

30th November 1938

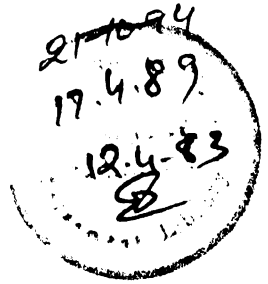
THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume VII, 1938

(10th November to 2nd December, 1938)

EIGHTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



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M437LAD

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LEGISLATIVE ASSEMBLY.

Wednesday, 30th November, 1938.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

COMING INTO FORCE OF THE INSURANCE ACT.

1613. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Commerce Member state:

- (a) whether Government have fixed the date on which to bring the Insurance Act of 1938 into force;
- (b) whether the rules under the Act have been framed; and
- (c) if so, when they expect to bring it into effect?

The Honourable Sir Muhammad Zafrullah Khan: With your permission, Sir, I propose to answer questions Nos. 1613 and 1614 together.

(a), (b) and (c). The attention of the Honourable Member is invited to my reply to question No. 1876 asked by Mr. Satyamurti on the 22nd November, 1938.

Mr. T. S. Avinashilingam Chettiar: May I know when the rules will be ready for publication?

The Honourable Sir Muhammad Zafrullah Khan: I replied on the last occasion that the draft rules have been published for information and criticism.

Mr. T. S. Avinashilingam Chettiar: May I know whether the Superintendent of Insurance has suggested any amendments? I do not think that was covered by the previous question.

The Honourable Sir Muhammad Zafrullah Khan: I said that some minor amendments will have to be made. It really is immaterial who has suggested them or who has not suggested them.

Mr. T. S. Avinashilingam Chettiar: I want to know whether the Superintendent of Insurance has suggested any amendments in regard to matters of substance and not mere routine matters.

The Honourable Sir Muhammad Zafrullah Khan: It is not usual to say who has made any particular suggestions in any Department, and I really fail to see the point. It is quite immaterial.

Mr. S. Satyamurti: Has any time been fixed by which public criticism ought to be sent to Government, after the draft rules are published, and whether it is the 1st January, 1939?

The Honourable Sir Muhammad Zafrullah Khan: I will have to look that up, but I did say on the last occasion that it was hoped that the rules may be placed before the House by the end of February.

Mr. T. S. Avinashlingam Chettiar: May I take it that the Superintendent of Insurance has not suggested any amendment to any material sections of the Act?

The Honourable Sir Muhammad Zafrullah Khan: No. The Honourable Member may not take anything at all. I have said that the proposed amendments are of a minor character.

Mr. S. Satyamurti: May I know whether these rules will be brought into effect independent of the amendment of the Act?

The Honourable Sir Muhammad Zafrullah Khan: I presume so; but I will have to look into it, though, of course, the rules could not in any case be brought into force till the Act has been brought into force.

Mr. S. Satyamurti: I am asking whether the subject-matter of the rules is such that any of them depend on any amendment of the Act, before they are brought into force.

The Honourable Sir Muhammad Zafrullah Khan: I presume not, but I could not say without notice.

AMENDMENT OF THE INSURANCE ACT.

†1614. ***Mr. T. S. Avinashlingam Chettiar:** Will the Honourable the Commerce Member state:

- (a) whether the Superintendent of Insurance has suggested that any amendments should be made in the Insurance Act of 1938 before bringing it into effect;
- (b) if so, on which matters; and
- (c) whether Government propose to bring in any amending Bill, and if so, when?

EFFECT OF THE NEW EGYPTIAN COTTON TARIFF DUTY ON INDIA'S TRADE.

1615. ***Mr. T. S. Avinashlingam Chettiar:** Will the Honourable the Commerce Member state:

- (a) in pursuance of his answer to starred question No. 674, dated the 1st September, 1938, at what stage the negotiations with Egypt are;

† For answer to this question, see answer to question No. 1613.

(b) whether the new Egyptian cotton tariff duty has acted prejudicially on Indian export to Egypt; and

(c) what action Government have taken in the matter?

The Honourable Sir Muhammad Zafrullah Khan: (a) My answer to the question referred to did not imply that negotiations were being carried on, but that the particular matter was under discussion.

(b) Yes.

(c) The matter is still under correspondence.

Mr. T. S. Avinashilingam Chettiar: May I know whether the recent Anglo-Egyptian agreement has in any way affected the negotiations with the Egyptian Government in this matter?

The Honourable Sir Muhammad Zafrullah Khan: That is the matter with regard to which correspondence is going on.

Mr. T. S. Avinashilingam Chettiar: I want to know what has been the effect of the Anglo-Egyptian agreement on the Indian trade with that country.

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

Mr. S. Satyamurti: With reference to clause (b), will my Honourable friend elucidate the answer "Yes" he gave, by mentioning figures as regards the extent of the prejudicial effects on exports from India to Egypt, as a result of the new Egyptian tariff duties?

