and the income-tax inspectors to visit the houses of assesseees or would-be assesseees. Then there is the amendment proposed to section 34. I have not got the time at my disposal to discuss all these clauses in details at the present moment, but I will have opportunities to discuss about them later on, when the proper time comes, on amendments. I will refer to these later on only in passing.

Sir, I would like to draw the attention of the House to one or two points which, as far as I know, have not been sufficiently drawn attention to. I am referring, first and foremost, to the question about the Hindu joint family system. It is a fact that under the present law the Hindus living as an undivided family are hard hit. They have to pay much more than is equitable. I would like to read a few lines from the Expert Enquiry Committee's Report on this point. They have accepted the hardship which the Hindu joint family suffers in income-tax matters and they also made some suggestions, but the suggestions are half-hearted in view of revenue considerations. They say:

"Representations as to the hardships involved in the present system whereby a Hindu undivided family is treated almost as if it were an individual, irrespective of the number of its members, have been insistent and widespread. We are bound to admit that hardships exist. For example, while a registered partnership of four persons engaged in business and sharing equally a profit of say Rs. 7,800 is not liable at all, a Hindu undivided family with say four adult male members similarly engaged in business would pay in respect of a profit of Rs. 7,800 tax amounting to Rs. 400 We are of opinion that there is some case for the recognition of this special position of Hindu undivided families. Since, however, the effect on the revenues of any concession will be very considerable, we have had to take into account the practicability of the various suggestions made."

They have made the suggestion that where there are more than one adult married male member, by dividing the family's income by two the income-tax on Hindu joint families should be assessed. But they also made the suggestion that the income-tax of husband and wife and minor child should all be aggregated and that will bring the Hindu joint family more into line with other families. But as the Select Committee has dropped that suggestion and very rightly too, I think the case for giving relief to the Hindu joint family has been made much stronger. What I feel is that we have been punished for living jointly. If we live under one hearth and one home we have to pay more tax. If we separate and live in four hearths and four homes, then we have to pay less. The advantages of living in a Hindu joint family are obvious. In these days of economic distress the middle class families will have to pay more tax. Merely for the purpose of income-tax, why should we separate? The income-tax law is disrupting and disintegrating our homes. Is it fair, is it proper, is it equitable and is it just? I say no. I would enlarge on this subject when the amendment comes; but I think that the Hindu joint family should be assessed more or less on the basis of a registered firm or as an association of individuals living jointly: either the adult male member should be taxed separately for his share of the income or the joint family should be taxed for the aggregate income, but the rate applicable to that assessment should be the rate applicable to the income of each adult male member. Even in this proposition I am leaving out the minors. I am ready to sacrifice that portion for the sake of simplicity, so that the matter may not be complicated; but if four brothers work together and serve in different shops or in different professions and if they have a common pool and live under the same hearth and home, why on earth should they be asked to pay four times or three times the tax which is legitimately due from them and which other sections of the community—both Hindu and non-Hindu who work and live separately—are paying to the exchequer.

There is one very important point which I would like to call attention to and to which attention has not been drawn by any other speaker so far, and that is about charitable trusts. It is not a question of Hindu or Muslim. It affects all sections and all communities equally. Up to the present moment if there were any charitable trusts which were public or private, the benefit of which used to go to the public at large or to a certain section of the community, but not to the settlor or to his descendants, they were given exemption. I am referring to clause 4(b). A proviso is going to be added that nothing contained in clause (i), clause (ia) or clause (ii) shall operate to exempt from the provisions of this Act any income of a private religious trust where the trust does not enure to the benefit of the public. I take strong exception to the words "does not enure to the benefit of the public." My reasons are that in a recent judgment of the Bombay High Court in March last it has been decided that the interpretation of these words is this: that it must benefit all sections and all communities and must not be restricted to a certain section or a certain community. I ask whether even a few trusts could be counted which comply with this requirement. The words have been given the interpretation that if a trust is for Muhammadans only they would not get the benefit of it: if it is for the Parsis only they will not get the benefit of the exemption and if it is for the Marwaris only they will not get the benefit. I ask the Finance Member whether I am right. I should like him to make this point clear. My point is, that as long as the benefit of the trust does

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not go to the settlor or to any of his descendants or family members, but it goes to the public, with which he is not concerned, then such a trust should get the benefit. If a Muhammadan gentleman creates a trust for the benefit of the Muslim community or a section of the Muslim community, then that trust should get exemption under the Income-tax Act, or if a Hindu or Sikh gentleman creates a similar trust for the benefit of their respective communities, then such a trust must get the benefit of exemption under the Income-tax Act. I think I have made the position quite clear.

