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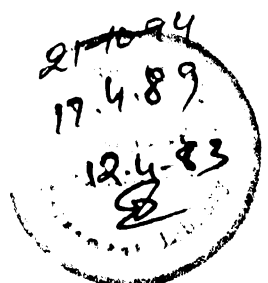
THE LEGISLATIVE ASSEMBLY DEBATES

(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.

Saturday, 26th November, 1938.

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

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

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

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

Mr. Manu Subedar (Indian Merchants' Chamber and Bureau: Indian Commerce): Sir, I was dealing with the question of super-tax in its application to joint stock companies. As I pointed out, the definition of corporation tax in the Government of India Act and the definition of super-tax in section 55 are contradictory. There is no super-tax in the United Kingdom on joint stock companies, and we have the perfectly illogical position in which the super-tax relief is given to companies which pay tax in the United Kingdom under section 49, and yet no relief whatsoever is given to shareholders of an Indian company wherever the company has also paid super-tax. Sir, as I mentioned the other day, the Honourable the Finance Member ought to have taken the opportunity of clearing up first the super-tax position by consolidating it with the income-tax as an extra tax on certain incomes, and, also, I desire, Sir, to ask whether the recommendation of the experts committee with regard to the cancellation of exemption limit of Rs. 50,000 on joint stock companies for purposes of super-tax is accepted, rejected or modified by the Government. Sir, this is a recommendation on which, I admit, no action could be taken till the Finance Bill is introduced, but our attitude towards the various clauses of the Bill dealing with companies, particularly with small companies, would be very much modified, if we knew precisely what was the intention of the Honourable the Finance Member.

As I mentioned, there is a tinge of fascism with regard to the powers which have been given to income-tax officers. These officers would have to be Daniels of Justice, they would have to be angels of good manners, and Napoleons of law and accounting, apart from being other things, and I do not know whether it is possible to expect all these qualities in any human being and whether it is desirable to invest powers of this kind to certain set of people which will not be abused. Take, for example, the power under section 38(3) of entering a house, whether in the absence of the owner or otherwise. These are powers which I would oppose even if they were going to be given to the police in the provinces, but my opposition would be modified in so far as the police in the provinces are concerned to the extent that the police are at least under a responsible Minister, but these powers

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are proposed to be given under the Act to income-tax officers working under a department which is completely irresponsible to the people of this country.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): You will get Federation by that time.

Mr. Manu Subedar: Certainly. Sir, my friend, Mr. Kabeer-ud-Din Ahmed, is in the habit of making speeches during question time and asking questions during speech time, and he gets mixed up in both.

Mr. K. Ahmed: This is the practice in the House of Commons.

Mr. Manu Subedar: Now, Sir, I want to touch very briefly on account of lack of time on the more important question of clause 49 and clause 4. I would like to point out to this House that under sections 178 (3), 815 (4) and 272 of the Government of India Act, there are exemptions enjoyed by certain incomes by Statute. The income which escapes in this manner is variously calculated at 18 to 20 crores of rupees, and the tax which would be gathered thereon is put down at three crores of rupees. But for those statutory prohibitions, even under the imperfect law provided by section 49, this would get us about half of this tax. It is impossible to forget in dealing with clause 49 and clause 4 this co-relation. Then, with regard to clause 49, the Honourable the Finance Member has explained that 85 lakhs of rupees are lost to this country. They are lost to this country, but they are given to the British Treasury. Sir, I mentioned in the beginning that I admire the thoroughness of the Honourable the Finance Member and also his patriotism, but his thoroughness has been used against the tax-payer and his patriotism has been used entirely in favour of the British Treasury, and not in favour of the Indian tax-payer

Mr. M. S. Aney (Berar: Non-Muhammadan): That is the meaning of patriotism to him.

Mr. Manu Subedar: Then with regard to clause 4, as I said, it is impossible for us to agree to clause 4 on several grounds amongst which I would give the very first place to this ground, namely, "Double Taxation". I will not be a party, nor will any Member of this House, to the enactment of a law which seeks to impose an invidious burden, and a discrimination which reduces the burden on the Englishmen and increases it to Indian merchants in a discriminating manner. Then, Sir, even the reduced burden in their case is two-fold in that not only that certain kinds of income would not be liable to tax, but even the rate of income-tax would be lower in their case. This reduction is a discrimination, but apart from that, whereas the Englishman will get relief, if his income is taxed on the other side, the Indian, if his income is taxed in foreign countries, will not get any relief. The fundamental principle should be, and I hope the House will not allow the opportunity to escape without enforcing it and seeing it made into law, that every country must give relief to its own nationals. Until that is introduced, I am not willing to allow clause 4 to be adopted putting tax on the accrual basis.

Again, Sir, if the Double Tax Relief provisions are properly provided, that is to say, withdrawn from the foreigners so as to help the nationals of this country, then I would like to point out certain small modifications, which would still be necessary in this clause. Those modifications are with regard to difficulties felt, not only in the matter of exchange control and fluctuations in foreign currency, but also with regard to books, with regard to the period of account, the manner of submitting returns and various other provisions which are oppressive enough in this country, but which would be absolutely intolerable so far as incomes accruing from abroad are concerned. I say that, if this clause is, therefore, brought into operation, there will have to be a considerable modification, but how that modification is to be secured is a question which will have to be carefully considered. With regard to this, it may be noted that when an attempt was made by a previous Finance Member to introduce the same kind of legislation, the attempt was universally opposed. I understand that amongst those who opposed it were men like Sir Abdur Rahim and Dr. DeSouza including all the Muslim Members in this House, and also the Englishmen. It is not surprising that the Englishmen have now changed their angle of vision . . .

Mr. K. Ahmed: Why do you take shelter behind Muhammadan Members?

Mr. Manu Subedar: Certainly, you also opposed it.

Mr. K. Ahmad: No, certainly not.

Mr. Manu Subedar: But, Sir, it is not quite intelligible why Indian Members should agree to a legislation which discriminates and which does not provide the same facilities for relief of double taxation for Indians which it provides for foreigners.

Sir, the new law is based on the basis that all screens should disappear, that is to say, like X-ray, the Income-tax Department wants to look at everything, notwithstanding the fact that a man may be a member of a partnership firm or a shareholder of a joint-stock company. In doing this, extraordinary powers are given to income-tax officers which it is not possible for me to deal with in detail now. But I will only say this that the Income-tax officer will have the power, under certain conditions, to cancel the registration of a partnership firm, and under certain other conditions to insist that an unregistered firm shall be dealt with as a registered firm, and in the following year, again reverse his own decision. In other words, partnerships and firms would have to conform themselves to the convenience of the income-tax people and not *vice versa*. This is a considerable hardship and such powers should not be given to income-tax officers.

Then, Sir, the provision which seeks not to allow any interest, commission or any other payments received by a partner in the calculation, is, to my mind, extremely harsh, and while I do not object to its going in, I would plead that in practice, wherever hardship on firms is brought out on account of such a provision, it should be mitigated by administrative instructions. The worst provision is with regard to successors. Partnership is the most general form of business in this country. Partnerships change through many reasons. One is the retirement of a partner, or the death of a partner, and the other is that the partnership does want more money and admits somebody else, and there are many other domestic as

[Mr. Manu Subedar.]

well as public causes which do bring about a change of partnerships. Whenever such a change occurs, it is only fair that the income-tax people should not lose any specific revenue which was leviable on the firm or on any of the partners, but the provisions are unduly harsh. I will read section 26 (1):

"Provided further that when the tax thus directly assessed cannot be recovered from a partner it shall be recovered from the firm as constituted at the time of making the assessment."

The opening up of the assessment is now provided for four years and during these four years, if the previous partners are dead, if the present partners have no assets belonging to the previous partners in their hands, even then they would be liable. It is scant consolation which is given to us in section 26 (2)—if the tax is collected from the partnership in this manner, the successors could then have a remedy against the predecessors. But if the predecessors are dead, are the successors going to follow them into the other world? In other words, what is provided not only in this but in many other places is that a legitimate bad debt of the income-tax department is sought to be transferred on to the head of the public. This, I maintain, is entirely unfair.

Then, with regard to the carrying of losses, the concession is there and we acknowledge it with gratitude. But the concession is extremely partial. For one thing, I do not like the stages by which the concession is going to come into operation. With regard to the setting off of losses, I maintain that the setting off of losses should be, not as provided from the profits of the same business, but as under section 24 where all losses are set off against all profits.

Then, there is section 23A, which the Bengal Chamber of Commerce calls "most objectionable" and with regard to which I do not wish to say for one moment that that section should come out. But I do wish to say that the section goes far beyond the law in the United Kingdom, and I am not sure with regard to definition of public companies, as to whether this section will not in practice be applied to public companies which are not constituted for the purposes of evasion and which do not, in effect, make any such evasion.

With regard to bad debts, the position is again something, in which we have a little grievance. The Income-tax Committee definitely recommended that the estimate of the assessee should not be challenged except for valid reasons and the power is given in section 10 (2) (xi) to the income-tax officer, who alone will estimate what is supposed to be irrecoverable so far as the firm is concerned. What I would like it to be is that the claim of the assessee may be allowed on reasonable evidence which he may adduce. But there is another objectionable feature of this provision with regard to bad debts, and that is that unless the bad debt is definitely written off, it is not to be allowed. It happens, in fact, that a debt which I may consider to be very good at the time of making up of the accounts might, between that period and the period of assessment, actually turn bad by death, insolvency, or any other factor, and unless it is written off in the books, it is not to be allowed. This I maintain is somewhat unfair.

We come to the power to call for information, and on this I may say, in spite of my Honourable friend, Mr. Chambers' otherwise excellent speech, that he has shown his inexperience of this country and his lack of sympathy

with the assessee as a class, which I dare say all income-tax officials share all over the world. This power to call for information under section 38 (2)—I would say, first of all, that there are no directly corresponding provisions in the United Kingdom law of this kind; and secondly, I will say that it will not only entail a considerable amount of burden but there would be penalties on people who did not take the trouble to give this information without great pains. We have to keep not only a list of persons but their addresses which are not often known to us. A man comes with certain receipts and payment are made to him. We do not ask for his address, and when we ask, we only take down what address he gives us, which is not necessarily guaranteed by us to be correct. All I say is this. If this power is retained—I will not go to the extent to which the Bengal Chamber of Commerce representative went and said, that money should be paid to firms and companies which are doing this work for the Income-tax Department. It is hard enough to be called upon to be the agents of the Income-tax Department and to squeal on other people, members of the public, but in addition—the Bengal Chamber of Commerce wanted remuneration. I do not want remuneration, but I do say that any inadvertent failure, not wilful but otherwise, to give such information, or, if the information is found to be imperfect, it ought not to be visited with any kind of penalties on any members of the public. With regard to 38 (3), the power of entry, I have already said that it is not at all in accord either with the social life and conditions in this country, or with the basis of relationship between the members of the public and the official world. This tradition is there, whether we like it or not, and that being so, while we are trying to build up democracy, I am afraid the Honourable the Finance Member is trying to build up a kind of Hitler parade in this country, in which any man can enter any place as and when he likes, with a permit in his pocket, which of course, generally the superior always gives on the word of his underling. Has my friend thought for one moment about the amount of impersonations that may take place? Suppose we catch a burglar red-handed, he may turn round and say that he was only an income-tax officer searching for duplicate books!

With regard to these duplicate sets of books, may I mention that it is entirely due to a misconception of the superior officers of the Central Board of Revenue? There is in England also a system of keeping the day book, from which fair entries are made in the journal as well as in the ledgers in due course. There is in India in our system what is called a *Katchiwahi*, that is to say, a rough book from which fair entries are made in due course in fair books. If this amounts to maintaining of two sets of books, then I say that it is a most unfair charge. On the other hand, I do not say that there may not be some people maintaining duplicate sets, but these people will have the sense in future to keep those books not in their own houses but in somebody else's. I say that this clause will not only be oppressive but it will be ineffective for the purposes for which it is being introduced.

I want to say one word with regard to insurance. I heard most carefully all that fell from my Honourable friend, Mr. Chambers, but I am sorry that I differ from him. In the first place, I welcome the curtailment of premium to Rs. 6,000; I know that the indefinite amount was being abused. But with regard to this Rs. 6,000, my submission is that there should be a clause attached to this section, that this exemption of Rs. 6,000 and equally the deduction for premiums, paid to fire insurance under section 10, should not be given unless the insurance were effected

[Mr. Manu Subedar.]

in a company registered in this country. I know that as the Honourable Sir Nripendra Sircar said under the Government of India Act, "white is brown". Even subject to that restriction, at least let us have this proviso. I do not see any necessity for premium which is being exempted being paid to companies which do not come under the statutory definition of Indian companies.

Sir, regarding tax on insurance companies, the position in two words is this: that hitherto the taxation of insurance companies was by rule of thumb, which has been found, on closer examination, to be harsh and excessive. This is now being changed in England. It has been changed as the result of five years examination and yet the whole of this change is not being embodied in the provisions made in India because a sudden reduction of what the insurance companies were paying to Government would adversely affect their income. This is one of those matters, which my Leader has said has already been settled and I am not pleading that it should be altered but I say this that in spite of what Mr. Chambers has said, there is an admittedly arbitrary limit put down, of deduction from surplus of only 50 per cent. of what is paid to policy-holders. I say even now that under the new scheme there will be taxation to some extent of capital rather than of income alone. In view of this, I think it would be very necessary and useful if the Finance Member were to give an assurance that when the finances of the Government of India improve—though that is going to take a long time—that the position would be put on a par with the position in the United Kingdom.

Then, Sir, with regard to depreciation, I do not want to take up more time. All I wish to say is, that if the balance of advantage is not so serious in favour of the written down value, I still plead that the old method was the best. No shoe fits so well as an old shoe and let me make it clear how savage were the original provisions in the Bill. They went very much farther than the practice in the United Kingdom and they certainly were intended to have and would have had the effect of taxation of capital. Now, though they have been modified to some extent, I still feel that the old system would be a better system, if for nothing else at least for this that the generality of businessmen, who have to deal with this subject are familiar with it and it is convenient to them. They understand it. If you want you can slightly tinker with it and correct its faults but there is no need for any radical alteration in a scheme of things, when it is not calculated to yield you any substantial additional revenue. Now, with regard to obsolescence, all I can say is that this shows what my Honourable friend would, in his political opponents, characterise as confusion but I say this that the dividing line between capital and income is not too closely followed and there is an attempt to tax capital receipts in the hands of the assessee.

Then, Sir, with regard to associations, I will say this. I have not much time left to deal with it but I will make this general remark that the provisions are not clear as to the position of associations, clubs and trade unions but I feel that with regard to associations like the stock exchange, the cotton exchange and other exchanges interest on deposits of members should be allowed.

Mr. Deputy President (Mr. Akhil Chandra Datta): The Chair would like to remind the Honourable Member and other Members of the House that the Honourable the Leader of the Opposition made a certain arrangement on the last occasion with the consent of the whole House, and the Chair only hopes that that gentleman's agreement as regards the time schedule would be adhered to.

Mr. Manu Subedar: I will conclude, Sir, with one remark in regard to salaries. Mr. Chambers' speech was very much wide of the mark so far as salaries were concerned. Such a provision does not exist in the United Kingdom and if a salary is not received by a poor man, it is most extraordinary that there should be a suggestion that his salary should be taxed. When we come to the particular clause, I would plead that a provision should be made for refunding the tax during the next two years, if the salary is not in fact received.

In conclusion, all I can say is that the conveniences, limitations and difficulties of the assessee have not been studied. There are inconsistencies. The Honourable the Finance Member has said that he did claim logical perfection for this measure, which he had devised more as an instrument of practical use. All I say is that while we may support him in many of the provisions which he has devised, we hope he will agree to accept such small modifications, as may be suggested later on.

Mr. Huseinbhai Abdullahai Laljee (Bombay Central Division: Muhammadan Rural): Sir, I represent the Central Division of the Bombay Presidency which is mostly agriculturist and labour. (Interruption by the Honourable Sir James Grigg.) Whatever you may say, I also appear before you as one of those unfortunate individuals who are trading abroad without any help, assistance or protection from this Government or even our people. My Honourable friend and this House desire to get some income out of them. I ask, what is the amount and for how long do you expect this income? It is a well-known fact that everywhere an attempt is being made, has been continuously made, to send us out from the places where we are trading for centuries, and, added to that, our own Government have been party to it, and now we find an Act which provides for creating more difficulties in our way. Every civilised country has been trying its best to introduce its goods into other countries by way of exports. In fact, it is no secret that all the great armies and navies that are being built and will be built are with the object of dumping one's goods into another country. My friend, Sir Muhammad Yamin Khan, said the other day—why should we hesitate to pay taxes for trading abroad? I ask in all fairness, what have our Government or our people done to help us? Very recently I have heard the Prime Minister of England saying though I do not object to it, that we must have some sympathy for the Jews in Germany. He has suggested that they should be provided some place in East Africa. That is a colony belonging to India. We are being hunted out from there, bag and baggage, while, on the other hand, there is enough room there for the Jews to be accommodated. I ask you in all fairness—are you protecting the interests of Indians? I ask you to look at that question seriously.