There are, however, two silver linings in this Bill, and for which I must congratulate the Honourable the Finance Member

The Honourable Sir James Grigg: They won't stay in the Bill without the others.

Babu Baijnath Bajoria: That is the provision about bad debts and carrying forward of losses, but there is some defect in this, to which I should like to draw the attention of the House

The Honourable Sir James Grigg: You mean they don't give you enough?

Babu Baijnath Bajoria: If a certain business is closed, then the bad debt incurred on that business will not be allowed, and I contend that this should be allowed. For instance, I am trading in jute, tea and cotton; suppose there is a loss in my cotton business and I stop it, then under this provision the losses incurred or bad debts in respect of the cotton business after it is closed will not be allowed. This, I submit, Sir, is most inequitable. Similarly, about carrying forward losses, it is provided that the losses will be set off against the very same business. After all it is the man who pays and not the business that pays. So in my opinion this loss should be set off against his total income, and if that is not practicable it must be set off against any other business which the assessee may do.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): But the man makes the profit.

Babu Baijnath Bajoria: Yes, the man makes the profit by doing business. Business has got neither hands nor feet.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Nor a stomach.

The Honourable Sir James Grigg: Only mouth.

Babu Baijnath Bajoria: Then, Sir, I should like to draw the attention of the House to section 9, that is, about the proviso which is going to be deleted about the residential house of an assessee. At present the assessee

ment for a residential house is not more than ten per cent. of the total income, but if this proviso is deleted, there will be a considerable hardship, and my Bengali friends will be very hard hit in Calcutta specially. There are cases of others also in Benares and elsewhere, and my friend, Mr. Sri Prakasa, referred to it yesterday in the course of his eloquent speech. For instance, there are numerous cases in which the son of a big man who has got a big ancestral property may be serving as an assistant in a business house on say Rs. 50 or Rs. 60 per month. Now, if this young man has to pay a tax on the big house, then probably all the income which he may be deriving from his service would go to the Finance Member, and he will be starving in the streets.

The Honourable Sir James Grigg: Why not sell the house?

Babu Baijnath Bajoria: This is queer logic, Sir. After all, he has got at least a house to live in. Why do you deprive him of that too and make him a beggar in the street? I think that is the intention behind this amendment of the Honourable the Finance Member.

Then another thing which the Honourable the Finance Member has done is this. By the notification recently issued, that is, on the 9th October, 1938, he has taken away the exemption which was granted to the small depositors in post office savings banks. I should like to read out the notification for the benefit of my friends. This is how the notification reads:

"No. D./8260-P. T./38.—Under the rules for the guidance of depositors in Post Office Savings Banks as published with the late Department of Commerce and Industries Resolution No. 1446-1449.29, dated the 5th March, 1914",—*please mark this concession was being enjoyed by the poor people for the last quarter of a century*—"and subsequently amended, interest on income-tax bearing securities issued by the Government of India, which are purchased through the Post Office and left in the custody of the Accountant General, Post and Telegraphs, is exempt from income-tax, this exemption being limited however, in the case of each investor, to securities of the nominal value not exceeding Rs. 22,500. The Governor General in Council has had under consideration for some time past the desirability or otherwise of the continuance of this concession and he has now decided that it should be withdrawn in the case of all savings banks accounts, with effect from the 1st April, 1939.

Amendments to rules for the guidance of depositors in Post Office Savings Banks will be made shortly."

Now, Sir, this will hit the poor investors, because, an investment of Rs. 22,500 used to yield at three per cent., Rs. 660. Poor people in villages used to invest Rs. 5,000, Rs. 8,000 or Rs. 10,000

Mr. S. Satyamurti (Madras City: Non-Muhammadian Urban): No villager has got Rs. 5,000 or Rs. 10,000.

Mr. K. Ahmed: Marwari children have it.

Babu Baijnath Bajoria: Sir, I take exception to the words used by my friend over there, because, he said "Marwaris in the name of their children, have it", and I must request the Chair to ask the Honourable Member to withdraw those words. In my opinion, the poorer section of the communities who had the incentive to invest in Government securities will henceforward be hard hit by the withdrawal of this concession.

[Babu Baijnath Bajoria.]

Then, there is the penalty clause in section 28. Sir, the penalty for all these offences is really very great. If a return is not filed in proper time or if an assessee fails to submit a return, then he comes under section 28, or if by any chance he does not produce his account books within the time specified, then also he has to pay 200 per cent. penalty, or if he conceals or commits any other offence under this Act, then also he has to pay the same penalty. Sir, I cannot understand this sort of penalty, 200 per cent., nothing more nothing less.

Then, there are sections 20A and 38 to which my friend, Sir Homi Mody, referred, and I endorse every word of what he said. It will be most unjust to reduce the sum of one thousand mentioned there to Rs. 200, because, it will entail great hardship, labour and cost to the assessee; at the same time it will not bring in any income to the Government. Whereas, on the other hand, it will only entail greater work on the department. They will have to deal with thousands and thousands of cases and they will in the end find that the income to be derived from this change will be very trivial and would not even pay for the cost of the trouble and harassment to the department, as well as to the assessee.

I do not want to say much about section 4 (1) or about 49. The Honourable the Leader of the Opposition has already spoken in a most masterly manner on these points and he has helped us to understand the provisions of this Bill by his masterly exposition of these clauses as well as other clauses and for this we owe a deep debt of gratitude to him. About section 34 of the Act I will speak only one word and that is the differentiation which the Select Committee has made about four years and eight years. In actual practice it will be very difficult, almost impossible, to make this line of demarcation—what is deliberate concealment and what is occasional or accidental mistake. I would request the House that they should not give this power to the department and then the usual law of limitation of this land is three years and everybody knows that after three years books and vouchers will not be required.

The Honourable Sir James Grigg: How can the Honourable Member claim a carry forward if he destroys his books at the end of three years?

Babu Baijnath Bajoria: If I want to claim it, then I will keep it, otherwise I will not keep it. I will deal with this point more fully later on but if it is eight years and if three further years are given to the income-tax officers to call for the books, it will mean 11 years. For eight years you will be able to tax but even at the present moment they can charge for one year and they can call the books for three years previous and during these 11 years many of the assessee may die and the men who keep the accounts may die or may have been dismissed. In my opinion there should be an uniform period of three years limitation according to the law of the land. If there is any escape, the assessee must be punished and brought to book but this method is very arbitrary and will be placing the assessee absolutely in the hands of the income-tax officers. There will be no finality of assessment. Everything will be hanging fire for several years and this is most inequitable. I will now close my remarks and resume my seat.

Mr. H. S. Town (Nominated Non-Official): Sir, the Select Committee in their report inform us that they have agreed with Government the general lines on which the Appellate Tribunals shall be formed, but they appear to have agreed to their introduction being postponed for a period of two years. Now, if this Bill is passed into law, Government will be able to put it into operation in two months, and I see no reason why this thing, which is going to be of great assistance to assesseees, should necessarily be delayed for a period of two years. Government, of course, do not necessarily have to take two years and I trust that they will not take advantage of this wording and see that they do have their two years. There is, as far as I can see, very little reason why these Appellate Tribunals should not be set up very quickly and I think they should be working within 12 months. Surely in the Income-tax Department there are five men capable of taking over this post and, if asked, we will find five other men to work with them. Then further down we read in the Select Committee's Report:

"We think that the selection of members of the panel should be made after consultation with the Public Service Commission, and that members should not, during their tenure of office, have any other connection with the public administration."