My Honourable friend, the Finance Member, asked about the agriculturists. On whom does agriculture depend? I say, if business men and their agents were not helping them in selling their exports abroad, where

[Mr. Husenbhai Abdullabhai Laljee.]

would agriculture be? The only thing that will result is that by this action of ours we will make it impossible for exports to be sent out. Our Provincial Governments want revenues for doing a hundred and one things including the uplift of the agriculturist, education, medical relief and so on, but I ask them in all earnestness how are they going to achieve that? What have they done to find markets for the raw produce of the agriculturist? They have done nothing, and are they able to do anything, and, if at all our country men have done something, it is those Indians who, as pure and simple businessmen without any force behind them and with their own endeavours and energies and, many times at great risk to person and property, are trying to introduce their goods there. There was a time when India had been exporting its goods to all parts of the world without any help and as pure and simple businessmen, but what do we find now? We find that they are asked to go away and the sooner they go away, it is said, the better. I am sure very soon my friends on this side will see that there would not be a single Indian outside India and they will have to depend for selling all their produce on the European firms who will certainly be established more firmly than at present and work more profitably than at present because at present there is the factor of competition against them and that is, the fact that the Indians abroad purchase their ware: but once these foreign people are left and are allowed to purchase then they will do so at the price which will suit them, and above all they are foreigners and as the world at large is open to them and they will purchase in any market they like,—what will happen? Will it not be that Indians will have to force themselves on them or that in any and every way the Indians will be obliged to sell to them. If the condition of the agriculturist is going to be so miserable in my country, I ask my friends the members of the Congress Party, and the members of the Muslim League,—how are they going to progress? What are they going to do? Is this small sum that you are likely to get for a few years help them any way or any more? Sir, the whole world is out to send away Indians from abroad. How long, therefore, will they get this small income? The most that the Honourable the Finance Member put down is that he expects from business only, mind you, of the Indians abroad no more than Rs. 15 or 20 lakhs and divide that into twelve Provinces each of them will not get even a couple of lakhs, and with that money my friends believe that they could do a lot of good for the people of this country. They will see, as they have been seeing, that even the raw materials which we have been producing for years together are now being dumped from outside into our India. Take the case of wheat. Take the case of rice, and still will my friends, my countrymen, come forward and will they say that we want money so that we can get along at any cost, if so, I ask at what cost, and what are you doing? I ask one simple question for their serious consideration and reply and that is this. We have many of our foreign friends on our Treasury Benches, and it is said that they have come here as our trustees to look after us, and we know all about it, but, Sir, I fail to see why my Honourable friends, on this side do not realise—I do not see many of our Honourable gentlemen from the Muslim League—are here; as to why there are so many non-official European friends here, and for what interest are they here? I say they are here for the sake of their exports into your country. They are here with a mighty force behind them and they have, therefore, obtained the right of sitting here to protect the interests of their exports, their voice is heard,—and what have you got for

your exports? You have not got even more than a very few trade commissioners; and the other day when I asked my Honourable friend, Sir Girja Shankar Bajpai, about the condition of Indians abroad, his reply was that so far as the condition of Indians in the colonies and dominions was concerned, they had very little information and so far as Indians in foreign lands were concerned, their condition was not a subject in which it was worth while for the Government of India to collect information about that. This is our pitiable condition, and even now that is so, and this is the help and protection that you are giving and this is the encouragement that you have given. Have you got even in this House a representative who would represent the interests of poor unfortunate Indians abroad? No? And you have got more than a dozen of my European friends to represent the interest of foreign exports into your country. (Interruptions.) I congratulate you, but I am sorry and pained to see that my friends have not raised a single voice to protect their countrymen abroad or to see that their agricultural products are sold outside.

An Honourable Member: We have moved so many adjournment motions.

Mr. Husenbhai Abdullabhai Laljee: But you cannot get anything done.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): We have done our best; no more can be done by anybody else.

Mr. Husenbhai Abdullabhai Laljee: Now, I ask you in all earnestness to consider very seriously the effects of clause 4 on your countrymen abroad, the effect of this clause on the foreigners who are out to drive you out from there. The only effect will be that the foreigners would feel justified in saying that India is a rich country, India is exploiting the world over, that Indians have been bringing away so much money that their own countrymen have thought it desirable to tax them. Is this a true and a right position? Now is that the fact, is that true in any way, in comparison with what the foreigners are taking away from this country? And, above all, I ask my countrymen once again to consider the pitiable condition of all those unfortunate Indians who are abroad. Take only the recent position of Indians in Burma which was your own the other day. What is the condition of their property and person,—and to them and others you send now a message by enacting this clause 4 that you consider them to be exploiting those countries, that you are going to tax and are not going to help them. Is this fair and honourable? Will it not pain them? You don't care for the pain but I ask by this your action have you decided to say to them indirectly that they should come away. If so, please tell us that frankly and openly. I am sure they will be only too glad to come back.

Babu Baijnath Bajoria (Marwari Association: Indian Commerce): To whom are you referring?

Mr. Husenbhai Abdullabhai Laljee: I am referring to my own countrymen to whom I appeal, and to you also, Mr. Bajoria, my countryman. I ask once again that very question. Is it right? What is the amount, and at what cost are you going to tax the Indian businessman abroad,

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and for how long will you have that tax? If you consider these two points seriously, and if you consider the helpless position not only of Indians abroad but of your own selves, can you not possibly do anything for them? Is it right and fair to say for the sake of saying that you have done something and, therefore, get some little money for provinces and that too for a short time that you should be a party to clause 4? Are you doing what the world at large is doing? I say no, and I do ask my countrymen to desist from an act which will create a wrong impression, an unfair impression, and which will only create an opportunity for the others, who are longing to have that opportunity, to send your countrymen bag and baggage to your country as soon as possible from abroad where they are selling your produce.

Sir, a lot has been said about the investments outside our country. I do not mind if you tax the pure investments outside our country but do not do it in the manner as is proposed to be done by saying that we have crores and crores outside our country. Even if we assume that we have invested something like 25 crores outside our country, you cannot get more than 12 or 13 lakhs of rupees if you calculate the return to be at three per cent. I am sure I am not wrong in this figure. But you cannot tax any investment without knowing the facts. That is my complaint. You want it is said something for the provinces at any cost. Is that what you want? May I ask again the Finance Member how much does he expect to get from Indian business abroad and for how long and at what cost? I hope he will reply to this question later on. I also ask him again how much does he expect from pure investment of the Indians outside and for how long?

The Honourable Sir James Grigg (Finance Member): I have given those figures lots of times.

Mr. Husenbhai Abdullabhai Laljee: You might re-consider those figures. Many of my people have got grave doubts as to those figures.

Sir, it has been often said that we are out to protect the interests of the poor people and we want to get the money from the rich. Everybody will agree with that proposition. But I ask again, in all fairness, whether you are sure that you will be able to get such large sums from this source from the rich people of this country as will provide for the needs of the large number of poor people? You are going to introduce now what is called the "slab" system and I feel certain that this system, although it is good, will certainly affect 240 lakhs of people, whose interests my Honourable friends, on the Congress Benches, have so much at heart. I warn my people against that and ask them to be careful because you are now going to tax your people and being party to it, believing that you are going to get something substantial in order to do substantial good to the provinces. Even if you get another 16 crores of rupees in the shape of income-tax, each province will get slightly over one crore. This amount will also not take them much ahead. But if you want real prosperity in the country, then you should encourage trade, commerce and industry. If you invest your money on those lines, then you can make your people more prosperous. Of course, I am not one of those who say that we must not tax the rich. You must tax the rich but do not be under the impression that you can get all that you want out of the small

number of the rich people that we have got in our country. Throughout this Bill, you will find that attempts have been made to treat the businessman as though he was a great rogue. All sorts of provisions are made with a view to find out how businessmen may not escape income-tax. Unfortunately, this is also the mentality of some of my countrymen. They do not give the businessman that regard and respect to which he is entitled and which is paid to him all over the world being the best friend of the agriculturist, and producers or manufacturers.

The Honourable Sir James Grigg: Oh!

Mr. Husenbhai Abdullabhai Laljee: The Honourable the Finance Member is the best friend of the agriculturist. It is the businessman of Great Britain who has helped the producers and industrialists to sell their wares. It was only the English businessman in South Africa who got Great Britain to fight the South African nation. What was the cause of the South African War? Was not Cecil Rhodes a businessman who went to exploit in a foreign country and the whole of the British nation declared war for his protection? Even my countrymen were sent there to fight as soldiers.

Mr. K. Ahmed: What about the East India Company which came over to this country? Were they not all merchants?

Mr. Husenbhai Abdullabhai Laljee: Thank you very much. You are right at least once. I can give many other instance of this nature to my Honourable friend, the Finance Member. We know all that but, unfortunately, many a time my own people forget them. They want money somehow. Sir, there is a proverb in my part of the country with which I think everybody will agree. We have always adopted the principle of:

"Uttam kheti, maddham beopar aur kanesh chakri."

It means that agriculture takes the first place, business the second place and service the last but I will not say the least. It is on the prosperity of the businessmen that most of the professionals and even my worthy lawyers trade and thrive. I ask them in all seriousness to consider the businessmen of this country as gentlemen who do support, on the one hand, the agriculturists and, on the other, the professionals.

The Honourable Sir James Grigg: How many agriculturists does a businessman support?

Mr. Husenbhai Abdullabhai Laljee: But for these Indian businessmen, the poor agriculturists will very soon be looted and sacrificed by the foreigners, like the Ralli Brothers and Volkarts and hosts of others, who have come into my country, being backed by their banks and Governments by means of export credits, subsidies, bonuses and what not. It is only the businessmen of India who are the friends of their agriculturists, so far as the sale of produces are concerned in this country.

Mr. K. Ahmed: Why not pay them a little higher price?

The Honourable Sir James Grigg: They do not believe much in it.

Mr. Husenbhai Abdullahbhai Laljee: That is my misfortune, because I cannot afford to be in the position I am.

A lot has been said on the various clauses of the Bill. But one thing, I should like to point out and that is when the slab system is being introduced, there must be some allowance made for the maintenance and education of children. The income that is liable to be taxed is put down at such a small figure that it is practically impossible for anybody to meet the demands for the expenses of his family. We ought to insist upon allowances for families and for children. Last year a great deal was said about the putting together of the income of husband and wife, and, therefore, my Honourable friend, Dr. Deshmukh, was under the impression that this provision still continued, I am glad that the Select Committee have done the right thing. On that score, I should like to ask the Honourable the Finance Member how much money was realised under section 16(3) of the Income-tax (Amendment) Act of 1937, that is the income of husband and wife put together? A great deal was said about this. I should like to know how much was actually realised?

The Honourable Sir James Grigg: We have collected about two to three lakhs. We left a loophole which has got to be stopped by this Bill. The original estimate was 30 lakhs; but, unfortunately, we left a loophole. Any way if we stop that loophole, we expect to get 20 to 30 lakhs.

Mr. Husenbhai Abdullahbhai Laljee: After all two or three lakhs are very small for an Englishman, but to us poor Indians, the sum is very great. In an estimate of 30 lakhs, we have got only two to three lakhs. This is for my countrymen to understand how much is being made when a theory is propounded and what are the results? I will stick to the gentleman's agreement not to take more than 30 minutes with the Honourable the Deputy President although I have a lot to say and will conclude. I want to make one final appeal to my countrymen. Please for goodness sake . . .

The Honourable Sir James Grigg: Pity the poor rich.

Mr. Husenbhai Abdullahbhai Laljee: Pity the unfortunate man who is doing business of this country at the risk of his property and his person in foreign countries from where he is attempted to be thrown out in the interest of foreigners and treat the foreigners if you like in the same manner.

Mr. Nabi Baksh Illahi Baksh Bhutto (Sind: Muhammadan Rural): Sir, the need for amending the Income-tax Bill has been felt for a very long time, but the present Finance Member was bold enough to take the lead in this matter. He first appointed a Committee of enquiry on the report of which the present Bill was drafted. We had serious objections against certain provisions in the original Bill. But some of these objections have been removed by the select committee. There are still some points which require serious consideration, and there are some points which require elucidation. At the very outset, I should mention that of all the taxes, direct and indirect, the income-tax is one which falls exclusively on the rich, and the land revenue falls to a large extent on the poor. A person whose agricultural income is Rs. 200 a year is required to pay in some places about Rs. 120 as land revenue; it is 60 per cent. or about ten annas in the rupee. This tax is greater than the super-tax on the income-tax side.

There are a few other points to which I would like to make specific reference. According to the existing law, foreign income is taxed only if it is brought to this country. It is now proposed that this income should be taxed on the accruing basis whether it is or it is not brought to this country. There are some features which require serious consideration. We should not discourage Indians to carry on business in foreign countries, we should help them in the same manner as we are helping the home industries.

The second point to which I should like to draw the attention of the House is the ignorance of the public about income-tax law. The Income-tax Bill is before the House, and I wonder whether the public understand all the implications of all the clauses in the Bill. I wonder whether the public can fill up income-tax returns even in the present form. Instances are not wanting when innocent people were harassed and unnecessarily paralysed on account of their ignorance of the complexities of income-tax law, and I quote one instance here.

A gentleman received a demand from the income-tax officer to fill up the form. He did not understand what the implications were, being the first time, but, shortly after, he received a notice from the income-tax officer that he should pay an abnormal income-tax on an imaginary bank income. He had to pay the amount under the existing law. He appealed to higher authorities. In the appeal the certified proofs of the bank which the assessee produced were not considered by the appellate authority. The income-tax officer and the Income-tax Commissioner belong to the same category and they did not admit even the certificates from banks.

The point that I would like to emphasise is that the rules intended to catch fraudulent persons who avoid to show their true income should not be used to worry honest people. Facilities in filling up returns should be provided to honest persons. Warnings should be given to the assessee before the use of penal clauses. In every case, the assessee should be informed that he would be assessed in such a manner if the return was not filled before the prescribed date. I do not want to go into details. We will consider this question when clauses are taken up for discussion, but one point I should like to mention is that unsympathetic attitude is often shown by income-tax officers either to win favour of their superior officers and sometimes to revenge imaginary grievances.

The next point that I should like to mention is the question of appeal. The appeal should be made to an independent authority. Every master can rebuke his servant for bad cooking, but very few husbands will have the courage to rebuke their wives. We should, therefore, devise a method by which justice may be done to the assessees.

The next question that I should like to take up is the exclusion of one's own dwelling house from the obligation of paying income-tax. The house is not yielding any income and it should not be taxed.

Further, I want to point out with regard to the appointment of income-tax inspectors that they will simply harass the public more and more. They will not be of any substantial help to the income-tax officers. The income-tax officer goes about on tour which serves the same purpose. The inspector will be merely a great burden on the public in every way.

Mr. K. Ahmed: Sir, I thank you very much for allowing me to speak, but, Sir, on account of a very severe headache I ask your special permission to speak from my seat sitting down here if it will not be inconvenient. Sir, some other Members under the circumstances had that permission from the Chair, and I ask you that I may be allowed. I have a severe headache, Sir.

Mr. Deputy President (Mr. Akhil Chandra Datta): All right; in any case the Honourable Member has to speak from his seat.

Mr. K. Ahmed (The Honourable Member spoke sitting): I have heard a great deal from my Honourable friend from Bombay, Mr. Husenbhai Laljee—all the points he made and thrust out in his own way—as a businessman, a profiteer, a man dealing with all the materials, products, corn, wheat, barley, rice, etc., one who purchases these from the agriculturist in this country, as well as Aden salt. Now, the attitude of these businessmen, commercial magnates and traders in this country has come out. Government have considered it advisable to bring in this Bill. It is my duty since I heard my friends in this Assembly from that side, particularly the merchants of Bombay, to congratulate the Honourable the Finance Member who has taken so much interest to make a beautiful speech, a speech which was listened to in this House with great admiration and thankfulness, and which has been heard with rapt attention and which was no doubt made with cordial good-humour. Sir, he has congratulated the Select Committee and the members who took great trouble, particularly my Honourable friend, the Leader of the Congress Party, Mr. Bhulabhai Desai.

Mr. Lalchand Navalrai (Sind: Non-Muhammadian Rural): On a point of order, Sir, I would like to know whether the Honourable Member has got real headache or not.

Mr. Deputy President (Mr. Akhil Chandra Datta): Order, order.

Mr. K. Ahmed: A doctor sitting in front of me has already certified, Sir.

Mr. Deputy President (Mr. Akhil Chandra Datta): On the point whether the Honourable Member has really got headache or not,—when a gentleman can speak in such a loud tone,—the Chair thinks, out of respect for the House and to keep the dignity of the House, he ought to speak standing.

Mr. K. Ahmed: In obedience to your order, Sir, I stand up, but you will pardon me if, in the midst of my speech, I feel inconvenient, and I trust you will not hesitate, seeing my condition, to resume my seat and make the speech.

My Honourable friend, Mr. Husenbhai Laljee, is a profiteer, and all the people including my Honourable friend, the magnate from Bombay, the Baronet of Bombay, who has got piles of money in Germany, and all the commercial people have come here to this House. Only the other day, some people, mostly the Congress members, came here. There are very few Honourable Members present here who were Members in the

year 1927, when I took a leading part in the passing of the ratio Bill for the benefit of the agriculturists, changing the ratio from 1s. 4d. to 1s. 6d. and all the people having money made a profit of two annas in the rupee by sending their money to the foreign country.

Sir, you will pardon me; I feel really inconvenient. I have obeyed your orders, and I cannot stand any more.

Mr. Deputy President (Mr. Akhil Chandra Datta): In view of the request, the Honourable Member may sit, but the Chair does not understand why he should have induced himself to speak at all; it is not obligatory; it is only a general discussion.

Mr. K. Ahmed (The Honourable Member spoke sitting): All of them have come out in their true colours and the whole picture is in front of the House; commercial men, profiteers, all of them are here and their representatives are also here, and they have expressed their view point. But I cannot help, as I started by saying, congratulating the Honourable the Finance Member for bringing in this Bill for the amelioration of the condition of the poor people—99 or 98 per cent. of the people, and certainly 90 per cent. at least. Have these people got the benefits that they want, as their Ministers in the provinces say? Now, there are nine or ten Congress provinces (Is it not correct?) out of the twelve. Have they got money enough for sanitation, health, medicine? Money is wanted for nation-building purposes, for education, etc., to ameliorate the condition of the country. Does not the Leader of the Congress Party pretend when he says that they represent the country, and, today, for some reason or other, they speak the view point of businessmen because, rightly or wrongly, they are pestered to do so? No, Sir, that is not correct. They ought to look this question from the point of view of these 90 per cent. of the population. The object of the Bill is to prevent evasions, that is, avoiding the payment of income-tax; a lot of people evade; they would not allow income-tax officers to see their three sets of books. I find the Marwari from Ajmer and Rajputana goes with his "ghati" in his hand. In the course of a few days, how does he become rich? Mr. Huseinbhai Laljee's people went to Aden some years ago. Lot of people from Persia came to Bombay.

Now, Sir, about the town of Calcutta of which I have got enough experience and where I have been a practitioner of 29 years' standing, I am supposed to know almost all the assesses, their habits and their benefits. There are lawyers, there are middlemen and the writers of books—as Sir Homi Mody said they write three sets of books, Mr. Bajoria also approved of it and said it was a thing which was done.

An Honourable Member: No, no.