I want the House to mark the last few words. They seem to me to give the idea that public servants will be posted to the Appellate Tribunal, and be on it for a little while and then perhaps revert to their post either in the Income-tax Department or in some other department of Government. Now, Sir, this is not what we want. We want in the Appellate Tribunals men who will carry out their work without fear or favour. We do not want on the Appellate Tribunal men who are looking forward to preferment in Government. Neither do we want on them men, who having done their service with Government are looking out for soft and *kushi* jobs.

Again, I find that the Select Committee have used this phrase twice:

"We have received an assurance that administrative arrangements can and will be made to obviate any hardship that might be imposed, in consequence of the change," etc.

That is very nice and I would be quite happy if I were sure that the administration would be in the hands of the gentlemen who hold it today, because, I can trust them but I cannot guarantee who will hold their posts in future. Suppose, I get there myself, I may decide to change the arrangements. Sir, these are things which can be put into the Act so let us put them in if we possibly can.

Now, Sir, we have heard a great deal in this House about tax-dodging. It all seems to be aimed at the big tax-dodger. I may inform the House that I have no sympathy whatsoever for him but he is very easy fish to catch, because, you see what he is doing. You know he is a big man. It is quite easy to get at him, but there is a form of tax-dodging which is known to every commercial man in India, which goes on around us every day and is boasted about and that is the bazaar dealer who has an income just above the taxable limit but never puts in his return. The Bill, as introduced, caught that man but the Select Committee have altered it, so that a man has to make a profit of approximately Rs. 300 a month before they can catch him. Sir, I know of dozens and dozens of bazaar dealers whose profits are not Rs. 300 a month but whose profits are above the Rs. 2,000 a year and they pay no income-tax,—and the Select Committee have let them off again. I do not understand why we should

[Mr. H. S. Town.]

allow such a thing. This is a definite social crime against every man in the country, the avoidance of tax, and, in the total, I make bold to say that the figure is very little less than in the case of the big tax-dodgers. I am not a sufficiently hard man to have us go back to the old figure,—I would accept what the Select Committee have done,—but I do hope that this House will make no move whatsoever to change those figures or make the penalty any less.

Then, Sir, on this subject there are, unfortunately, one or two other points and one is this hated clause about the right of entry. Now, nobody likes it. I hate to think—that any man can come into my house and have a look at any books that I happen to keep or that he can walk into my office.—but, Sir, it is necessary. We know, it is no good being blind to the fact, we know that businesses are carried on in one place and the books are kept in another and we know that an income-tax officer cannot find out the facts. A very good guard against unnecessary harassment, a thing which we all fear, has been given, inasmuch as the income-tax officer cannot carry out his work without a certificate from the Commissioner. The Commissioner is a senior officer and we must rely on him to use his powers reasonably.

Mr. M. S. Aney: What is his information?

Mr. H. S. Town: He will work on the information which he considers sufficient for him. It is for him to decide.

An Honourable Member: He will work on inspiration?

Mr. H. S. Town: He might even work on inspiration but if he works on inspiration and he gets something, that is all very well, he has saved somebody from being taxed at a higher rate because of the tax-dodger. Next we come to a form of evasion which the Bill aims at stopping, and this is one generally, or more generally, committed by Europeans than others and that is the receipt of salaries as a loan or the failure to draw your salary in order to reduce your rate. Such things will now be caught, but, Sir, they have gone so far as to tax salary which is due but not paid. Now there is nothing in the Bill at present which will protect the unfortunate man who never draws his salary. Such a thing is possible. I know of a case, the figures were placed before me in business some time ago, of a European who had Rs. 24,000 in salary due to him spread over three years and from the figures I saw there was no hope, whatsoever, of his getting one pie. Under this Bill the man would have been taxed. There must be something inserted in this Bill to put that right.

Now, I wish to deal with the question which my friend, Mr. Bajoria, has just been speaking about and that is the re-opening of assessments. At present a man, as we all know, has to remain clever for only twelve months in the concealment of his income and he is then away with it for good. Now, if he can do this two or three times, and then pays the penalty he is still in hand, but with the Government having the right to re-open assessments, the assesseses will be more careful as to what they do in the way of attempted concealment and, therefore, the income-tax

officer himself will not have to be so keen on making sure that nothing is missed. The two things together, the fear of being found out in the next four years on the assesses part and the Income-tax officers not having to get every pie of income-tax each year should result in very much better and more friendly relations between assesses and the Income-tax Department.