Mr. K. Ahmed: My friend came from Calcutta the other day with lawyers, advisers and book-makers—I am using the word "book-makers" in the sense that they prepare two or three sets of account books, one for the partners, one for selling the goodwill when they die, so that the best price could be got, and the third for submission to the income-tax office. Is there any fault in this Act when it says that there will be a certificate about the conduct of the householder whose house the income-tax officer, a gazetted officer, who draws not less than Rs. 400, 500, or Rs. 600, educated at the University, wants to examine the books of

[Mr. K. Ahmed.]

account? Some of them are gold medalists and have passed the Provincial Civil Service and no one can doubt either their honesty or their veracity. Dr. Deshmukh, that veterinary doctor, may be a master in the art of surgery. . . .

Mr. Manu Subedar: He was a veterinary doctor when he operated on you!

Mr. K. Ahmed: He was describing them in very uncomplimentary terms, and I hope the Honourable the Finance Member turned a deaf ear to what he said. The Finance Member has brought forward this Bill in the interests of 90 per cent. of India's population. The other ten per cent. the handful of merchants and a few others who are unwilling to pay a little higher than what they are paying now, in spite of the protestations of the Congress Party. My Honourable friend, Mr. Huseinbhai Laljee, pointed to the people on his right and said they would help him, but nobody else in the House. . . .

The Honourable Sir Nripendra Sircar (Law Member): Not right hand—left hand.

Mr. K. Ahmed: Yes, Sir, left hand. The Honourable Member knows there have been floods recently in Bengal, Assam, United Provinces and other places and cattle and all other belongings of people were washed away and the poor people are sorely in need of food and clothing. Yet these people who make profit in foreign countries do not wish to pay a little more even to benefit these poor people. There are a few generous-minded men like the Readymoney House of Bombay who have been generous from generation to generation, but they are a very few of exceptional cases. How many of them came forward to help the country in the matter of education, health, sanitation and other matters such as rural development and nation-building purposes? Of course, they are compelled to pay in the shape of income-tax for the benefit of the country at large. But how many of them do pay? Very few. On the contrary, I say, it is the duty of every Honourable Member here to come forward and help the Government and keep it in funds, so that the Government may not disappoint all the Congress Ministers when the provinces ask for funds. . . .

Mr. Deputy President (Mr. Akhil Chandra Datta): The Chair would point out that the time allotted, fifteen minutes, is over?

Mr. K. Ahmed: I have taken only seven minutes.

Mr. Deputy President (Mr. Akhil Chandra Datta): As the Chair has said over and over again it has no right in the exercise of its own right, to interfere, but that is the arrangement of the entire House, and the Chair hopes that that arrangement will be respected.

Mr. K. Ahmed: Yes, Sir, As I say, it is the duty of every citizen to keep the Government in funds. In view of the sufferings of the poor, is it not the duty of those who pay income-tax and super-tax, by the slab

system or the step system, to help the Government? The middle classes and others do not have much to pay, but the country can at least expect the rich to subscribe ungrudgingly to the needs of the country. The Honourable the Finance Member has rightly brought forward this Bill, and I am thankful to him and to my Honourable friend, Mr. Bhulabhai Desai, whom I congratulate from the bottom of my heart, for stating the non-official point of view very thoroughly. I need not, therefore, go into any details. An enquiry was made and a Report was submitted in 1936 by the members of the committee before the Bill was brought in, and in that enquiry men like Khan Bahadur Vachha and Mr. Chambers from England, with all his experiences of the Inland Income-tax Department and parliamentary methods, were associated; and with their help the pros and cons of the subject have been discussed and we are grateful to them. The Honourable the Finance Member has already said he requires money for distribution to the provinces. If it is the desire of the country and also of the Congress Ministers in the provinces that such help should be given, it is not for a handful of people here in this Assembly to say that they will not agree. I myself do not like section 4 or section 49 of the Income-tax Act of 1922. I certainly would like that our merchants here and in foreign countries should get on well. These English people may say that they take their International Law with them wherever they go about in the world. If a small steamer is launched in the port of Bombay. . .

Mr. Deputy President (Mr. Akhil Chandra Datta): Is the Chair to take it now that the arrangement already made is no longer binding on any Member of this House?

Mr. K. Ahmed: Sir, I want three minutes more to finish my speech. I have got the watch in my hand and have not reached the time limit.

Mr. Deputy President (Mr. Akhil Chandra Datta): In that case, the whole arrangement is going to be upset, and the arrangement was to conclude the general discussion today.

Mr. K. Ahmed: Now, Sir, I shall close my speech, and before I conclude my remarks, I wish to make a few observations, and it will not take me a very long time.

Sir, the authenticity and the genuineness of certain telegrams on behalf of the Muslims of South India containing misrepresentations may be properly investigated by the Finance Member, because the contents of the telegrams have come from and over the signature from one Mr. Rao, a Hindu. I think it is but right and proper that Muslim Members of the Assembly should make an inquiry and find out who Mr. Rao is. They can ask for the original telegrams. There have been other telegrams also. And here I would warn Honourable Members that they should not be led away by such telegrams and things of that kind. Under these circumstances, Sir, I have no other alternative but to congratulate the Honourable the Finance Member.....

An Honourable Member: How often?

Mr. K. Ahmed: I have no other alternative but to congratulate the Honourable the Finance Member for the measure which he is adopting for conferring peace and contentment on the people of this country.

[Mr. K. Ahmed.]

Now, Sir, with regard to the clauses, as I said before, I am not in favour of clauses 4 and 53 of the Bill which are now before the House. What is the use of this? English people have come over to this country as the successors of the East India Company to make some profit. They may have either conquered this country out of sheer love for the country or acquired it in small bits, and now both Hindus and Muslims and other people have come under them. Some of the English people are tea planters in my constituency and also in Assam.....

Mr. Brojendra Narayan Choudhury (Surma Valley *cum* Shillong: Non-Muhammadian): Sir, I rise to a point of order. The Honourable Member is not only speaking irrelevantly, but also incoherently, and is roaming over the whole field of finance, commerce and everything else under the sun. I am sure, my Honourable friends will agree with me that it is not possible for any one of us to understand what my friend opposite says or to benefit by the discussion. Under the rules, the Chair is quite in order in ruling him out of order.

Mr. K. Ahmed: You are wasting the time of the House.

Mr. Deputy President (Mr. Akhil Chandra Datta): What is the specific point of order?

Mr. Brojendra Narayan Choudhury: The specific point of order is that the Honourable Member is not confining himself to the subject matter of the Bill before the House, but is roaming over the entire field.....

Mr. K. Ahmed: You can speak better than myself and confine yourself instead of roaming over the subject in full.

Mr. Deputy President (Mr. Akhil Chandra Datta): When he speaks irrelevantly next time, the Chair would be glad to have its attention drawn to it.

Mr. K. Ahmed: Now, Sir, the people who live in plantations at Jalpai-guri and other plantations in India may be making a little money.....

Mr. Deputy President (Mr. Akhil Chandra Datta): The Chair would remind the Honourable Member again that he is breaking the arrangement Honourable Members have come to.

Mr. K. Ahmed: Now, these people may be making a few lakhs, no doubt, but they are paying 40 per cent. income-tax which nobody else, no other trade or industry pays. Only after paying all that tax, they are making a profit.....

Mr. Deputy President (Mr. Akhil Chandra Datta): Will the Honourable Member tell the Chair what is the point he is making?

Mr. K. Ahmed: Honourable Members should know that Englishmen in this country pay their taxes all right. The question is whether an Indian doing business in a foreign country will have to pay tax there as well as here. Sir, I shall finish in one minute. The Englishman has to pay income-tax

there as well as in England, because the English law does not exempt him from the payment of income-tax in England. It is in this way, if an Indian goes to Tanganyika or to any such distant place and makes a profit, there he pays income-tax, if he makes a profit, and similarly if Englishmen make a profit there in the foreign country they will also pay income-tax in England.

An Honourable Member: Not here?

Mr. K. Ahmed: Yes, yes, they pay the tax here also at the first instance when they make profit in India. I told you that the English people say they have landed in this country with their law, and the International Law is that those who make enough profit in business, whether in Germany or in any country outside India, if they remain in this country they should pay the income-tax in England because they are Englishmen, and the English people do pay the tax here also when they make profit in India. Therefore, why should a handful of people who presume to represent the masses come here and make all kinds of allegations against the Honourable the Finance Member? Sir, I thank the Finance Member from the bottom of my heart for bringing forward such a salutary measure as this, because this is a very reasonable measure. I don't understand why my friend, Mr. Huseinbhai Laljee, a man who readily pays income-tax, after making a profit for himself, should shed crocodile tears on behalf of the merchants when the shoe does not pinch them. It was said the other day that the Finance Member is wearing the Chinese shoe. But you must remember that the Finance Member will not remain in office for very long. When the new Act comes into operation, he will have to retire after a few months. At that time and shortly after perhaps, the Congress people will come as Finance Members,—I don't mind whether the Congress Finance Member comes from Bombay or Madras,—it is no use for my friend from Bombay to stare at me,—he may come and take up the finance portfolio, and he will get the voted money under his control to utilise them.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Mr. Deputy President, we are really making a farce of this.....

Mr. K. Ahmed: What is the use of abusing the Finance Member for nothing? With these few words, Sir, I close my observation.

Mr. M. S. Anay: Sir, we have had a very lively debate for a number of days over this motion and when a question is debated for so long a time, it is really difficult for anybody to deal with any point that has not been touched before, particularly a Bill like the present one which has been discussed at length does not admit of being viewed from many points of view, as it is only a taxation measure. Anyhow, I think I should begin my speech with my tribute of admiration to the Honourable the Leader of the Opposition. The marvellous speech which he made on the very first day of the debate indicated to us his close and intimate grasp of principles, mastery of details, and skilful marshalling of arguments as well as his power of lucid exposition, at their best. I have heard him speak in this House many times before and outside also, but that day's speech struck me as the most remarkable pronouncement made by him in this House. After such a brilliant exposition of the report of the Select Committee, it is really difficult for anybody to make any useful addition to the debate and make an endeavour to find out some new and undeveloped points. Sir, although it is like that, I think I should make an

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attempt to present to the House what appear to me to be the salient features of the report of the Select Committee in as short a time as possible. I intend not to exceed the time limit that is fixed by arrangement, except by a few minutes if necessary.

The Bill is intended evidently by the Government of India to get more money from the people. No taxation measure is introduced in this House unless the Government feel the necessity for more money and begin to hit the people in that direction. Therefore, I shall consider this Bill under four or five different heads and only try to draw the attention of the House to the various clauses which can be grouped under those heads to see the aggregate effect which those clauses, taken collectively, are likely to produce. The first point is the amendments which are intended to widen the scope of the existing taxation. Under that category I shall give a number of provisions which are intended to tap new sources and widen the scope of existing taxation or to narrow the scope of existing exemptions. These are the various ways in which he has tried to manipulate to get more money from us. The second would be, naturally in a Bill of this kind, amendments which are aimed at the evasion of taxes and making it impossible. Various devices he has thought of to prevent people evading the tax. To that, of course, I shall not have any serious objection. I do not want to be a party to those devices by which people who have got the ability to pay and who are under law bound to pay avoid taxes. To that portion the objection from me would not be serious; in fact, there would be no objection.

If the Government are in need of money, they should also see whether there are, besides the sources which he has tapped in this Bill, any other sources which he would have very easily tapped and in which he could have succeeded in getting more money. What are those sources which he has left untapped—that is another head to which I shall draw the attention of the House in a few remarks. In that I will show what he did do, and what he did not do to give proper relief where it was really wanted. After these, I shall make a few general observations. This is the arrangement in which I want to make my remarks on the subject. Before doing that, I want to acknowledge what has been done by the Select Committee in improving the Bill as it was introduced. There were three or four points on which improvements made by the Select Committee in the Bill, as it was introduced, deserved to be noted, particularly by the House. Those points are, as a matter of fact, one, the improvement that has been made in the definition of dividend. Considerable attempt has been made to narrow the scope which the first definition had created. Under the new definition, of course, the capitalised profits are not likely to be attached, although there is yet scope for bringing that definition exactly in line with the practice that obtains in England. I believe when we proceed to the clauses, we shall try to plug that loophole which is now left out and try to bring the definition in line with the practice that obtains in England on that point.

Then, the most important improvement which I want to draw the attention of the House to is the arbitrary power that had been given to the Governor General under section 60. The Select Committee put an effective restriction upon that power in the report by laying down that after this law comes into force those powers should not be exercised. It

strikes as a very strange section, a section which gives to the Governor General a power to override and negative the whole of the law of taxation if he likes. That was the language of the power given under section 60. Of course, he did not do that to that extent, because in doing so he would not have recovered anything. In connection with that, I want to refer to another point, the abolition of the power which has been given to the Central Government to order the Commissioner of Income-tax to withdraw recognition to a provident fund and so on. That was in the Bill as it was introduced, but that has been effectively restricted by the Select Committee. Another improvement which has been made is raising the limit of the premium of life insurance in the case of a Hindu undivided family from Rs. 6,000 to Rs. 12,000.

These are some of the important points in which the Select Committee has decidedly improved the Bill as it was introduced. But leaving aside those things, I come to the first point, namely, the various sources which the Finance Member has found out by a careful study of the Enquiry Committee's Report to tap, and the various methods which he has adopted to make more money in this country. Let me just name those points, I believe I need not dilate on them because most of them have been dilated upon by different speakers. Even now I should include the definition of dividend under this head. I have already dealt with that. Foreign income on accrual basis is brought in, not because it is a more scientific way of getting taxes, but according to my Honourable friend, it is likely to give a larger amount of taxation from people who are trading outside. The change from the remittance basis to accrual basis is intended mainly with a view to bring more money. During the course of the speech, which the Honourable the Finance Member has made, he was pleased to observe, by way of a compliment to the Leader of the Opposition, that the present Bill contains on it the impress of the skill of the Leader of the Opposition. Probably, the language of the Bill may, but when I read this Bill, particularly clause 4 and some of the other objectionable clauses—and they are substantial points—I find the Select Committee did not succeed in altering the fundamental principles on which the Bill is based. And considering the number of sections to which reference has been made in the minute of dissent and the importance of those sections from the point of view of taxation, I feel that there is on every page of this Bill the impress of Sir James Grigg. His grim grip over the slender purse of the poor Indian people with a view to bring in more money is to be seen on every page of this Bill. In the language there is probably the impress of the Honourable the Leader of the Opposition, but the principles on which the Bill is based still bear a considerable likeness to the grimness which the Honourable the Finance Member assumes whenever there is an occasion for him to extort more money from the poor people of India.

Another thing that is done is this. Enunciating foreign income on an accrual basis as a proper principle for calculation of tax in the case of foreign incomes, naturally the agricultural income of the people of Burma was included for the purpose of taxation. Apart from the question whether those people who happen to hold land in Burma today come from the south or the north or from the Punjab or Madras, you have to look at the question from certain points of view of equity. The separation of Burma was not a thing that was decided by the people of India at all and I venture to say that it was decided against the genuine public

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opinion of Burma itself. It has been brought about with some ulterior imperialist purpose in view and the result is that those persons who have been trading in that country and acquiring land under some arrangements, that was certainly thought would abide for a long time, if not to go on indefinitely, have now found themselves in a new position as a result of some unforeseen political catastrophe. The Government of India when dealing with the question of separation of Burma ought to have contemplated all these things and taken adequate safeguards to prevent any unforeseen troubles overtaking those friends who have been trading there. Today it is declared that the agricultural income of Burma is no longer agricultural income of British India and, therefore, it is beyond the scope of the exemption provided in the Act. Whatever the situation may be, it is necessary for us to allow the old order of things, to continue for a considerable time and allow for a natural adjustment to take place and for this purpose some period ought to be provided for. If we do not do that we shall be failing in our duty to those countrymen who have shown enterprise and grit to go abroad and do some kind of business in a country which was not foreign land at all. While on this subject, I also want this House to carefully consider whether there has been proper consideration given by any Member of this House to finding out what is the net agricultural income. We have got provisions to find out the profits but all those provisions have been written from the point of view of businessmen and industrialists. Agricultural income was not contemplated to be a source of income at all.

The main point which it is necessary for this House to consider is whether this House has really given its best thought in ascertaining what ought to be the net income of an agriculturist. There are various things which have to be deducted and for which allowance will have to be made. What is the basis for calculating depreciation and wastage of agricultural assets. All these details ought to have been thrashed out. All of a sudden some new principles which were framed for a different purpose will have to be applied to agricultural income in Burma and advantage has been taken of an adventitious situation which has been created, without knowing whether the application of the new principle will work equitably or not. This is an important matter which the House will do well to take into consideration when it comes to consider the question of foreign income based upon an accrual basis and including in it Burman agricultural income.

Then, there is another way in which the Honourable the Finance Member hopes to get more money. In fact, the changes which have been made in the definition of trust, the difference between private trust and public trust, limitations put upon the use to which the trust property can be applied, all these things are intended to widen the scope of taxation and limit the exemptions to a very narrow sphere. I am not against the State making more money out of property that deserves taxation but in the case of charitable trusts, the attitude taken up by the Finance Member is somewhat difficult to understand. The Bill is nothing but a reflection of what the Finance Member thinks and has thought out over the matter. So, it is the Finance Member who is responsible for the Bill and the House is responsible for the report of the Select Committee. I maintain that the distinctions which are made there are likely to widen the scope of taxation but the point I was driving at was that the attitude

which is now reflected in the present Bill and in the Select Committee's report is somewhat different from the attitude which the Government of India is reported to have been taking in regard to this matter when the report of the inquiry committee was being written. The members of the enquiry committee have distinctly stated that the Government of India is not anxious at all to deal with this matter and interfere with the existing state of things in regard to charitable endowment; therefore they do not want any suggestions to be made with regard to the provisions governing charitable trusts and so on. They have, however, made certain suggestions and having found those suggestions the Government of India have taken advantage of them and incorporated them in the Bill. I do not know why the attitude of the Government of India towards taxation of the charitable endowments and trusts, to which testimony is given by the Central Enquiry Committee Report, has undergone a change and a change for the worse. Those who have to deal with the law of trusts know how difficult it is even for the courts of justice to distinguish in certain cases between a private trust and a public trust. That is one of the most difficult points of law for a court of justice to decide in certain cases but it shall now be left to an income-tax officer to decide it for himself almost every day and the aggrieved persons may appeal to a so-called appellate assistant income-tax officer which is being created here and later on to get the highest exposition of the law on the point from a tribunal which is still in the womb of the Government of India. I think it is better to leave this matter of charitable endowments and trusts in the position in which the old law has it and there is no need to tamper with it simply because we want to make some more revenue. Apart from that, there is another trouble. A new class of trusts is sought to be created, the so-called revocable trust. My point is this. If we look at the definition of revocable trust given there, it seems to me that a settlement made by a gentleman in favour of a widow for her life time and which might come to an end at the end of the life time of that widow might be governed by the definition of a revocable trust which is mentioned there. Any disposition, any transfer, in fact alienation of any kind may be covered by the word settlement. It may voluntarily come to an end or the settler may revoke it after a certain period of time. That kind of distinction is not at all borne in mind in my opinion in the definition which is there. The clause relating to revocable trusts should be very carefully considered by this House and we should consider whether it is not likely to work more inequitably in the case of a number of trusts under the existing condition of a Hindu family in the case of which managers have to make various kinds of settlement all over the country.

The Honourable the Finance Member's object is to widen the scope of the tax from whatever source possible and he thinks he has spotted them and he has sought to incorporate them in this Bill. Then, by eliminating part 5 from that clause and bringing in capital sums received in commutation of pensions for the purpose of taxation he has brought in another source of taxation. That was an exemption which is now sought to be eliminated, and the capital value of pensions will now be included for the purpose of taxation. There is one curious way in which the clause is sought to be amended in connection with salaries. Now salaries are included for the purpose of taxation when received. Under the amendments that have been made in the report of the Select Committee, it is salary that is due that will be taxed. That point was very well brought out

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by my friend, Mr. Town, the other day, in his speech. Sir, that will be laying down a very dangerous principle and it will work a great hardship in the case of a number of persons whose salary will be due but not received at all. On that point I am surprised to find that the Select Committee has given us an assurance and on that assurance it is expected that this House should be satisfied. What is the meaning of the assurance? In actual practice, instructions will be given as regards its operation. I do not understand the position, when there is a clear provision in the law. If that is the object, is it not possible for us to suggest some wording to make our meaning perfectly clear and not leave it to the discretion of somebody else to use or not to use his discretion in that matter? I, therefore, think that this provision with regard to salary is one which requires to be seriously considered. Then, the aggregation of the income of husband and wife is eliminated, and I will not deal with that. But a remittance sent by a non-resident to his wife is to be considered as the wife's income in this country for the purpose of income-tax. I think that my sister, Mrs. Subbarayan, may raise her protest against that iniquitous provision. I do not know the party arrangement of course. Now, are you going to tax a gift made by the husband to the wife simply because the husband is in a foreign land? If so, you are taxing an expenditure and not an income, you are taxing a remittance sent by a husband for the sake of his wife's maintenance from month to month, you are taxing an expenditure, which the man has to incur to fulfil his marital obligation, and you are not taxing an income.

Then, there is profit or gain from trade or profession or similar avocation, performing specific services for its members for remuneration, etc., etc., all this is also a new item of taxation which is added. These are some of the items in the direction of which we find the Finance Member has attempted to widen the scope of income-tax. I must admit that there are certain good points in the second category, for instance, the provisions intended for the protection of the assessee from the greed of the Income-tax Department, particularly the provisions constituting an appellate tribunal and so on, and as regards this matter I have to admit that as far as the existing arrangements are concerned, this, no doubt, represents an improvement upon what obtains today. Today the appeal lies to the man who is directly connected with the administrative work of the Income-tax Department, and to that extent there is no doubt that there is a distinct improvement by substituting a class of assistant income-tax officers and investing them with the powers of appeal. But if anybody wants to claim that the Income-tax Department has hereby introduced the principle of the separation of judicial from executive, he will be making a very poor claim. In fact, all these persons are virtually subordinate to the Central Board of Revenue. I would wish that the first appellate tribunals should be entirely independent of the control of the Central Board of Revenue. The highest appellate tribunal of course should be on the lines suggested in the note in the Report of the Select Committee. Those suggestions are not yet put before us. We shall, of course, have to discuss later on the details and to see how these fit in with the scheme as it should be. The composition of the first appellate tribunals should be such as to make them free from the control of the Central Board of Revenue, because the interest in getting more money for that Department cannot be altogether absent and we shall have to see how they by themselves will be able

to take a perfectly judicial and disinterested view of the questions in issue. On that matter I have my own doubts. I am not fully satisfied with the arguments, although I admit that it is an improvement upon the existing order of things.

Now, as regards what the Bill did not do to get proper revenue from other sources. When the Honourable the Finance Member was really anxious to get more revenue he would, of course, not like to ignore all those sources of revenue which he has now tapped in this Bill, but instead of trying to make five distinctions between a resident and non-resident, domicile and non-domicile in order to tax income on an accrual basis in the case of some and exclude the same in the case of others, he might have followed certain broad general principles of universal application. He should have seriously considered whether the various handicaps put upon the Income-tax Department by the Government of India Act might not be removed, because then he might have been able to secure much larger amounts than the aggregate amount he hopes to make by the various changes introduced here in the present Bill. I should like to bring to notice various sections of the Government of India Act which no doubt my Honourable friends know very well but he might make a fresh study of those sections and see whether he could not throw in his weight to get the necessary sanctions and also plead the case of the impoverished state of the treasury of the Government of India so as to bring in more revenue from sources now untapped and in which matter he will have certainly the bulk of Indian opinion with him,—for instance, sections 178C, 315 (4), 272, and 108 (F) and (g) of the Government of India Act. I am sure he must be thinking over some of these points as my Honourable friend, Dr. Banerjee, has given notice of applying for sanction to move certain amendments. So, the Government's Law Department as well as the Finance Department ought to have seriously thought over this matter. If he is really in need of more finances, then these are the sources from which the necessary money can be had without the least inconvenience to those who will be tapped thereby because they have broad shoulders and they can bear all that expenditure without any difficulty. Besides, it will in no way create any dislocation of trade and commerce in the country. So, these are the points to which I want to draw your attention categorically for the sake of making up whatever gap there may be in the treasury and if he finds that it is not sufficient for his needs, then we are here ready to be fleeced at any moment. We are always here but these are the fat goats which should be sacrificed first.

Then, Sir, I will now point out what he did not do in order to give proper relief to the poor. It is a sin of omission to which I must
 I P.M. now refer. The first and foremost, in my opinion, was the case of the Hindu undivided family which the Honourable the Finance Member and the Finance Department ought to have considered. The Hindu undivided family is one of the units that is taxed and, because there is the joint family system in this country, a Hindu is singled out for the purpose of taxation at a higher rate and, therefore, he stands at a disadvantage as compared to any other man in this country. The reason is that he wants to follow that old system which has the sanction of a long usage in this country. Why should a man be taxed because, according to a usage, he is observing a particular mode of living? In the eye of the law, criminal as well as the law of taxation, every man should occupy the same position. There

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should be no distinction between one man and the other on account of the religion or the usage that they may practise. All these distinctions should be done away with. If a personal law has to be recognised for the purpose of inheritance, marriage and so on, it ought not to be allowed to be extended even for the purpose of taxation for that reason. As a matter of fact, let us see what is the position of the manager of a Hindu undivided family, whether he is under the Mitakshara law or the Dayabhaga law? The distinction is only for the purpose of inheritance and succession and not for the purpose of taxation at all. Even the interest that a particular man has in the joint Hindu family property can be easily ascertained without any difficulty. What it would be tomorrow, will be a problem in the case of the Mitakshara law, but what it is today is very simple for any man to understand. The mere fact that you can easily find out the share of each member separately is sufficient, in my opinion, to treat him as a member of that family separately for the sake of taxation instead of taking the whole thing as one unit for the purpose of taxation. Take the case of Dayabhaga. As a matter of fact, the law itself recognises that they, the shareholders, hold the estate in severalty and not in jointness. What is the difference between the position of these persons and the members of any other partnership or association of individuals? In the principle of the membership of associations it has already been recognised in the Bill and it has also been embodied in the Bill that if there are two partners and so on, then their interests should be taken separately and for the purpose of taxation each should be taxed separately. The High Court interpreted this law at one time in a different way. In fact, there was a ruling of the High Court on the point to avoid the effect of which the provision has been now incorporated in this Bill and we have now got that provision before us. I am glad that my Honourable friend, Sir Muhammad Yamin Khan, has properly stated that that particular ruling worked as a great hardship in the case of certain Muhammadan family members who used to live jointly but, according to the law, their interests are taken separately. I want the Honourable Member to consider the position of the Hindu joint family in the same way because it is not at all different. On that point we can certainly make a common cause and fight together. You have got an advantage which you were entitled to in equity and law. Let us now join hands to secure the same for those to whom it is denied. I appeal to my Honourable friend from that point of view. I am glad that he has got the equitable relief to which he was entitled and I am sure that he will advise his friends sitting behind him and his Leader sitting to his right to take the same dispassionate and equitable view when the necessary amendments will be moved to consider this clause. Having said that, there is one thing more which I would like to touch under this heading. Of course, several other friends of mine have touched that point already. What prevented the Government to give relief to the children and the wives of the Hindus and Muhammadans of India? Do they consider that the wives of Hindus and Muhammadans in India can have no human requirements at all for which money is to be spent? If some allowances are deemed necessary in England and other civilised countries for wives and children, the same should hold good in India as well. But the Honourable the Finance Member wants us to believe that we have got the limit of Rs. 2,000 and that must be taken as covering all kinds of allowances. That is not fair.

I am not agreeable to the suggestion made by my friend, Mr. Gadgil, that you can reduce the minimum to something below 2,000. But if it comes as a suggestion from the other side, we shall consider how far we will be able to meet it. In my opinion, the minimum of Rs. 2,000 is not a very unreasonable minimum taking into consideration the conditions in which we have to live at present. Even then, some kind of allowance must be allowed for the wives. The whole burden of taxation falls on the earning member of the family. If you like, you can fix the limit of the number of children for the purpose of income-tax. If you are afraid of the extraordinary multiplicity of the children in India, you can put down some limit. Unfortunately, none of the salutary provisions which we find in the United Kingdom Act as well as the Bill that has been prepared by the Codification Committee and presented there in 1936 are incorporated in this Bill.

Now, Sir, I do not want to take up much of the time of the House and I wish to finish my speech before Lunch time. I have to make an appeal to the Members of this House. Clause 4 and some other provisions are not entirely new at all. These very provisions were once introduced in the form of a Bill in this House and this House rejected them. That was in 1931. My Honourable friend, Mr. Gadgil, in his well-informed speech stated that this was the kind of argument which appealed to him least. The fact that a Bill like the one which we are now considering was considered and rejected by this House is the argument that should, I maintain, appeal most to the House. The House in such a case must seriously see what the House has done first and what was the reason for arriving at that decision? We ought not to treat the previous decisions of the House in a light-hearted manner at all. That is what I want to urge upon the attention of my Honourable friend. I do not thereby mean that the House has not got the right to revise that decision if it finds it wrong.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Legislative *res judicata*?

Mr. M. S. Aney: All I am saying is whether there is a case for us to re-open the matter at all.

Mr.

Mr. N. V. Gadgil (Bombay Central Division: Non-Muhammadan Rural): There is no *res judicata* in politics.

Mr. M. S. Aney: I have never stated that. I have been making observations knowing the limits within which that principle could be put into effect. There is *res judicata* in regard to certain matters considering the time limit fixed for bringing up these matters again even for the purpose of legislation. I am not going to enter into an academic discussion on that. My point is this: here we are in this House sitting together as friends and colleagues, myself and my Honourable friend, the Leader of the Opposition. I have given my tribute to what he has stated and the services he has rendered in connection with this Bill. If I say something now which he may or may not agree to, I claim at least the right and the indulgence of the House to this extent that I have my own convictions in a matter of this kind and I have the liberty to give them out freely. So long as the present Government is there irresponsible and unresponsive, so long as the present Government stands pledged to introduce a system or a certain kind of Government which we have been opposing from beginning

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to the end all along, I feel that it shall not be proper for us to sanction any new taxation in favour of this Government. That is my attitude in regard to this matter. This attitude, Sir, was enunciated in this House in 1924 when I had the privilege to come to this House as a Member of the Swaraj party under the leadership of the late Pandit Motilal Nehru. This principle was enunciated by Pandit Madan Mohan Malaviya in 1924 when the Finance Bill was thrown out. Our position then was that so long as the Government remained irresponsible and unresponsive, the Members of the Opposition were perfectly right in not voting supplies. We demanded that the claim for responsible government should be conceded not merely by holding out promises and assurances but by actually doing something which would be an earnest of their real intentions. I believe my Honourable friend, Mr. Jinnah, also was a party to throwing out the Finance Bill at that time.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): No.

Mr. M. S. Aney: I think the Honourable Member voted with us. I, however, accept my Honourable friend's word. Probably if I refer to the debates, he will be found to be correct and my impression may be wrong. I do not want to differ from him on the floor of the House on a question like that. His word is sufficient for my purpose to give up that position.

Mr. M. A. Jinnah: If you do not accept my word, you can verify from the official reports. I have not voted against the Finance Bill in 1924.

Mr. M. S. Aney: I shall not say anything against his word. All the same, he has suggested to me that I should verify from the official reports. If I find that my impression is wrong, I shall bring it to the notice of my Honourable friend.

My point is this. That was the position taken up then. We have been for some years past bringing forward motions for the rejection of the Finance Bill, sometimes with success and at other times without success. Why was the Finance Bill singled out? Because that represented the taxation proposals which the Government of India have in their mind to carry out for the coming year. So, we did not concede to the Central Government the right to tax us so long as they did not agree to our demands which were made in the name of the nation for the establishment of responsible government in this country. Now, that position was there. In 1931, those Members who came to the Assembly were not returned on the Congress ticket. The Congress had boycotted the Assembly then. Out of regard for the position which the Congressmen took and the fight which they were carrying on in the country for the sake of the freedom of the country, the Members of the Assembly in 1931 took up the same attitude in the House with regard to taxation measures which the Congressmen would have taken up if they had been in the Assembly. The Members then rejected the motion with such force of unanimity that even the European Group had to join hands with them and the Bill was thrown out. Today, what do we find? My Honourable friends, Mr. Satyamurti or Mr. Avinashilingam Chettiar or Mr. Santhanam put a few questions almost every morning and some shots are fired, call them blank shots if you like. They ask such questions as: Are the Government going to introduce Federation? How far have they progressed

in regard to the Instrument of Accession? Was there any consultation between the Government of India and the Secretary of State? Was there any consultation between the Government of India and the Premiers of Indian States? To all these questions the Honourable the Law Member gives a stereotyped answer by nodding his head with the lips closed and the tongue tied or sometimes he refers them to the astrologer, and thus leaves the query unreplied. If that is the attitude of the Government, we ought not to give up our attitude also so far as new taxation proposals are concerned. That is what I feel on the point which I leave for the consideration of the Honourable the Leader of the Opposition. I am glad that in the beautiful speech which he made in this House the other day he did not commit himself at all to any position. He simply said what we should do with regard to clause 4 and what we should do if sanction was not accorded for amending clause 49. These are matters which I want them to consider carefully. My position is this. (It is all right for my Honourable friend, Sir James Grigg, to say: I have a big majority

Mr. Deputy President (Mr. Akhil Chandra Datta): If the Honourable Member will take some time to finish his speech, he can continue it after Lunch

Mr. M. S. Aney: I will take about 10 or 15 minutes more.

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

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

Mr. M. S. Aney: Sir, before I proceed, Sir, I wish to state that I referred to the debate and I found that the statement I made that Mr. Jinnah voted with us is not correct. He did not vote at all. He denied that he voted against the Finance Bill. He did not vote; he remained neutral. He said I was not right. To that extent his statement is correct.

I was referring to Sir James Grigg before Lunch. In connection with that, no doubt Sir James has very skilfully piloted this Bill and the relations between the Opposition and the Official Benches, both in this House and in the Select Committee, we are told, have been very cordial and the proceedings went on harmoniously. There was an exchange of compliments also on the floor of this House by both the Parties. I am reminded of a story. After all, as a gentleman I have great respect for Sir James Grigg, but he represents a system for which he knows there is no love lost between us and that system. If I have to say something it is not with reference to Sir James Grigg as a gentleman but to Sir James Grigg as a representative of that system which we do not want to continue in this country any longer. I was reminded of a story that I read a few days ago of a circus. I thought the Leader of the Opposition was like a ring master who held a whip in his hand, cracking it, and was very much delighted to find that the British lion was dancing to the movements of the whip in his hand. I only want him to remember that it is after all a lion which seemed to be dancing to the movements of the whip in his hand, but unless we are sufficiently cautious there is every chance of danger. The story was like this. There

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was an Italian circus man, a ring master, who used to end his performance by taking the lion out in the circus and one of the performances was that at the end, the ring master not only used to take the lion round the ring and have rounds—he used to ride upon it—but he used sometimes in confidence to put his neck into the jaws of that lion; he did it successfully several times and got the applause of the whole House; but one day it so happened that the lion used his fell teeth a little bit and it pierced him. He felt it and he asked “Is the beast wagging its tail?” but when the reply was given “Yes”, he was no more there to hear it. I, therefore, warn my friends. It is all right enjoying the play of this lion here, but let us remember that whenever we have to approach him we must always approach him with a loaded pistol in our hand pointed to his head; then probably we are safe; and if we do not do that we shall never know when the beast will begin to wag its tail. We must beware of that. I, therefore, say that whenever the Government come forward with a proposal of taxation of this nature, it is proper that we should hold the pistol and tell them that unless they are prepared to concede something we shall not agree to this. It is consistent with our self-respect and earnestness of the demand which we make. We fire our blank shots, as I said this morning; that is only to remind him that our claim is there. This is the time to hold a loaded pistol over the head and say either this or nothing. It does not mean that I am going to oppose the Bill as a whole. I make a discrimination between certain sections—those which are fresh taxation proposals should not be agreed to. I think an attitude like that will be perfectly justified and I want all our non-official Members to consider it when we come to the consideration of the different clauses. With these few words, I have to thank you for allowing me time somewhat in excess of what you had fixed for all the speakers.