Now, we come to another point on which I feel somewhat strongly, having quite recently been interested in a court case which went to the Privy Council, we won the day, but the Bill has put us back where we were, so naturally I do not like it. I am talking of the sum paid to retiring employees. Now you have your provident fund for your employees, you can only base your provident fund on your average employee. The time comes for your employee to retire. If he has been just an average employee, he gets his provident fund and away he goes. If he has been a bad employee, he still gets his provident fund, but take the case of the exceptional employee; you want to do something for him. You give him the provident fund and you feel you would like to give him something more. What are you going to do? You can give him a pension, but that will be taxed. You can commute that pension and he can get away with a lump sum, free of tax. Now I do not give a pension, I give a lump sum. I do not wish to gamble on the life that is left to my retiring employee. I do not wish to make a good bargain with him if he dies early and a bad one if he lives longer. We shall be moving amendments to put back the position as the Privy Council found. Now, Sir, I come back to the question of the amendment to section 28 A and now perhaps I am on a ground where I have to be a little careful. The amendment says that when the reserves have arrived at a certain figure one hundred per cent. of the assessable profits must be distributed or deemed to be distributed. Now, Sir, I submit that although the company has not necessarily distributed those profits, it will be treated as having done it. The company has an assessable profit and pays super-tax thereon. That super-tax is not available under any circumstances for distribution to the shareholders. The income-tax is, it is part of the dividend, but the super-tax is not, and, therefore, if the company attempted to distribute 100 per cent., it would find itself having to draw on its reserves. That figure of one hundred per cent. must be altered to some other figure. One other alteration in that clause is the knocking out of the words "or subsidiary company". I very much regret this omission. The great financial and industrial structure of Great Britain has been in some measure built up by subsidiary companies and I would like to see India following that example. I realise that the thing can be abused, seriously abused, and efforts must be made to stop abuse, but that is no reason why every company should necessarily be damaged, and we shall put in amendments which, we hope, will be accepted by all sections of the House to put the matter right.

Sir, I will not keep the House very much longer. I would, however, like to refer to the Schedule and read, if I may, the
4 P. M. proviso to Rule 3. It runs thus:

"Provided that if upon investigation it appears to the Income-tax Officer that, having due regard to the necessity for making reasonable provision for bonuses to participating policy-holders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policies is materially inconsistent with the valuation. . . . as shall increase the surplus for the purposes of these rules to a figure which is fair and just."

[Mr. H. S. Town.]

I submit, Sir, that the Income-tax officer is not the man to say whether the provision for bonuses to participating policy holders is reasonable. I doubt if there is a man in this House who can say it. It is too highly technical altogether. Then it goes on to say 'or other factor employed "and things that are" materially inconsistent'. This is giving the Income-tax officer far too wide an authority and I think some amendment will be necessary to ensure that he works under really good technical advice. In dealing with the assessment of the companies we find that the Income-tax officer has the right to take one of two methods. Naturally, he takes the one which pays him the best. I do not myself feel that this is altogether good and, as far as I can see from reading these rules, he has a right to vary the basis of assessment from year to year as suits him. I think he should be prepared to fix on one and stick to it. I expect that it will be necessary at a later date for us to move certain amendments to bring this clause into line with what we required.

There is one other point that I wish to touch before I finish. It refers to the British Indian branches of an Insurance Company not resident in British India. The profits gained "in the absence of more reliable data" are to be deemed to be this or that. I suggest that the returns under the Insurance Act must necessarily be reliable data and I think that they should be accepted.

Now, Sir, I am going to ask for something which we have not asked for yet. We, business houses, are very rapidly being turned into governmental clerks for the Income-tax Department. We are having to make all manner of returns. It is necessary for man after man to be employed to go through the books and give returns of interest paid, salaries paid and all manner of little petty items. I suggest that Government should consider giving us payment for the returns we make and for those on which we make collections they should think of giving us a commission.