Sir Abdul Halim Ghuznavi (Dacca cum Mymensingh: Muhammadan Rural): Mr. Deputy President, the Honourable the Leader of the Opposition has dealt with this Bill exhaustively, and I must say at once that I agree with what he has said. Most of the previous speakers who have spoken in this House—although I was not present in those days, but I have read the reports in the press—have said what they should have said. Sir, as my friend, the Honourable Mr. Aney, said he is not opposed to the entire Bill, I am also not opposed to the entire Bill. What I am opposed to is clause 4 of the Bill—the principle of taxation on accrual basis. What does it provide? Take the case of an Indian having business in other parts, that is, other than India. Take a concrete case. For instance. I have a business in India. I have a business in China and I have a business in Java. The existing Act provides that I shall pay income-tax or super-tax as the case may be for the income which I derive from business in India. Sub-clause 1 (b) (i) and (ii) of clause 4 of the Bill provides that if I have business in three places—in India, in China and in Java—if I make an income of Rs. 1 lakh here, Rs. 1 lakh in China and Rs. 1 lakh in Java

Mr. H. M. Joshi (Nominated Non-Official): You are making too much.

Sir Abdul Halim Ghuznavi: Mr. Joshi, a labour leader, does not want a capitalist to make too much. I will give you an example of too little, if this is too much. It comes to the same thing. The Bill provides that

in spite of my paying Rs. 10,000 as income-tax in Java for the money that I earn there, in spite of my paying Rs. 10,000 in China for the income that I derive there from my business, I should have to pay for the whole of the Rs. 3 lakhs that I have earned, which means I have to pay double for the Rs. 2 lakhs which I have earned outside India.

Mr. N. M. Joshi: How much of it will remain with you after that?

Sir Abdul Halim Ghuznavi: Very little. What is the principle? When I do business here I get the protection of this Government in doing my business; but what protection do they give us in China or Java or Japan, or rather, what protection can they give us? Why should they be entitled to ask us to pay again to them for giving us no service whatsoever? Sir, the foreign business of Indian merchants is only in its infancy. This Bill is intended to crush the Indian merchants altogether. That is the long and short of the whole thing. Let me give an illustration. Look at the amount they want to charge us for rendering no service whatever for the money we earn, outside British India. A man makes an income of a lakh of rupees at Kobe, another lakh in Hong Kong and another lakh of rupees in British India or three lakhs in all. I have been made to pay Rs. 10,000 for the income in Kobe and another 10,000 in Hong Kong. I pay in British India Rs. 15,000 or in all Rs. 35,000 on the three lakhs I have earned. The Honourable the Finance Member now wants me to stump one-third of it, if not more: he wants to tax me on three lakhs . . .

The Honourable Sir James Grigg: If you had it, I would.

Sir Abdul Halim Ghuznavi: If I had it, he would. He could not have said that in another place, in the Parliament in England: he can say that here—he is not responsible to this House. If he had said it there the next moment he would have been out of his seat: here of course . . .

The Honourable Sir James Grigg: Is the Honourable Member aware that the highest rate of income-tax and super-tax is 14s. in the £ or 70 per cent?

Sir Abdul Halim Ghuznavi: I am coming to that. India is not England, I have not forgotten the point. Under the present Bill instead of paying Rs. 35,000 I should have to pay Rs. 75,000, that is to say, income-tax and super-tax on Rs. 3 lakhs.

The Honourable Sir James Grigg: Very moderate.

Sir Abdul Halim Ghuznavi: Indeed! He referred to the very high rate of income-tax in Great Britain. Sir, in British India the population is 275 millions. Out of this, only three hundred thousand, that is, three lakhs of people pay income-tax. Look at the poverty of this country—only three lakhs out of 275 millions! And out of these three lakhs only 10,000 get an income of over Rs. 24,000. Now compare it with the position in England. England's population is 45 millions; and out of this 2½ millions pay income-tax; and still he says that England is paying higher income-tax. Of course they do; they are the richest nation and they can afford to pay, while we cannot. My objection to this Bill is this: we Indians have just started doing business with other countries.

[Sir Abdul Halim Ghuznavi.]

of the world. England encourages her people, and gives them every facility to do business in other parts of the world; but here this Government, this benign Government, prevents us from doing any business outside British India. From this book, *Indians Abroad Directory 1934*, I have compiled a list of Muslim merchants who do business outside British India. Most of them are small businessmen, but this Bill will hit the small and big man equally. I shall place it on the table* for all Members to see. I say we will not allow them to cut our throats by acceding to what we are asked to accede in clause 4(1) (a)—(1) (b) (ii).

Let us further examine the position. What does the Honourable the Finance Member expect to get from this accruing income principle? I was told that he expects to get about 44 lakhs. I should like to know how much of this he expects to get from businessmen and how much from private individuals. Of course, I shall not get a reply from him; but I suggest that most of it would be from business and businessmen and very little from private individuals and private investments. To the latter I put it down to five lakhs out of these 45 lakhs. Are we going to kill these businessmen by accepting this Bill?

Then, again, Sir, my friend, the Honourable the Finance Member, expects 44 lakhs. May I remind him that when he made a change in section 16(3) in 1937 he expected by that change about 28 lakhs? But what did he actually get? I think I shall be correct in saying, he said he had got only two lakhs. So even here his calculation may fail him absolutely,—from 44 lakhs it may come to four lakhs only.

Sir, my Honourable friend has come before this House to amend subsection (3) of section 16 once again, and this time he wants to hit straight and not from behind as on the last occasion. Now, if I transfer, irrevocably transfer property to my wife, I shall still be liable to pay income-tax on the whole of that property as also income-tax on my own property. He wants to take my wife's income also into account along with my own income to augment the income so as to be able to charge me super-tax. That is what he wants to do. The owner is not responsible for the tax, but I am made responsible for this tax, because that suits the Finance Member better to add together the income out of the property of the husband and that of the wife so that he can charge super-tax on it.

Mr. M. S. Aney: He is coupling the husband and wife.

Sir Abdul Halim Ghuznavi: Of course, for his benefit; and he is not coupling them in the sense you have used.

Now, Sir, I may be permitted just to mention a few more points, before I resume my seat, in connection with section 49. As I said before, investments of Indians in foreign countries are very few. The Indian Government cannot give protection to Indians abroad in regard to either business or to investments. The proposed taxation will discourage foreign business and foreign investments by Indians. The income is always taxed at the place of origin, and taxation thereof again in India will prove a great discouragement. Double Income-tax relief is not obtainable in a large number of cases.

*Not printed, but the copy has been placed in the library.

Then, Sir, the policy of the League of Nations is that income-tax should be levied at the place of origin of income. The proposed Bill goes against this policy. Sir, much will have to be said, so far as this clause is concerned, when it will be debated later on. I only make a preface to it today and say that I am opposed to section 4(1) (b)(ii),—I am opposed only to that portion, and not to the whole of section 4.

The Honourable Sir James Grigg: That is practically the whole of it.

Sir Abdul Halim Ghuznavi: You can have the rest of it.

Now, Sir, here is a Resolution bearing the signatures of several Muslim merchants, which I am handing over for being included in the proceedings. This is how it reads:

"This meeting of the Board of Management of the Rander Mehfil-e-Islam Kutoob-khana held on the 15th November, 1938, expresses its emphatic protest against the Income-tax Amendment Bill of 1938, now before the Central Legislative Assembly. Clause 4 of the Bill is highly detrimental to the interests of the merchants of Surat and Rander."

The Honourable Sir James Grigg: What merchants are these?

Sir Abdul Halim Ghuznavi: This is from the Rander Mehfil-e-Islam Kutoob-khana, Rander (Surat District):

"...and the whole district who are trading abroad. This meeting, therefore, requests the Muslim Members of the Imperial Legislative Assembly and the Council of State and the Leader of the Muslim League, Mr. Muhammad Ali Jinnah, to oppose the said clause 4, with the full force at his command."

Sir, I am also opposed to clause 58, and this clause should be deleted altogether. I will not go into details now, but when the clause comes to be discussed I shall give my reasons.

Then, section 34, which is clause 39, which refers to the re-opening of the accounts,—I am not opposing it,—I am afraid of the Finance Member because he is looking at me,—I am not entirely opposed to it.

The Honourable Sir James Grigg: Thanks very much.

Sir Abdul Halim Ghuznavi: but I feel that the income-tax officer should specify the grounds in the notice, and he should confine himself to the grounds specified in the notice, and not have a fishy inquiry as is being done now. Instances are many in which income-tax officers give notices.....

The Honourable Sir James Grigg: The very words follow the words of the Leader of the Opposition.

Sir Abdul Halim Ghuznavi: Sir, I was not here. I was in Calcutta when the Leader of the Opposition spoke.

The Honourable Sir James Grigg: Two minds with a single thought.

Sir Abdul Halim Ghuznavi: I was 900 miles away from Delhi when the Leader of the Opposition spoke here. I have not had time to read even the report of his speech in the *Statesman*

The Honourable Sir James Grigg: Great men think alike.

Sir Gowasji Jehangir: May I point out, Sir, that this is one of the recommendations put up by several bodies who have expressed their opinions to Government. So most probably the Honourable Member got it from one of those recommendations word for word.

Sir Abdul Halim Ghaznavi: Sir, these are my own words. I wrote out the speech myself. If my Honourable friend, the Finance Member, will read the speech which I delivered in 1928 on the Finance Bill, he will see the criticism I made then against the income-tax officers and the methods they adopt for securing more money and more money. They start giving not only one but three notices. The poor income-tax assessee thinks that probably by mistake all the three notices have been sent to them under section 39. He goes to the income-tax officer and satisfies him. After three months he is reminded, "You have not complied with the notice given under section 39. I am now assessing you on this basis." He goes and enquires what it is and he is told, "Second notice." He explains and satisfies the officer a second time. Again, after six months he is reminded that he has not complied with the notice that has been given under section 39. This time he takes the help of a lawyer and with his help and after taking a lot of trouble, he explains to the income-tax official and the latter finds that there is nothing wrong with the assessee. Sir, I am not opposed to section 39, but he must specify the grounds in the notice and he must stick to those grounds and those only. He should not go on with a fishy inquiry, a roving inquiry from day to day and harass the assessee in that manner. Sir, I have done.

Mr. N. M. Joshi: Sir, in the last Delhi Session, during the discussion on the motion that the Bill be referred to a Select Committee, I had an opportunity of expressing my views on the general principles underlying this measure. I shall, therefore, confine myself on this occasion generally to the changes which have been made by the Select Committee and my views as regards changes which, in my opinion, the Select Committee should have proposed.

3 P.M.

At the outset, let me thank the Honourable the Finance Member for accepting one of my suggestions made during the last discussion. I had suggested that, in order that Members might be able to study the Bill better, he should provide them with some help by arranging the material in a proper manner. He has been kind enough to do that, and I am very grateful for that help. I hope that the other Departments, whenever they have similar measures for discussion before the Legislature, will follow the excellent example of the Honourable the Finance Member. May I also say that we have by this time received a large number of amendments to the measure. Consolidated list, Supplementary lists No. 1, No. 2, No. 3,—I do not know what is the last number.

An Honourable Member: No. 4 so far.

Mr. N. M. Joshi: May I suggest that before Monday we may have a consolidated list so that we may be able to follow the discussion a little better than we generally do when we have several supplementary lists?

The main object of this measure is, first, to tighten up the provisions of the Act so that the so-called legal avoidance of the tax may be prevented. The second object is to rope in some of the incomes which have so far escaped

taxation. Considering the report of the Select Committee from the point of view of these two objects, I feel that, on the whole, taking into consideration all the suggestions of the Select Committee, the Select Committee has done more in favour of the assessee than in favour of the national revenues. I do not forget that the Select Committee has made recommendations by which the Government of India could make more revenue, and it was a matter of surprise to me that the Government of India, instead of accepting the help offered by the Select Committee, has rejected it.

Dealing with some of the important changes made by the Select Committee, I would first mention the change which they have made in the definition of the word 'dividend'. One of the objects of this Bill is to prevent profits being converted into capital and thus escape taxation. The Select Committee has greatly weakened the original proposal of the Government of India. I feel that it is undesirable that the industrialists should be permitted to convert what are profits into capital. It is a wrong practice, in the first place, because experience has shown that that practice leads to over-capitalisation of an industry. And over-capitalisation leads to inefficiency. And inefficiency leads to the worsening of labour conditions in the industry. I, therefore, feel that it is an unwholesome practice, a wrong practice, that the industrialists should be permitted to convert profits into capital. If that practice be allowed, there is also so much less to be spent for what I call the welfare of labour. If the industrialist can convert his profits into capital he can always say that there is not enough to be spent for improving the conditions of labour. This method of converting profits into capital serves a useful purpose to the industrialist. The working classes are not generally very well educated people, and when they find that an industry gives a dividend of, say, five or even ten per cent. but converts large portions of the profit into capital, they find it difficult to realise that the industry was going through a period of boom. This is one of the disadvantages of allowing the undesirable practice of profits being converted into capital. If an industry requires more capital, there is nothing wrong if the industrialists appeal to their shareholders, after the shareholders get their money in their hands, to purchase additional shares but it is wrong to allow the directors to convert the profits into bonus shares or debenture shares or other kinds of shares and convert the profit into capital. I feel that this practice is against the interests of the working classes and, therefore, anything done by the Income-tax Act which will encourage this practice is against the interests of the working classes of this country. I, therefore, feel that the Select Committee has done a wrong in modifying the definition of dividend in such a way that some of the profits can be converted into capital.

An Honourable Member: What is the English practice?

Mr. N. M. Joshi: I am not an admirer of everything that is English.

There is another point upon which I would like to say a word. The Select Committee has also modified the proposals regarding depreciation. I feel that if the industry is to be conducted on sound lines a reasonable amount of depreciation fund is necessary. At the same time I feel that it is wrong to permit industrialists to set apart amounts for depreciation which are in excess of the need. I feel that the changes made by the Select Committee are likely to permit the industrialists to set apart sums in the name

[Mr. N. M. Joshi.]

of depreciation which ought not to be so set apart. I can understand the industrialists setting apart some money for the wear and tear of the machinery but is it not necessary that there should be some money set apart for the wear and tear of the human element? If you set apart large amounts for depreciation of the machinery to that extent you have a smaller amount for making good the wear and tear of the human element. I therefore feel that it is wrong to allow larger sums to be set apart for depreciation than are absolutely necessary. If some sums are set apart for wear and tear of machinery, I would also like the practice of setting apart some funds in the shape of health insurance, old age pensions and so on. That kind of depreciation fund is more desirable than the fund for the wear and tear of machinery.

The Select Committee has omitted the Government of India's proposals regarding pooling together the income of husband and wife for higher rate of income-tax. I have no doubt that the device of transferring moneys to the wife's name, in order to escape a part of the income-tax, is resorted to by many people and there was nothing wrong if the Government of India had made a proposal that the incomes of the husband and wife should be pooled for the purposes of fixing the rate of income-tax. However, I am one of those who take interest in social reform and I would like the wife to have an independent existence and entity. From that point of view, if the deletion of this clause will lead to the woman getting a little more independence than she has, as a social reformer I would not go against the proposal of the Select Committee.

There is one more point upon which I would like to say a word, and that is the proposal relating to taxing the profits of local bodies. I do not know why the Government of India should have taken the privilege away from local bodies regarding income-tax. The local bodies do not exist for making profit. They carry on services intended for the public good.

The Honourable Sir James Grigg: I do not want to interrupt the Honourable Member, but I would point out that for services supplied within their own jurisdiction they are exempt, and they are liable to the tax only in respect of services supplied outside their own jurisdiction.

Mr. N. M. Joshi: If the Honourable Member had a little more patience, I would have made it clear to him that I have understood his proposals correctly. I agree that it is only when a local body transacts some business beyond its own jurisdiction that the profits of the business will be taxed, but even when a local body transacts business outside its jurisdiction, it is not for the purpose of making profit, but for helping some other local body. For example, the Bombay Municipality has good water works. There are some municipalities on the way from which the water-supply of Bombay comes, like the Thana and the Kurla Municipalities. The Bombay Municipality, in order to help these municipalities, supplies water to them and makes a profit, say, of Rs. 2,000, but surely the municipality is not making this profit for itself, but to improve the amenities of the million inhabitants of Bombay who get the benefit of Rs. 2,000 distributed to them. Therefore, I say it is a wrong principle to tax the profits of local bodies, made even

outside their jurisdiction. It may be that one local body carries on business within the jurisdiction of another municipality and that other municipality carries on a bus service in the jurisdiction of the neighbouring municipality. That may be a sort of co-operation and I don't know why the Government of India should be against this form of co-operation and mutual help.

After having pointed out some of the changes made by the Select Committee in favour of the assessee, I would like to point out that the Select Committee has done a very right thing in asking the Government of India to change the Government of India Act to permit the pensions which are paid outside the country to be taxed. There is absolutely no reason why a pension paid out of the Indian revenues, though it may be paid outside the country, should not be taxed.

I would also like to thank the Select Committee on another point and that is they have taken away from the Government of India the future power of granting exemptions. It pains me to say that the Government of India used the power of exemption given to them in a very wrong way. The Government of India, so far, have been dominantly a British Government and it was an act of almost nepotism on their part to have given exemptions to their own countrymen as regards pensions, leave salaries and several other matters. The Government of India have shown by their own conduct that they are unfit to be entrusted with such important powers. Therefore, the Select Committee has done a right thing in recommending that these powers should be taken away from the Government of India.

I would like to say a word about the much-talked of subject of world income. I feel that the income-tax is imposed upon people on the principle that people have to pay according to their ability. The income-tax is not a consumption tax that that tax should be levied upon people for services rendered. Therefore, when some of my colleagues of this Assembly talk that the Government of India do not render much service to those Indians who go out, and, therefore, the Government have no right to tax—they have not understood the principles upon which income-tax is imposed. Income-tax is imposed at a rate according to the ability of the people to pay. If people make money in foreign countries and they accumulate large fortunes, their ability to pay is increased and, therefore, there is nothing wrong if they are asked to pay, not only on their income in this country but on their income outside. Moreover, much has been said that a tax imposed on the world income of people discourages foreign trade, ruins business, and all sorts of calamities are predicted. I feel nothing of the kind will happen. The income-tax is not a tax on capital, it is a tax on "income". If you have followed what my Honourable friend, Sir Abdul Halim Ghuznavi, told us that if certain people have an income of Rs. 3 lakhs and they have been asked to pay Rs. 10,000 in Malaya and Rs. 10,000 in China and another Rs. 75,000 in India, they still have an income of Rs. 2,05,000, that makes the position clear, and there is absolutely no injustice in the tax imposed upon them both in China, Malaya and in India. If persons who had an income of Rs. 2,05,000 wanted more trade to be undertaken with some other country, they had enough money, they could spend, say, Rs. 50,000 a year upon their personal expenses and they would still have left Rs. 1,55,000 with them for further undertaking foreign trade. It is, therefore, wrong to say that the income-tax is a sort of impediment

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in the way of foreign trade. There is nothing wrong in imposing this tax. Moreover, it is not quite fair to the Government of India to say that they afford no protection to the Indians who go abroad. The Government of India maintain a department called the Overseas Department as a part of the Department of Education, Health and Lands. The Government of India maintain agents in South Africa, Ceylon, Malaya and Burma, and they propose to employ agents in some other places. They have also got trade agents. Besides that, the Government of India have sent deputations of officers to help Indians abroad, and if you want to know what the Government of India do, I saw an instance of what they had done last year when I was returning from Europe. I met a gentleman belonging to the firm of Mahomed Ally and Co., who were trading in Abyssinia and I learnt that they had just got at that time large sums of money from the Italian Government. Could they have got that money from the Italian Government without the help of the Government of India? I am not suggesting that the Government of India do everything that they should and ought to, but certainly it is wrong to say that they render no help to the people who go abroad.

Sir, I am in favour of imposing taxation on the whole income of every one who resides in India. I am, therefore, against the proposal of the Government of India for excluding Europeans from some of this additional taxation. It is wrong for them to make a discrimination between Indians who reside and are domiciled in this country and those people who reside here and do not get domiciled. We are not asking these people who are to my right that they should not get a domicile. They refuse to be domiciled, and they refuse to be domiciled because by that method they can escape taxation. Is it right for the Government of India to thus discriminate and help people who work in a country, who get the best out of the country and then refuse to give that country the benefit of their experience and run back to a country which had not given them anything? I feel it is wrong for these Britishers to come here and not get a domicile. I was told by my Honourable friend, Sir Yamin Khan, that for various reasons discrimination between Europeans and Indians is necessary. The European must be taxed less. I feel, however, there are good grounds why the Europeans should be taxed more. We Indians are prepared to give equality to these Europeans who live in our country and get domiciled and secure rights of citizenship, but they are not content with the equal rights of citizenship, they want special privileges.

May I ask, Mr. Deputy President, whether the few thousand Britishers who are in this country could have, on the basis of population, secured these nine seats in this Legislature? Without a special privilege, could they have secured the seats they have at present in Bengal? Sir, the European Group in the Bengal Legislative Assembly holds the whole Government of Bengal in the hollow of their palm. They are trying the same game in Assam. They are able with this special representation to control the Governments in Bengal and Assam. How are they able to do this? By special privileges. If these Britishers, who come to this country and who refuse to get domiciled but are given special privileges, is there anything wrong in asking them to pay for these privileges? Sir, we are not asking them to pay for those privileges; we are asking them to pay what the Indians pay.

What is the ground for complaint, therefore, if they are asked to pay similarly as the Indians pay? If we are to be fair, we might ask them to pay at even a higher rate than the Indians do. I, therefore, appeal to the Government of India and say that they are wrong in making this discrimination,—and let me tell my European Group friends here that they may, of course, enjoy the fruits of this discrimination for some time but—I am not making a threat if I tell them that we, as men of self-respect, cannot agree to the privileges enjoyed by them. Is that a threat? I may tell you what passes in my mind. They cannot have our good-will, when they claim privileges and refuse to pay for these privileges.

I feel there is another point on which I can say a word and that is about double tax. I feel there is nothing wrong in a double tax. I do not see why any relief should be given for a double tax and it is wrong to give that relief to people who refuse to take domicile in our country. I do not know why any relief should be given to them. Double tax—if you have got money—certainly is not wrong. These people want to keep their incomes and everything in England. They want to get the benefit of that. They come to India, they exploit us, they get many advantages, and if they are taxed by us, they say it is double taxation. The agreement made by our Government with Great Britain is not in our favour, that agreement again was made by a Government which was British, that agreement should not have been made by them. If I were in their place, I would not have made it. I think it is an act of nepotism, but they made it. We are asking them now to change that agreement. If there is to be an agreement, let there be a fair agreement but we do not want an agreement. If, as a result of our not having an agreement, we find that these friends of ours will go back to Great Britain, we may feel some sorrow for having lost some friends but at the same time we shall not go in deputation to the Governor General and say, “keep them here”.

Sir, I do not wish to take up any more time of the House, but, before I sit down, I should like to say a word about the income-tax machinery. The Income-tax Act itself is a complicated measure, and I myself find it very difficult to understand. I have been trying to wade through its sections during the last few days and I have not yet been able to completely understand it. This amending Bill is going to make it more complicated. Therefore, the ordinary people will not understand the provisions of the Bill very easily. It will give scope to the officers of the Department to harass them. Moreover, this Bill is giving discretion to the officers in the matter of the imposition of the tax, or the rate of tax, or the amount of tax. I feel that under those circumstances there is some room for harassment and corruption. I would like the Honourable the Finance Member to take care to see that his staff and the department will be efficient and will be above any temptation. I hope the Honourable the Finance Member will take steps in this direction. I support the motion for the consideration of this Bill.

Mr. K. S. Gupta (Ganjam cum Vizagapatam: Non-Muhammadan Rural): Sir, this amending Bill is the pet child of the Finance Member. The child has been examined by two doctors, one doctor from the other side and one from this side. The doctor on the other side said that it was quite a healthy child, but the doctor on this side said that it has defects which are incurable. Now, I examine it from a layman's point

[Mr. K. S. Gupta.]

of view. I see that it is a Bill full of pledges and penalties. When the world is surfeit with broken pledges, I am afraid the House should insist on some safeguards as these pledges may come to pass or may not come to pass. I will give you the list of pledges which are to be found in the amending Bill. (1) With regard to salaries, (2) relief to those foreign nationals where the D. I. T. relief is not given, (3) new rates of depreciation would be discussed with interests concerned, (4) that Notices shall as hitherto be served on all persons believed to have incomes liable to assessment, (5) section 49, (6) to rescind the exemptions numbered 20, 21, 22 and 23 in the list set forth in paragraph 17 of Part III of the Income-tax Manual and (7) Tribunal Appellate. These are the pledges, and penalties are to be found at every stage. There is a proverb in our language which says:

"If I sit, I sit on a penalty and if I lie, I lie on a penalty, and God knows when I will be free from these penalties."

The assessee from the beginning of the submission of his returns till he finishes with the appeal stage is confronted with penalties.

The other day, the Finance Member said that this Bill is intended to rope in dodgers. He can certainly do it, but may I ask a question of him? Can there be a more skilful dodger than he himself when a straight question is not answered by him in a straight manner? He is notorious for dodging and so are the Members of the Treasury Bench. He has come to teach us morals by saying that we should be penalised at every step for having dodgers and evaders in income-tax. What medicine should we apply to correct your dodging with us and the system of which you are a representative? Sir, this dodging and evasion is due to the human apathy to pay taxes. Even in the days of Christ the tax-gatherer was considered to be an abominable creature. He is more so today. I know the assesseees are not afraid of criminal summons or civil summons but of your demand notices which are so exacting and terribly horrifying to every assessee. He may not remember when he received it or it might have been received in his absence or it might have been mislaid, and yet you punish him according to the best judgment under section 28 (4). Is it the best judgment of the Mughal who sits as the Finance Member is now sitting in his bench? Sir, he does not care for the Chair. I will tell you how these Income-tax people behave. One income-tax officer had a camp in a village and he asked the assesseees to come and represent their grievances and submit their accounts. That income-tax officer did not turn up that day and sent one of his clerks to take pledges from the assesseees that they would turn up the next day. One assessee came there from a distance of 30 miles by cart and also he had to walk a certain distance. Mr. Chambers, the expert, who has now been imported may not know that there are lakhs of villages in India where there is no proper road as an approach to towns. This assessee who came from that distance was asked to come the next day. He said: "Tomorrow is my father's annual ceremony. Will you please give me leave?" The clerk replied: "Who am I to give you leave?" The assessee said: "If so, I do not recognise you as the representative of the income-tax officer". Then he went away and reported the matter to the Income-tax officer. The Income-tax officer got annoyed and taking advantage of section 28 (4), because he disobeyed the notice of presenting himself on the day that he was asked to do so,

enhanced the tax three times he paid last and sent a notice to the man. The man filed a petition saying he was not at fault. Then there was the hearing. This man came before the income-tax officer who was sitting with a very big cigar in his mouth like the Mughal. He looked at him from top to toe and said, "You seem to be a trickish fellow". The man said, "Sir, I know no tricks. I come from a village which is very far off from this place. I do not know what tricks I have played and I shall be obliged if you will let me know what they are.". Then, the income-tax officer fell foul on him and said, "You scoundrel, do not talk: these are the statements that were made against you:" Sir, I was an eye-witness to this incident. The man began to shiver. The Income-tax officer asked him why he was shivering. He said, "Sir, I am now in a tiger's cage. You are the tiger and I am the lamb." Sir, we know that there are slaughter-houses for cattle and for sheep and the Income-tax Department has been created as a slaughter-house for human beings without death.

Mr. K. Ahmed: And what were you doing as a Member of the Assembly?

Mr. K. S. Gupta: Will you please stop your gassing?

Now, Sir, let us see how these income-tax assessors or income-tax inspectors, as they are called in the amending Bill, behave in the villages. What they do is this. They harass these merchants from village to village, from house to house, and from fair to fair. They do not allow them to do their business. In these village fairs they will have some rough books and from which they prepare fresh accounts which are considered to be the second set of accounts. I do not know what is in the brains of these people: they may be suffering from insanity or some similar disease.

Sir, this Income-tax Department has played havoc with the Hindu joint family. I know that in my district and in the two contiguous districts several hundreds of families had to divide. They had to keep themselves separated because of this Income-tax Department. What do the income-tax officers do with the question of partition? If I make an open declaration that I do not want to be a member of a joint Hindu family, it ought to be taken as final for income-tax purposes. But the Income-tax officer comes and says 'your grandfather's property is there and it has not been separated and so your property has not been separated by metes and bounds, I cannot accept your statement that you are not a member of a joint Hindu family'. By this he wants to enhance the tax. He wants to squeeze as much tax as possible by setting aside even the Hindu law. Sir, income-tax is considered by some people as feeding the beast. Certainly it is so in many respects. I am afraid this Niemeyer award may be made the apple of discord between the people and their representatives. Let it not be so. I find some good features in this Bill, but there are stings attached to every one of them. With regard to appeals there is a Tribunal to be set up. It is a most welcome and desirable thing. It is long overdue and if it is postponed—justice delayed would be justice denied. You have made provision for carrying forward of the losses of a particular year. There is a sting, since the losses should only be carried forward with regard to that particular business which is a hardship. When I have lost a good deal on a particular business this year I may not continue the same business—I should

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first see to the fluctuations of the market and wait for favourable conditions—what is the use of permission to carry forward losses for six years when I cannot, under such circumstances, carry on the trade. So, you see to the removal of that sting. The slab system is a welcome feature. The step system is a great hardship to the assessee. If an assessee's income is a little less than 15,000, he has to pay tax of Rs. 1,000. If he gets Rs. 500 more, in income, he has to pay an increased income-tax by Rs. 400. That is a real hardship and, therefore, I welcome this slab system. But I am sorry to note, you have carefully avoided giving the rates. If the rates are given, then we can easily find out whether it works to the advantage of the assessee or to his detriment. With regard to Depreciation, for the last 18 years the previous system was working very well. The other day, Mr. Chambers was saying that this had to be changed because the income-tax officers paid more than what is due under the head of depreciation. Is it for the fault of the assessee that there should be a change? If the income-tax department has erred somewhere, let it be corrected. Instead of correcting his own department, he wants to punish the assessee by denying the privileges which the assessee has been enjoying for the last 20 years. For instance, if there is a plant or a machine worth Rs. 100, then it is divided into five years. For the first year, he must get 20 and for the second year 100 minus 20 and then five per cent. and so on, but, in the end he loses one-third of the cost value which has been spent on the machine. Why should he lose it? He was getting the entire value towards depreciation of the machine in previous years, now he is denied to that extent. I know several assesseees have no figures for the depreciation values and are to be found only in the accounts of Income-tax officers. These forms which were supplied to them were filled before the Income-tax officers according to their dictation. When they have no figures available, how can they write down the values and from the written down values they have got to calculate sums to be written off in their accounts. Above all if he has not got sufficient income to see that it is set off and then it should be carried on as an ordinary loss. Why should there be any such restriction for the depreciation to be allowed? I am entitled for depreciation over the whole cost of the thing. Thus it is seen that there are several stings and, therefore, this system ought not to be encouraged and let the assessee continue to be as peaceful as before. I am glad you have paid some attention to practitioners because every Tom, Dick and Harry calling himself an income-tax expert adviser was giving unnecessary worry to the income-tax assesseees and thus made them pay more.

Now, I come to the vexed question of foreign income. With regard to our nationals let us continue the system which has been in existence on 'the remittance basis' and not on 'accrual basis', which for a variety of reasons has been condemned previously and also on the floor of the House. Reopening of accounts is another bug bear to the assessee since the door is kept open for four years to give a chance for the income-tax officer to act as the Great Moghul. Discretion is given to him in three respects. The first is with regard to irrecoverable loans and bad debts. I must see at the end of every year what loans of mine are irrecoverable and what debts of mine are bad and, then, I must write them off. When once I write them off I cannot raise them up next year. It is only when I find it impossible to recover, I write off. But the Income-tax officer

comes and says he would use his discretion. He says what I have written down as irrecoverable and bad debts is absolutely wrong. Where a discretion is given, it is always used against me. With regard to registered and unregistered firms, if it suits the Income-tax officer, he says "I want to treat a registered firm as an unregistered firm" and if it does not suit him he will treat an unregistered firm as a registered firm. This discretion is wholly objectionable. If he considers that a firm is likely to yield as income-tax less than what he thinks he ought to get, he will have recourse to this subterfuge of 'Discretion'! He is also given discretion with regard to revocable and irrevocable trusts. There also one must be very careful with regard to the discretion given to the income-tax officer.

Submission of statements is another nuisance to the assessee. I know that the assessee will, hereafter, be compelled by law to submit statements. But even before any provision of this kind existed they were made to give statements for payments and receipts even for Rs. 100. Now, they have to give statements, which they could have refused. There are several people who have no accounts. What will be the case of such people who cannot submit statements? Several people who have got accounts have no time to do it; they must engage some clerks. Why not the Government itself send their inspectors to take copies of such items from the accounts of those people who maintain them? Certainly these income-tax inspectors go to the courts and Government offices and railway stations to take down copies of the required information and necessary statements. Why not they do the same in this case? Why should the assessee be worried with regard to statements? The last vexed question is entry into premises. The other day, Mr. Chambers said that the man who is going to enter is not an ordinary individual but a gazetted officer. I tell him that a gazetted officer is no Caesar's wife to be above suspicion. I know these unscrupulous people would be harassing these income-tax assessee by entering their premises. I know some people have asked the women to open their boxes to search and see whether there was anything like documents or gold pledges within the folds of the clothes in their boxes. This is a raid on the peace and secrecy of a good home. It is said that he has to obtain the permission of the Commissioner. This is absolutely rubbish. In the civil disobedience days unfilled warrants with the signature of the Police Superintendents were given to policemen and the policemen could easily enter the name of any person at any place and arrest him. Similarly the I. T. O. can get the permission of the Commissioner and keep the weapon ready in his hand. It will be an unfilled warrant or an unfilled permission with the signature of the Commissioner. That is very easy, because the Commissioner is nobody else but the grandfather of the income-tax officer.

Sir, we are confronted with 'reciprocity'. It is nothing but atrocity committed on the people of India; especially when it suits your purpose you say we must have recourse to reciprocity and when it is against you, and your own countrymen, you would like to hold it under your velvet glove. You are certainly anxious to increase the revenue of the country. I would help you as a legislator to do it by fair means, you said you are going to plug the loopholes through which income escapes. By all means do it. Can you have no embankments to stop the onward flow, the drain of wealth from my country? What about the pensions, which are given by the Government and which are given by others, paid outside India? Who are they who receive them? Is it not your countrymen that are receiving these

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pensions and eating the salt of India and you avoid taxing these pensions. With what face can you ask our nationals to pay, when they do not remit their incomes from outside. Lastly, with regard to double taxation relief, the Finance Member the other day said: "it would be a gross injustice to attempt to withdraw relief from those companies and traders whose business has been established in India for many years on the assumption that the double income-tax relief would be given." When was the agreement entered into by you with your countrymen? Is it not in the year 1922 when the Act was first published and when did these investments come in? Is it not hundreds of years ago that they have come in? Is it not the booty of your ancestors from the High Seas and is it not the money that has been taken away from India? Your ancestors believed that they had only to come to India and shake the pagoda tree to get any amount of money. You have invested so much of wealth, not to enrich my countrymen, not to help my countrymen, but to help yourself and to exploit my country and you have done it and no more privileges should be further enjoyed by you. There should be an end to this. You also said that it leads to discouragement of foreign capital coming to India. Yes, that day I shall welcome when not a single pie of foreign capital comes to India. It is the sad lot of my country that your foreign capital has degenerated the morality, the dignity and the self-respect of my country and we are to depend upon you for every single pie. This is absolutely nothing but degenerated discrimination. You said it would have repercussions on the welfare of the millions of Indian agriculturists. Certainly it had repercussions to the greatest disadvantage of the Indian agriculturists. After you have come to India, after foreign capital has come to India we have seen that the agriculturist is impoverished to such an extent that the autonomous Governments of the provinces are now compelled to pass Agricultural Debt Relief Bills. Our agriculturist is no better after your advent into India; surely, their lot will be greatly improved after your departure.