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Sir, we have been discussing this Bill for practically three days. Every single Member who addressed this House had some flaws to point out with the Honourable exception of my Honourable friends, Dr. Dalal and Sir Muhammad Yamin Khan. Even the Members and the Leader of the European Group, my Honourable friend, Mr Aikman, pointed out some defects in this Bill. But it was left to Dr. Dalal and Sir Muhammad Yamin Khan, who is not present in the House, to sing the hymns of this amending Bill. I propose to refer to the fallacies and special pleadings of these friends later on in my speech; but before I discuss the clauses of this amending Bill, I would like to bring to your notice and the notice of the Honourable friends in this House that one most important aspect of the English income-tax law has been completely, rather deliberately, ignored in this amending Bill. In every civilised country the principle underlying the income-tax law is that only the surplus income is taxed, the income which is over and above the needs and the demands of the every day comforts of life. Both the framers of the law and the law givers see to it that the assessee has enough left with him to feed, clothe and educate himself, his family and his dependants. It is assumed that life would not be worth living without the ordinary comforts of life. It is assumed that it is the duty of the State to see that the subjects have enough to live upon and have the ordinary comforts of life.

The principle underlying and the philosophy behind all the laws is that the State is for the people and not the people for the State. It is assumed

that in every democratic country the people and the State are interchangeable terms. The happiness, the prosperity and the growth of the one leads to the stability, usefulness and the development of the other. But, unfortunately, this wholesome principle has been completely overlooked by the Honourable the Finance Member. Instead of the key-note of this Bill being that the people should have enough to maintain themselves, the key-note of this Bill is that no tax-dodger should be left in this country. The guiding principle is that every man, every woman and every child, who has a taxable income should pay for the maintenance of the State. I say that the principle should have been that enough is left with the assessee to maintain himself, his family and dependants. But as I said this wholesome principle has been completely or rather deliberately overlooked. In England there are provisions for personal allowances. In computing the income of the assessee one-fifth of the income is left out. Then there is the income-tax free limit of 125£. Over and above these, there are allowances such as single man's allowance, married man's allowance, children's allowance and allowances for dependants. I want to know, Sir, if these allowances are considered desirable and necessary in England, where the income per capita, as compared to ours, is huge, why is it that some such provisions have not been provided for in our Bill. Are we richer than the English people? Are we not as good human beings as they are? Is our income more as compared with Englishmen's income? Why is it then that some provision has not been made for such allowances as are provided for in the English law. I demand that the first clause of this amending Bill should be that in computing the income of an assessee due allowances should be granted for the maintenance of the wife and children and the dependants. Unless some such thing is done, it will be impossible for me to support a Bill like this. I am told that a proposal like this is impossible, is unthinkable. It is urged that out of a population of 200 millions, only four lakhs or thereabouts pay income-tax and if, out of these four lakhs, 10 per cent. or 15 per cent. or 20 per cent. are allowed to be let off, it will be impossible to run the administration. My reply is that the Government is responsible for this state of affairs. Our poverty is due to this Government and this Government is responsible for the pauperisation of our people. I also maintain that the administration is for the people. It is to administer to our wants and we are not to administer to the wants of that administration and are not for the administration. It is urged by some friends that we, as responsible Members of the Legislature, should see to it that we provide money for running this administration. My reply is that so long as we are not responsible for the spending of the money, so long as we have no voice in the expenditure of the money, which we provide for this administration, it is not our duty to provide money. I, therefore, suggest that before we assess the income of any assessee, we should make provision for some personal allowances for the maintenance of the family and the dependants.

Coming to clauses, Sir, clauses 4, 5, 23, 50, 53 and 71, are the most important. I have referred to some of these in my Minute of Dissent. I have tabled amendments for others. Amongst the clauses, clauses 4, 5 and 71 are the most important. Not only on their merits but also because they provide a touchstone for us to judge the equity or inequity of the Bill. I propose that section 4 should be deleted altogether.

My reasons for this demand are that in every civilised country the basis of income-tax assessment is either the origin basis or the residence basis.

[Pandit Krishna Kant Malaviya.]

Both these bases are correct in their own way and every country adopts one of these bases according to its own needs or the circumstances in which it is placed. England has its own laws, the laws which find favour in England do not necessarily find favour in South Africa, Canada or Australia. England is a manufacturing country. Most of its income is derived from foreign countries. England does not send out its income to foreign countries. In the case of smaller countries like Canada, South Africa or Australia they have very little of foreign trade. They have to send out a major portion of their income outside. Therefore, Canada, Australia and South Africa prefer the origin basis whereas England prefers the residence basis. Our country is a poor country. So far as I know our imports outweigh the exports. We are the producers of raw materials which we generally export to foreign countries. The most equitable policy for our Government should, therefore, have been to base our income-tax law on the origin basis. Unfortunately for us we find that the present Income-tax (Amendment) Bill is a strange admixture of both origin and residence basis. As pointed out by the Honourable the Leader of the Opposition, ours was a Hobson's choice in the Select Committee. Here I am making a fair offer to the Honourable the Finance Member. I am prepared to accept the origin basis provided every single man who has income from this country is taxed, no matter where the income is received and by whom. If this is not acceptable there is a second offer, I am prepared to accept the residence basis, although it is not fair for this country, provided every man who trades in this country or has an income from this country is taxed no matter where he lives or where he receives his income. I want to know whether the Honourable the Finance Member is willing to accept any of these two alternatives. This is the test of the equity or the inequity of the Bill. Sir, there is no logic, there is no reason behind this clause. In previous years our income-tax law was passed on origin basis. But this Government by a most unjustifiable interpretation allowed all incomes from sterling securities and debentures of the companies working in India to escape and we thus lost about one crore 60 lakhs. All this was done in the interests of the foreigners.

Now, in a subtle way, the Honourable the Finance Member wants to have as much money from us and, at the same time, he is willing to let go to the foreigner the money which is due to us rightly and legitimately. My Honourable friend, Sir Yamin Khan, is not present now. I would like to point out to him his fallacies. I want to ask him but he is absent—I want to ask the Honourable the Finance Member if England which derives all its income from foreign countries and foreign trade thinks it proper to levy a tax only on remittance basis, if the business is not controlled from the United Kingdom why is it then that we Indians are asked to tax our traders who are trading in foreign countries? If the principle is right, if it is desirable in the interests of foreign trade that those traders who are trading in foreign countries should be taxed, why is it then that the principle of control has been introduced? We are asked to tax our people who are trading in foreign countries. The Government is entitled to a tax—why?—because it maintains peace and order, because it gives you opportunities to grow and develop. May I know if this Government has done anything for these traders? Did it ever give them any encouragement? Does it ever protect them? How is it then that this Government is entitled to tax our foreign traders? I wonder how the Honourable the Finance Member could muster courage to seriously propose in this House that we should allow the Rs. 60 lakhs—not the 1 crore and 80 lakhs according to us, but the Rs. 60

lakhs according to him—to escape. He suggested that in order to make up that loss, we should tax our foreign traders. I want to know, is it fair, is it honest, is it fair dealing? Is it proper to allow Rs. 60 lakhs of our money, which is due to us legitimately, to escape us, and tax our own people in order to make up the loss and thus cripple our foreign trade? My friend, Sir Yamin Khan, thought trading in foreign countries unpatriotic. But as soon as he began to talk about foreign residents here, and my friend, Mr. Hussainbhai Lalji, asked him whether it was patriotic on the part of Englishmen to trade in other countries, and invest their money there, he at once changed colour, he changed his tone, changed his words and said, Englishmen are businessmen and they trade wherever they can find profit. Our foreign trade consists of two things. We export of our raw materials. It is a God-given gift. The Government have done practically nothing to help us even in that line.

An Honourable Member: Research Institute.