Sir, you have got an expert to tighten the strings round the necks of the assesseees, to rope in dodgers, to plug the loopholes and what does that expert, that costly expert tell us about the D. I. T. relief? I say, you give a date fruit and take a cocoanut from us. With regard to double income-tax relief, you give us Rs. 3 lakhs and you take 1,30 lakhs. Is it fair to denude the Indian treasury to such an extent? Should you not stop it in the best interests of finance? Should you not as the representative of the Finance Department see that my national wealth is not denuded? It does not matter if you do not get a single pie in addition from outside but you should not take 1,30 lakhs out of the poor agriculturists of India towards double income-tax relief to your countrymen. This is absolutely unjust and it should be stopped at once. My friend, Mr. Kabeer-ud-Din Ahmed, was weeping this morning with a headache. As there is a void in England on account of the import into India or the export from England of Mr. Chambers, I suggest to the Finance Member that Mr. Kabeer-ud-Din Ahmed, this black knight, may be exported to fill that deep void in England. Sir, you must see before you tax my countrymen their capacity to pay. Taxation should not be with the intention of grabbing, or scraping the last pie from out of the rich and the poor of my country

The Honourable Sir James Grigg: Out of the rich, not out of the poor.

Mr. K. S. Gupta: I know you have shed enough crocodile tears for the poor of my country, but let there be an end to it. Exemptions under section 60 (1) are unwarranted and they should be scrapped. If you can stop the flow of wealth from my country to yours you will be a good Finance Member. Till then I must keep you in the list of those people who are not only not interested in this country, but who are out for discrimination and reciprocity and such other atrocities to be committed on my countrymen.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I began a story while discussing the

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Reserve Bank Bill in 1933, and I wish to continue a portion of that story forward today. Sir, three or four people were having their food together. I do not remember who they were—perhaps, Sir Cowasji Jehangir, Sir Muhammad Yamin Khan, Mr. Aikman—and a lemon was cut into two and put in front of those people. Those honest people took out a fair amount of juice and they thought that nothing was left; then came a wrestler, and from what was left he squeezed out enough for himself. People asked who he was. He said he was a professional donation collector, who can collect water from the tears of human beings. Another wrestler came and from that lemon he managed to take out some more juice. People asked who he was, and he was found to be a wrestler trained in the school of beggary in Paris. Now, I visited the school myself—it is not a story—in 1906, and I actually saw those people at work. I saw the dictionary which they had prepared of charitable persons. All the men are trained there. He said that every beggar trained in the Paris School of Beggary could get juice out of a lemon where nothing could possibly be expected. Then, these people gave up the piece of lemon as useless and as containing no juice, when a third wrestler came along and took the lemon and managed to get some juice out of it, and then these men looked at each other and wondered who he was and discovered that he was an Income-tax Commissioner trained in the Income-tax Department in Great Britain. Later on, came one more person—and I will continue the story when Sir Homi Mody is here—who were trained in Sir Homi Mody's orphanage known as the Millowners' Association: these people dodged the Income-tax Commissioner in a manner which I will relate later on. Sir Homi Mody described this Bill as one which no one understands, and that the only one who understood its conundrums was in the lunatic asylum. I said in 1932 the same story about the exchange when Sir George Schuster got up and said "But he is out of it now". I pass it on to Sir Homi Mody and give the same reply that that man is now out of the lunatic asylum. It was pointed out that only 30 persons out of 25,000 in British India pay income-tax at all. This Bill will affect favourably 26 persons out of those 30; while three will be left with the *status quo*, and only one out of this 30 income-tax payers or one in 25,000 of the population will be affected by it: he will have to pay a little more. Compare the position of these big industrialists and capitalists with the millions of agriculturists in British India. The agriculturist who tills the soil pays eight annas out of every rupee of his income. If his income is ten rupees a year, he pays out five rupees. Consider again the case of the landlords. In the United Provinces, they pay 12 annas in the rupee at present; and thanks to the energies of the Congress people, they think even 12 annas is too little and they want fourteen or fifteen annas in the rupee from these landlords.

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If these persons can be taxed like this, I do not see any reason why these others who are enormously rich, much richer than the agriculturists or landlords, should not pay more than they are doing at present. We have also got to bear this in mind: that these Indian States are treated for our income-tax law as foreign countries; there is no such thing as Indian States in England or in any other part of the world. Here we have this peculiar position.

My friend, Sir Muhammad Yamin Khan, gave a number of illustrations as to how income-tax is evaded, how you can sell things to a Maharajah and make 50 lakhs and keep the money there for a year or so and bring it later on in the shape of goods or by exchange into British India and so avoid taxation altogether. These things actually exist; and I ask all those who are really for the poor and who think the rich man ought to be taxed—and I am sure most of the Congress back benchers hold this opinion—why the rich should not be made to pay. After all, the Government have to collect the money. If you avoid income-tax altogether, then it must come in some other shape from the poor people—in the majority of cases it falls on the poor: it is only income-tax which falls on the rich. Why should we, therefore, show any mercy to the rich? This is the point made out by Mr. Joshi also, and I see no reason why it should not be done.

Some Members have raised the point that we ought to encourage our traders to trade with foreign countries. I quite agree, but when these agriculturists want to open agricultural farms and try new methods, our Congress people do not give any relief to the landlords but charge full revenue. They have one rule for the agriculturist for whom they speak so loudly and lecture so strongly at the time of the elections, but now they ignore them altogether and concentrate their attention for the benefit of this one out of 25,000 persons who has become rich simply by the laws which we have enacted in this country. If my friends agree that evasion is going on—and evasion is going on on a large scale, and on this remittance basis we do not collect a large amount of revenue which we ought to collect—then I see no reason why any honest man should object to tax being charged on accrual and not on collection only.

There are certain omissions about which I have a very serious complaint against my friend, the Finance Member. He has got no excess profits tax. We had in 1921 a provision for taxing excess profits, and I see no reason why they should not be taxed, especially when it is made by putting a special duty on consumers. Take the case of iron and steel. We passed a law and put 18 crores directly into the pockets of their shareholders. I am very strongly in favour of the development of the steel industry in this country, but, at the same time, I am not in favour of these people paying extremely high dividends to their shareholders at the sacrifice of the taxpayers: these excess profits should be shared between the shareholders and the consumers or taxpayers

Bhai Parmo Rand (West Punjab: Non-Muhammadan): When there is a loss?

Dr. Sir Ziauddin Ahmad: In the case of these protected industries, loss is out of the question, because we have given them enough protection to cover all possible losses: losses would be an impossibility. I cannot recall

a single example of a protected industry since 1930 which runs at a loss: take the sugar industry: they had been paying from 50 to 100 per cent in the first few years of protection, and even now they are paying more than was allowed for by the Tariff Board. The principle is this. They all admit that any taxation on the rich will relieve the poor from other taxations. So this is a thing which must be borne in mind when we collect money for nation building purposes, that is to say, we should take money from those who are in a better position to pay and relieve those who cannot afford to pay.

Sir, I do not want to go into the details of the clauses, because, as I said, there is only one man who understands all the details of the clauses, but I should like to lay down two fundamental principles to be followed. One is that no income should be taxed twice over, because it will be very unfair to do so. Every income should not be taxed twice, and no income should be left untaxed. Perhaps the Honourable the Finance Member knows the old story as he has been in Cambridge as to how the students in Cambridge are prohibited from smoking, and if anybody is found out, he has to pay a fine every time. After a certain debate, one day, a student was walking down smoking a big cigar. As soon as he came out of the Church, he met the Proctor and he had to pay a fine of 7sh. 6d.

The Honourable Sir James Grigg: Not 7sh. 6d., but 6sh. 8d.

Dr. Sir Ziauddin Ahmad: I stand corrected. When the student came near the post office, and another Proctor also saw him, he had to pay another 6sh. 8d. When the student entered the gates of the college, he met the Senior Tutor, and so the fellow had to pay another 6sh. 8d. Then came the Senior Warden, and so again he had to pay 6sh. 8d., and thus four or five times the poor fellow had to pay 6sh. 8d. on the same cigar. So this tax is really unfair; you cannot ask a man to pay income-tax once, twice and thrice over on the same amount in one country, in another country and in a third country. Sir, the world has been suffering from different kinds of manias recently. There is the mania of armament, there is the mania of developing a universal language, and there are all kinds of manias, and one mania which is recently being developed in this country is to charge everybody on his world income, and not on the actual income accrued in his own country. If income is charged on the incomes of all the countries, what would happen? I think the time would probably come, if this mania goes too far, when we may have to open some kind of bi-lateral income-tax arrangements in the same way as we have the Ottawa and other pacts. And if we pursue this mania, probably we may come to the conclusion that we should give up the world basis altogether, that every country should keep for itself all the taxes accrued in that particular country, just as we have in the post offices in regard to stocking stamps. The arrangement there is that every country keeps all the stamps sold in that country, never mind whether they exchange or interchange. So some kind of arrangements similar to the one which exists in the post office will have to be made, if this mania of charging the world income continues. . . .

Mr. K. Ahmed: Why did you not take the seven lakhs from the Aligarh College for your education abroad?

Mr. S. Satyamurti: Sir, is the Honourable Member licensed to interrupt every speaker? I have noticed it for the last five days. He has been interrupting every speaker who gets up.

Dr. Sir Ziauddin Ahmad: I shall reply to him outside the House.

Mr. S. Satyamurti: Sir, as a Member of the House, I appeal to you that there should be some order. This is really getting intolerable.

Mr. Deputy President (Mr. Akhil Chandra Datta): The Chair has been trying throughout the day to prevent interruptions from the Honourable Member, and unless better state of things prevails, the Chair may be driven to unpleasantness.

Dr. Sir Ziauddin Ahmad: Sir, I think we will have to come to some arrangement with other countries to see that all the income accrued in a particular country ought to be kept in that country. Still we cannot legislate today unless all Members in the front Benches, the Honourable the Leader of the House and others agree to come to some kind of arrangement with foreign countries. They should take things as they are at present, and I think I should judge all the amendments to the various clauses from the viewpoint of the principle I have laid down that no income ought to be taxed twice beyond a certain minimum and that every kind of income ought to be included.

Then, Sir, some Honourable Member raised the question of a minimum. There was also a suggestion thrown out that we ought to lower the level. I think I should rather raise the level from Rs. 2,000 to Rs. 2,400, and I am not at all in favour of lowering it at present.

There is one loophole which I probably did not understand, because I am not one of those who understood everything about the Bill, and it is this, that we have not explicitly provided for those Indians who are non-resident in India and yet are carrying on business or trade here; they come here for a while, they have their families and their homes here, but they themselves live outside India. I was told that section 4(c) meets that requirement. This was the point urged by my friend, Sir Abdul Halim Ghuznavi, in his speech. I do not know whether provision has been made explicitly for such Indians. . . .

An Honourable Member: Yes. the provision is there.

Dr. Sir Ziauddin Ahmad: Very well.

Then, Sir, there are one or two points to which I should like to make a passing reference. One is that the accounts should be kept for seven years, I think it is rather a very long period. Most of these business houses will then become record offices, and they will have neither the space nor the time to do their own business. I think the period should be reduced to three years, and it will meet with approval of all.

Then, I should like to say something about Wakfs. There is a difference of opinion on this question, and I know that a large amount of litigation has been going on, and so, in order to stop such litigation altogether, it is very desirable that this Wakf Validating Act of 1912 should be explicitly mentioned somewhere in the Bill. We will move an amendment

to the effect that the Wakfs should be exempted from the Income-tax Act, but the beneficiary who receives the money may be taxed in the same manner as people who get money from other colleges and other charitable institutions.

There was another point which was raised by my friend, Mr. Nauman, and which he did not develop. This is a point which we will have to discuss later on. No doubt there are a large number of loopholes which require rectifying when we come to take up the clauses, but as I read the Bill I showed my opinion to Mr. Chambers and he certified it as correct. . .

Mr. S. Satyamurti: An old Vice-Chancellor goes to a young expert?

Dr. Sir Ziauddin Ahmad: I am not an expert in income-tax. It is his business, and he is the only man who understands these things much better than we do.

Now, Sir, compare the existing Bill and the Bill as it is drafted, and I find that we have not got quite enough; but I think we were probably better off than we are under the present measure, and that applies not to individuals, but only to business firms. The present position is that a non-resident Indian at present pays four annas per rupee for his world business income; he pays four annas to U. K. for his U. K. income, and two annas to U. K. for his Indian income, and the remaining two annas will have to be paid in India for his Indian income. If the provisions of the Bill are adopted, the assessee will pay the same four annas per rupee on his world income, but now he will pay two annas to U. K. for all income and two annas to India for all income. The advantage to India is that he gets an additional income of two annas a rupee. The net result is that India will get an additional income of two annas per rupee on the U. K. income, and this will be not from the assessee, but from the British Exchequer.

There is again another small point about the quantum of taxes on which I should like to say something. In India, in addition to all the visible taxes, there is another invisible tax which we pay. I mentioned some years ago what it comes to. In India, every person is required to support persons who are unemployed. In England, the unemployed are supported by the Exchequer by the visible taxes which we all pay. I tried to calculate the amount of the invisible tax, and I took some votes of the House and they came to the conclusion that in the case of Indians it is from four annas to six annas per rupee. In addition to all these taxes, there is one more tax which we in India have to pay to support all our relatives, distant relations and our friends who are unemployed, who in other countries are supported by the State, but they are supported by the invisible tax which does not come anywhere on paper. With these words, I resume my seat.

The Honourable Sir James Grigg: I propose to confine most of my speech to the two big questions of controversy, namely, clauses 4 and 53, but I would like to make two or three preliminary remarks. In some respects this has been rather a depressing debate. Some Members have repeated speeches which they made on the first stage of the Bill, the

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motion for Select Committee, bitterly complaining about certain things in the Bill, and they go on repeating their complaints about those particular provisions in spite of the fact that on the last occasion I was at great pains to explain in detail that their fears were unnecessary. Then, other Members have delivered slashing attacks on provisions which are no longer in the Bill. Dr. Deshmukh did a great deal of that and emitted a great many other inaccuracies too. I believe that Dr. Deshmukh is a distinguished surgeon, but I am bound to say that if he is not more accurate in the use of the knife than he is in debates in this House, he will not need to have any contact with the income-tax officer, and certainly his patient won't. Dr. Deshmukh's was the most extreme attitude towards the Bill. It reminds me of the old story of the criminal in the dock who was asked whether he objected to any of the jury. "Object! I object to the whole lot of them." Then, we have the very general attitude of the Congress Party. "This is a rotten Government and people ought not to pay any taxes to it, and, therefore, tax-dodging is not only natural, but praiseworthy." But I would like to point out to members of the Party opposite that all the money under this Bill will go to the provinces, and perhaps I may call particular attention to that fact. I said at the beginning of my remarks that this had been in some ways rather a depressing debate. One of the most depressing features of it was the attitude of Mr. Sri Prakasa who adopted this very attitude that tax-dodging is a very natural and human—not weakness,—but quality, and one which any self-respecting Government ought to take into account. I have been at some pains to understand his attitude to the Bill and his indifference to the fact that the money under it will go to the provinces. I can only put it down to the fact that he is a Tolstoyan anarchist, and, therefore, he disbelieves in all Government, and, therefore, in all Governments, and he holds accordingly that no money should be paid to any of them, not even to the U. P. Government. Then, we have got the Honourable Member, Mr. Manu Subedar, who represents the business interests in this House. He did a good deal of swallowing what he said on an earlier occasion when he was talking on another ticket, and I call particular attention to his inconsistencies, because I fancy from the warning given by Sir Cowasji Jehangir that we are going to have that argument trotted out a good deal in the course of our detailed discussion of the Bill.—I mean the argument based on "what did Mr. Gladstone say in 1884?" But I will come to Sir Cowasji a little later. I would like again to read from Mr. Manu Subedar one or two extracts from what he said, shall I say, in another capacity?

"I have always desired that direct taxation should play a much larger part in the financial system of India, and I am glad that the report provides a sound foundation on which the levy and collection of income-tax in India in future could be based. The loopholes for evasion, legitimate and illegitimate—(what legitimate evasion is I do not quite know, I think he means legal)—which existed have been plugged up and the honest taxpayer is going to have the solace that the cleverness of those who were escaping hither will not avail in future. The public in India must develop a conscience against those who dodge taxes."

My Honourable friend, Mr. Sri Prakasa, might put that in his pipe and smoke it!

"There will be those who will accuse the Finance Department of increasing taxation on the plea of reform, but I think most of the measures would commend themselves to persons like me, who desire to see the income-tax occupy a more important place amongst the sources of India's tax revenue."

I may be forgiven for one last quotation:

"It is a happy coincidence that the consolidation of income-tax law in this country should be completed by the present Finance Member who has a great reputation as an authority on income-tax matters."

Mr. Manu Subedar: You have not brought in a consolidation measure, but only an amending Bill.

The Honourable Sir James Grigg: I thought you were going to say that. My Honourable friend, Mr. Joshi, condemned me roundly, but from quite an opposite point of view. I am bound to say that I am rather inclined to agree with him. Perhaps he will forgive me if I put it down to the fact that the unusual experience of being hailed as reasonable has gone to my head.