Pandit Krishna Kant Malaviya: The Research Institute is for the purposes of demonstration only. The other part of our foreign income consists of the wealth that is created by our nationals in foreign lands. They went there in a spirit of adventure. They did every thing and faced hardships not because they were rich but because they had the courage, the spirit, to go out of their country and eke out an existence for themselves. But this Government is anxious to cripple them. Every Government encourages foreign trades, grants subsidies, stands behind its nationals, and gives them all the facilities whereas our Government seem to be anxious to nip in bud our foreign trades. England derives a lot of income from foreign trade. We, poor Indians, have just begun to do some little foreign trade. Up till now the law in the land was that foreign incomes were taxed only on remittance basis. That is the law even now in England if the business is not controlled from the United Kingdom. What we demand is that the same facilities should be granted to our Indians also which are granted by the United Kingdom to Englishmen. The Government have no case. The first excuse that they have is that it will restrict the flight of capital. With your permission, Sir, I would like to say that this is sheer nonsense. If there was any sanctity in restricting capital from flying away from a country, England would have been the first country to restrict the flight of capital. But England has done no such thing. But if it is seriously urged that it is done only to restrict the flight of capital, I would suggest that in order to restrict the flight of capital, the best thing to do is and this is being done in every country in the world to tax investments, stocks, rents, shares and interest and all those sort of things. In every country, business, profession and vacation are taxed only on a remittance basis. Why has this poor country alone then been chosen for this principle which has been devised by the Honourable the Finance Member? The other excuse put forward is that if we do not tax our foreign traders, and if we do not realise the 60 lakhs which will come to us from this source, and if we are compelled to realise the 60 lakhs, which we let go, from foreigners then it would lead to flight of foreign capital. I would welcome that day. I wish that foreign capital would beat a safe retreat.....

Mr. Deputy President (Mr. Akhil Chandra Datta): Does the Honourable Member want to speak long?

Pandit Krishna Kant Malaviya: Yes, Sir, I do.

Mr. Deputy President (Mr. Akhil Chandra Datta): Then he had better resume his speech tomorrow.

MARTYRDOM CELEBRATION OF THE NINTH SIKH GURU TEGH BAHADUR.

Sardar Sant Singh (West Punjab: Sikh): Sir, I want to crave the indulgence of the House for a few minutes. Monday is a day of martyrdom of the Ninth Guru, Guru Tegh Bahadur. That day is very important for this place of Delhi, because the martyrdom took place in the town of Delhi, and we have two big Gurdwaras here, one at Rakabgunj, quite close to this Council House, the other in the Chandni Chowk—Seesaganj Gurdwara. I have received intimation from the organisers of the celebrations for that day—and I hope the Assembly Department too has received it—of a resolution of the local Gurdwara Committee requesting you, Sir, and Honourable Members of the House through you, that there should be no sitting of the House for that day, that is, Monday. Therefore, I request you and I request the Leaders of Parties to agree to this proposal. This is an extra special Session; and the Sikh Guru Purb or celebration day does not generally fall during the days when the Assembly is usually sitting. This always falls in November. As this is a special Session held in the days when this particular celebration is to be held, I hope there will be no objection from other Members to agree to this request of mine.

The Honourable Sir James Grigg (Finance Member): Sir, I deprecate this continual request for holidays. I think the House will be quite willing to release the Honourable Member from attendance on Monday and any other Members who may wish to attend the celebration, but I really do not see why the rest of us should be deprived of the privilege of going on with our work on this Bill. After all, it is not one of the two great communities, and it is not a question of a holiday which commands the adherence of a large number of Members of this House, but of only two or three.

Sardar Sant Singh: May I submit one point more? It is not only the Members of the House who are concerned, but the staff in the Assembly Department and the members of the watch and ward staff and there are also Sikh police officials whose duty it is to be here. Besides that, apart from the Sikhs, there are so many other Hindu gentlemen who want to participate in the celebrations on this sacred day. I do feel with the Honourable the Finance Member that there has been inconvenience here on account of requests coming from various quarters: probably the very fact that we are rising half an hour earlier every day is a source of inconvenience to him. But that is no reason why we should be deprived of this right, because there have been inconveniences in the past.

Mr. Deputy President (Mr. Akhil Chandra Datta): The practice of this House in a matter of this kind is for the Chair not to depend so much upon its own views or the propriety of the leave asked for, but to be guided by the opinion of the House; and as there is objection to this request, I had better not dispose of the matter finally today. The Honourable Member making this request had better make another attempt to obtain the consent of all the groups. So far as the office and the watch and ward staff are concerned, I am told it has been arranged that they would be allowed to go, and given a sectional holiday.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 23rd November, 1938.