Then, Sir, another very frequent attitude was the one of criticism of the standards of income-tax administration. Several Honourable Members have sought to convey the impression that the income-tax officers as a class acted harshly and unconscionably towards the tax-payer. I am not prepared to say for a moment that there is no justification whatever for such criticism in particular cases, and some Honourable Members produced particular cases. But, I am bound to say that I think such cases are the exception rather than the rule, and I feel that this House ought to be very careful of condemning roundly income-tax officers who have got an extremely difficult task to perform. Let me give the House one figure to show that if every tax-payer furnished his return which, to the best of his belief, was correct, there would not be, in fact, need to be any harshness on the part of the income-tax staff. But, unfortunately, all tax-payers are not willing to present returns which they believe to be accurate, and if the public are not prepared to co-operate in this way some harassment is bound to result. Let me come to the figure which I was mentioning just now. In the three years 1934-35, 1935-36, and 1936-37, on directly assessable income, if we had taken the returns of tax-payers as correct, then we should have collected three crores a year less than we actually did collect, which means that on an average every one of the directly assessed tax-payers understated his income by at least 30 per cent. ! And when Honourable Members are inclined to condemn the suspicious attitude of the income-tax staff, they might bear that in mind and also bear in mind that the three crores which has been obtained by their very legitimate suspicions is a contribution to the taxation of the country which would otherwise have had to be found from some other source. I think this House is bound to support the income-tax officers in all legitimate efforts to safeguard the revenue. Some Honourable Members have talked a great deal about the "poor assessee" who is harassed, but as time went on, I got strongly the impression that the poor were generally people who get Rs. 20,000 a year, or so, and I doubt very much if many of the rich tax-payers can complain of harassment. They have at their disposal all the machinery of expert legal advisers and expert accountants, and if anybody is at a disadvantage in such a contest between the tax-payer and the tax-gatherer, for that class of people, it is the tax-gatherer. As for the assessee with a small income, I have made it clear on more than one occasion that I am not, nor is the Department, going to be a party to any harassment of the smaller tax-payer or the big, for the matter of that, unless it is justified, and we are not going to use the

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provisions of the old Act or the provisions of the new for that purpose, and I propose to have instructions issued to that effect. But you cannot incorporate instructions of that kind in detailed provisions of the Act without tying the hands of the income-tax staff unduly so that they cannot deal with the evasive or the dishonest tax-payer. I repeat, however, that we intend to take steps to see that in future the income-tax officer devotes his attention, whatever he has done in the past, mainly to the big tax-payer and that he gives the small tax-payer as little trouble as possible. Indeed I am not at all sure that this intention of ours is not shown by the agitation against the Bill which is being conducted by the undeserving rich who as usual are sheltering behind the bodies of the deserving poor.

Now, Sir, I come to the two main issues. Let me take clause 53 first. The controversy which has surrounded this question has brought home to me one of the fundamental difficulties which attends arguments between myself and the party opposite, namely, that the arguments never meet at all, because, the two sides are basing themselves on statements of principle which are totally opposed to each other. I can best illustrate what I mean by repeating an old pun of Sidney Smith's in describing two Edinburgh housewives shouting at each other across the street. He said: "they will never agree because they are arguing from different premises." Broadly speaking, the party opposite believe that they are entitled to cancel any arrangement made by a Government in India which they do not themselves control and this, whatever the consequences may be to the other parties to the arrangement, whether those parties be foreign interests carrying on business here or any minority communities living here. Our view is that at a time when a very large amount of delegation of responsibility takes place, we are entitled to insure so far as in us lies that there shall be no violent disturbance of the conditions under which interests and communities which are not likely to enjoy a majority under the new constitution live and carry on their business. Let me illustrate the two views by referring to this very question of double-income-tax relief. In the first place we are proposing no new extension of it and I would like to digress here for a second or two to point out that most of the press comment that I have seen on this question is, I would not say designed, but succeeds in conveying the impression that we are giving an enormous new relief. If Honourable Members want an example of that, let them read the *Leader of the Sind Observer* of Tuesday, the 15th November. There is not a single statement in that which is literally inaccurate, but the whole impression is misleading from beginning to end. I repeat what I have made abundantly clear to this House, that we are proposing no new relief and no extension of any existing relief. On the contrary we are tightening up the existing relief and in a way which will produce extra revenue of some 15 lakhs a year to the exchequer, but apart from that we propose to maintain it in force. I will tell the House why. In the main double income-tax relief applies to the earnings in India of the 400 million pounds worth of British commercial capital invested here. When that capital came here, India was badly in need of capital for commercial development. It came here or was retained here under conditions which in effect promised that its earnings would not be subjected to income-tax at a rate higher than the higher of the two rates in India and in the United Kingdom. Honourable

Members will notice that I used the word 'retained' here, and I do this for obvious reasons to meet the argument which the last speaker but one had advanced vehemently, namely, that this relief did not begin to operate before 1922. As a matter of fact on the United Kingdom side it began to operate from 1916 which was as soon as the rates of income-tax began to rise above the very low rates which prevailed in pre-war days. Anyhow, capital which was already here in 1922 would have slowly moved out from this country after that date if it could have been foreseen that a time might come when there was a possibility of its having to pay not the higher of the two rates, but the sum of the two rates. And here let me again emphasize the point I made in my opening remarks. English companies operating in India are not subsidized to the detriment of Indian companies. In fact they pay about 80 per cent. more, comparing like with like. Admittedly they pay less to the Indian exchequer, but this is the inevitable consequence of any system where there is a mutual arrangement to give relief and again, as I have pointed out, of this relief, the United Kingdom pays at least two-thirds.

Now, let me take another point. I do so because Sir Cowasji Jehangir, perhaps unintentionally, managed to convey the impression—to me at any rate—that in the relief there was an actual discrimination between individual Indian concerns and individual British concerns. That is not so. There is no discrimination. If their circumstances are the same, namely, if they are doubly taxed, they get exactly the same relief and in both cases the United Kingdom pays two-thirds of it. The charge of discrimination, of course, arises from the fact that more English companies get the relief than the Indian concerns, and that is, quite true. It is an inevitable consequence of an arrangement which was entered into in order to attract and retain here capital required for the development of India. I ask Honourable Members to remember that foreign capital was urgently required in this country as recently as the early nineteen thirties. It is only since the proceeds of some 300 crores of India's hoarded gold and the vast amount of capital hitherto employed in rural money-lending has been made available for industrial development that India has been in a position to supply capital for herself at reasonable rates.

Incidentally I would like to remove one misconception created by the Federation of Indian Chambers of Commerce and Industry, namely, that India is the only part of the British dominions which gives relief in respect of any United Kingdom taxation. As a matter of fact I think Mr. Gadgil repeated that, reading from his brief, and I contradicted him at the time. As a matter of fact, there are twenty-eight dominions and colonies . . .

An Honourable Member: They are empire countries.

The Honourable Sir James Grigg: . . . twenty-eight different parts of the British empire which give double income-tax relief. Eire is the case most nearly in point with British India. Now there is a great deal of British capital in Eire and very little Eire capital in the United Kingdom, and yet Eire, of her own free will in 1926, entered into an arrangement for the relief of double taxation whereby she exempted British residents in Eire—in the technical sense, of course—completely, and paid not one-third but one-half of the cost of relieving the people doubly

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resident who would be doubly taxed. And to Honourable Members opposite who have been over a period of many years apt to pay great attention to the example of Southern Ireland, I commend that example.

Mr. Mann Subedar: De Valera would not give it.

The Honourable Sir James Grigg: De Valera did not give it, but he maintains it. I am willing to bet the Honourable Member that Mr. De Valera will never repeal that double income-tax relief, and for very good reason.

Now, let us look at the other side of the picture. The financial interests which are so closely associated with the party opposite now see that they are in a position to borrow cheaply in India for development purposes and they certainly have used and are using Indian capital for a good deal of new development. But the Indian business man does not want to be limited to new enterprises. He wants also to acquire a growing share in the old ones and this is a perfectly legitimate objective. It is only when one comes to the method and tempo of its attainment that there is room for differences of opinion. I think, and I hope all right-minded people think, that the proper method is to purchase gradually, and as opportunity offers, at a value commensurate with the net earning capacity. I am afraid, however, that some Indian business men think it legitimate first to depreciate the assets either by political boycott or by loudly demanding discriminatory taxation and then to seek to buy at a value based on a very much reduced earning capacity. And that is not all. At the present moment it is impossible to move capital out of a country in bulk without smashing the exchange, and the inducement to sell cheaply is to be enhanced by the fear of further depreciation owing to transfer difficulties. That is the real issue. There is no question of giving any new or increased relief and of taxing Indians to pay for it. It is a question of maintaining an arrangement which has been in force for seventeen years and which has become as contractual as anything not actually signed, sealed and delivered could be. It is a question of breaking these quasi-contractual arrangements, of subjecting capital to which it applies to substantially increased burdens and in so doing to depreciate it to a point where it can be taken over for much less than its original cost. The difficulties of transfer are a very vital element in that case.

Now on this subject there is one final point though it is somewhat of an anti-climax. The Leader of the Opposition conveyed the impression—again I have no doubt unintentionally—that we were taxing Indians to give some new relief to Europeans, I have shown that we are not doing it.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadan Rural): I am quite sure if you read my speech again, you will find it wrong.

The Honourable Sir James Grigg: Well, for that I will substitute this and say that in listening to the Honourable Member his remarks seemed to me to be capable of conveying that impression.

Mr. Bhulabhai J. Desai: You read the text of my speech.

The Honourable Sir James Grigg: I say, more than that. Of the new money to be obtained from clause 4 *plus* the taxation of leave pay, the whole of the latter, which is Rs. 16 lakhs, comes from Europeans and some at any rate of the former. On the other hand, under the Bill and the concomitant new scale of rates to be laid down in the Finance Bill considerable reliefs are to be given. For example—the carry forward of losses, the new basis of taxation for insurance companies, lower rates for five-sixths of the individual tax-payers, and so on. For the first two of these a great deal and for the third practically all of the relief will go to Indians and I think I can say without fear of contradiction that on the other hand nearly every European in India will under this Bill as a whole pay increased taxation. Altogether, I think I can safely trust the House or the majority of it not to be taken in by this latest effort of Indian big business to raise the racial issue and in order to resist an effort to make them contribute to the upkeep of the country to an extent more in keeping with the wealth they extract from it. This comes ill from people who have derived and continue to derive such wealth from the intervention of the State on their behalf. Incidentally, I ask the House to note the suggestion of Dr. Sir Ziauddin Ahmad that these people should be subjected to an excess profits duty. I do not propose to accept his invitation as I want to make it quite clear that it is not intended to make this a Bill of pains and penalties but a device to secure fair and not penal taxation. As I say, and as the learned doctor pointed out, these self-same industrialists who are raising the racial discriminatory issue are the people who have derived and continue to derive an enormous benefit from the intervention of the State on their behalf and we have tariffs, subsidies, stores purchase rules and such-like the cost of which, again as the learned doctor pointed out, and as I have very frequently pointed out, must in the end come from the consumer who is an infinitely poorer person than the individual he is subsidising.

Now, I come to clause 4. The House is now fully aware that this clause seeks to tax the foreign income of residents in India on the accrual instead of the remittance basis. A good deal of objection has been taken to this clause on the ground that it affects injuriously particular classes. But even if these objections are valid in themselves, we must beware of condemning the whole clause on account of its effects on particular individuals. Nobody has yet seen fit to plead the case of the millionaire who has placed large sums of money abroad so that it may be out of the reach and outside the scope of Indian income-tax. Even Sir Cowasji Jehangir would not do that. He produced piles of quotations from other people in the past who objected to taxation on the accrual basis and he gave notice to my Honourable friends of the European Group that he proposed to raise against them the charge of inconsistency if they dared to support the proposals in the Bill. I will give them a useful answer. In 1933, I think, a Bill was introduced in this House to tighten up the operation of the remittance basis. I think somebody accused Sir Cowasji Jehangir of once having supported the accrual basis somewhere either in the war days or in the early post-war days. Sir Cowasji Jehangir said that he had no recollection of having done this, but if I did agree, I have changed my mind now. I am wiser, the passage of time makes us wiser, and I am convinced that time will make us all wiser. Sir, on this aspect of the millionaire placing his assets abroad,

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the only objection of principle is that the clause discriminates in favour of the non-domiciled resident. I will come back to that question later. But, apart from that, I see no reason to argue the case of the millionaire. Why should he be given a special incentive to invest his capital abroad? I think Sir Muhammad Yamin Khan very effectively answered that question. Most of the objection has been taken to taxing the foreign business profits on the accrual basis, and let me say that there is here no discrimination whatever, for the non-domiciled resident is exactly on the same basis as the domiciled. This being so, the querulous complaints of Mr. Vencatachellam Chetty were very much beside the point. What is complained of here is the penalty on Indian enterprise abroad. We are not seeking to impose any penalty. We are merely taking steps to place Indian enterprise abroad on the same footing as Indian enterprise in India. So far, I have heard no valid reason for treating with favourable discrimination Indian business abroad and yet that is the case to which the Opposition will have to address themselves and to which they have singularly failed to address themselves. Objections of detail have been put forward. In so far as these demand a case for relief from the full rigours of the clause, we can consider them, but these are being put forward as a general case and clearly no general case is made out by them.

Let us consider some of the particular illustrations which have been put forward. First of all, there is the case of businesses carried on in countries subject to exchange restrictions. We gave an assurance to the Select Committee that we would meet such cases by administrative action and our intention was to do so by postponing payment of the tax for so long as it might be necessary. Mr. Vencatachellam Chetty said, "We do not trust your promises". All right. If a suitable method can be devised, I am quite ready to consider its inclusion in the Bill. Then, we have here the objections on grounds of administrative difficulty, such as, the difficulty of ascertaining the foreign profits and the consequent necessity of assesses having to send for books from the four corners of the universe. Why should not audited accounts be furnished? When the Chetties furnish audited accounts in Ceylon, why should they not do it in India? Calling for books is only necessary because proper accounts are not furnished. As a matter of fact, administrative considerations are all in favour of the accrual as against the remittance basis. The remittance basis is in practice extremely difficult to operate because remittances can be disguised in so many different ways. There are scores of loopholes both for fraudulent assesses who directly falsify their returns and for the other type of assesses who bring the income and disguise it as a capital. I need hardly remind the House that disguising income as capital is very much easier for the wealthy taxpayer who has got lots of income than it is for the small man, and that is another reason for preferring the accrual basis. Moreover, it is very much easier for the rich man to leave his income abroad and not to remit at all and spend it when he goes abroad. Apart from the easy way in which tax on the remittance basis can be avoided, there is another stumbling block for the income-tax officer. Where some branches of an Indian business are in British India and some are outside, the branches outside have an odd way, a way which is unfortunate for the revenue, of proving more profitable than

those in British India! At least, they appear more profitable in the books produced, and the reason is that the result is only too often manipulated to avoid tax.

Now, there is the third special objection, namely, that the accrual basis operates unjustly against the Chetties who are doing business in Burma. Of course, in so far as their ordinary money-lending business is concerned, this is simply not true. They have always paid tax on their full profits, at least I hope they have, and we are asking them to pay nothing extra. The real question is the income from some 2½ million acres of agricultural land in Burma, the possession of which has been obtained by foreclosure on the security for ordinary loans.

An Honourable Member: What is the acreage of the whole of India?

The Honourable Sir James Grigg: I will give the Honourable Member an illustration. It is a square, one side of which would be rather more than the distance from Lahore to Peshawar. It would, of course, be possible to argue that this income is not agricultural income at all, and this particular case is an illustration of the logical absurdities one is pushed into by treating agricultural income differently for income-tax purposes, anomalies which have, I think, been forcibly pointed out in one of the early incarnations of Sir Homi Mody and Mr. Manu Subedar.

Sir H. P. Mody (Bombay Millowners' Association: Indian Commerce): And now of a reformed character!

The Honourable Sir James Grigg: You have changed your mind. But I do not think it is necessary to argue this question, for under the Government of India Act agricultural income is definitely contemplated as a special subject for provincial taxation. One province has already taxed it and, if reports from the newspapers are true, three more are preparing to do so. In the light of this, the objection urged by Mr. Vencatachelum Chetty on the score of principle falls to the ground. In any case, the Chetties' agricultural income from Burma even now is taxed in so far as it is remitted.

Now, I come back to the charge of racial discrimination or discrimination in favour of the British which, as I have said, can only have any application to the case of foreign investment income. But does it really apply even here? I will try and show that it does not. It is a plausible case on the surface and its exponents are very careful to point out only the case of the nabob who makes his living in India and remits his surplus profits, incidentally after having paid full Indian income-tax, to the United Kingdom and invests them there. After they have become United Kingdom investments, he pays no Indian income-tax but only the United Kingdom income-tax on the resultant income, and, as I have said before, the United Kingdom tax is higher than the Indian income-tax. But this is not a very frequent case and it certainly is not the typical case. In any event, it is only a question of the transfer of a few lakhs from the United Kingdom exchequer to the Indian exchequer. But there are other cases where it will be quite ridiculous to tax on total world income. Let us take the case of the rich American, who comes to India for six months' holiday. If the pure residence basis were adopted, he would be taxed on the whole of his world income, whether he got it from the United States or the United Kingdom or anywhere else. Incidentally I notice that some Members have put down an amendment

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lowering this period from six months to three months. So that if they have both their ways anybody who comes to India for three months holiday is going to be taxed on his total world income and that would be pretty good inducement for them to come and spend money in India.

An Honourable Member: Business visits.

The Honourable Sir James Grigg: I will take the case of a man who makes business visits to India of three months for three or four years in succession, and who under the legal decisions becomes a resident. Let us take the case of a Dutchman who does a comparatively small part of his business in India. He will pay Indian tax on the whole of his business income whether it comes from Java, Australia, Japan or anywhere in the world. We will take another case, the subject of an Indian State. I gather this is a very frequent case in India. The subject of an Indian State keeps a furnished house in British India. If he occupies it for a single day then under the decisions of the Court he is resident in India and pays tax on the whole of his income. It was the consideration of such cases as these which led us to the conclusion that pure residence basis had too many absurd results for it to be adopted and that is why we adopted the only other example that I know of, a basis other than the remittance basis and that is roughly the United Kingdom basis. We have made some slight variations from it, but it is substantially the basis of the United Kingdom law. My Honourable friends opposite who are raising this bogey of racial discrimination in favour of the British can take it from me that if the proviso to clause 4 (a) goes, the damage will fall almost wholly on the Indians domiciled in Indian States. Moreover in so far as it would fall on an Englishman, he has generally speaking double income-tax relief available, but in the case of Indian States, it is either not available at all, or available only up to a very limited degree.

So much for the general argument on merits. But there are one or two considerations of a financial nature which I must put before the House. Most of the money to be obtained from the Bill, apart from the new scales of rates ultimately to be inserted in the Finance Bill, comes from clause 4 plus the repeal of the exemption of leave pay. If clause 4 is substantially altered, then my undertaking in regard to leave pay becomes obviously invalid. If those circumstances are unhappily going to arise, the question is bound to occur whether from the financial point of view, it is worth while going on with the Bill at all if clause 4 is to be mangled. If the Bill is dropped, I should remind the House that the various concessions go with it, namely the carry-forward of losses, the new basis of assessment for insurance companies, the new appeal machinery and above all the slab system under which as I have so often pointed out, five-sixths of the individual taxpayers will pay less than they do now.

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is:

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

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Monday, the 26th November, 1938.