The Honourable Sir Muhammad Zafrullah Khan: I examined the figures recently but I have not got them here; it appears that our trade with Egypt has been seriously affected by the new tariff duties.

Mr. S. Satyamurti: In view of that, will Government expedite the steps they propose to take of doing everything in their power to make up the serious shortage of exports?

The Honourable Sir Muhammad Zafrullah Khan: As I have said, the matter is under correspondence, but if there is any particular suggestion that the Honourable Member wants to be considered I shall only be too glad to consider it if he puts it forward.

Mr. T. S. Avinashilingam Chettiar: May I know if in this matter of correspondence with the Egyptian Government, the Government of India are taking the advice or suggestion of any commercial bodies in this country?

The Honourable Sir Muhammad Zafrullah Khan: I do not know whether any advice has been formally asked for, but informally yes.

Mr. Manu Subedar: Has any representation been received from the Millowners' Association, Bombay?

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

Mr. Manu Subedar: May I know what suggestions Government have made to safeguard the Indian textile exports to Egypt in view of the fact that Lancashire has now stolen a march over India as far as this is concerned?

The Honourable Sir Muhammad Zafrullah Khan: I do not know that Lancashire is in any better position than India is in that matter.

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

The Honourable Sir Muhammad Zafrullah Khan: I cannot say.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government have examined the position and have satisfied themselves that even after the Anglo-Egyptian treaty the hands of the Government of India are generally speaking free to conclude a mutually favourable agreement with Egypt in this matter?

The Honourable Sir Muhammad Zafrullah Khan: As I explained on the last occasion it is not a question of any trade arrangement or agreement with Egypt. The question is whether the present situation can in any way be modified.

RESERVATION UP TO CERTAIN COUNTS OF YARN FOR THE HANDLOOM INDUSTRY.

1616. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Commerce Member state:

- (a) whether Government are considering the matter of reserving up to certain counts of yarn for the handloom weaving;
- (b) if so, whether they consulted the Provincial Governments in the matter; and
- (c) whether they have come to a conclusion in the matter?

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

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

Mr. T. S. Avinashilingam Chettiar: May I know whether Government have considered the advisability of enquiring into this matter, because it is very urgent just now?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member asked whether the specific suggestion was being considered and the answer is "no".

Mr. T. S. Avinashilingam Chettiar: My enquiry was whether they were investigating the matter having regard to its urgency?

The Honourable Sir Muhammad Zafrullah Khan: My answer "No" means that Government have looked into the matter and they do not intend to act upon that suggestion.

Prof. N. G. Ranga: Is it not a fact that some of the Provincial Governments had recommended to the Government of India that investigations should be made in regard to this matter at the last Industrial Conference?

The Honourable Sir Muhammad Zafrullah Khan: The proceedings of the Industries Conference are published.

Mr. T. S. Avinashilingam Chettiar: Have Government considered that recommendation?

The Honourable Sir Muhammad Zafrullah Khan: Yes: I said that the consideration had resulted in the answer I have given.

Mr. S. Satyamurti: May I know, apart from the suggestion in clause (a), whether the Government have considered or are considering any other steps to give some protection to the handloom industry, as against unlimited competition of the mills, both indigenous and foreign?

The Honourable Sir Muhammad Zafrullah Khan: That matter has been debated often by way of question and answer and it has certainly been considered by the Industries Conference.

Mr. S. Satyamurti: Have the Provincial Governments addressed the Government of India in this matter and made any suggestions with regard to the protection of handloom weavers?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid, I would require notice of that.

Mr. T. S. Avinashilingam Chettiar: Have Government considered the advisability of referring this matter to the Tariff Board on cotton which might be set up soon?

The Honourable Sir Muhammad Zafrullah Khan: Yes: I believe I have said on a previous occasion that when a Tariff Board is set up the question of the position of the handloom industry would also be referred to them specifically.

INCREASE IN THE IMPORT OF FOREIGN COTTON INTO INDIA.

1617. ***Mr. T. S. Avinashilingam Chettiar:** Will the Education Secretary state:

- (a) whether the import of foreign cotton into India has progressively increased;
- (b) if so, whether Government have investigated as to what proportion of the imported cotton is of a variety that is not available in India;

- (c) whether Government have considered the advisability of investigating the possibility of growing such cotton as is imported now, or substitutes for them; and
- (d) if so, with what results?

Sir Girdja Shankar Bajpai: (a) Yes; it has recently shown a tendency to increase.

(b) The Indian Central Cotton Committee have made investigations and are keeping a careful watch on the position. Most of the imported cotton is of a staple longer than that now grown commercially in India. For example, out of 145,191 bales of American cotton imported during the cotton year ending 31st August, 1938, only 2,578 bales or a little over two per cent. were of staple length of 1-1/16 inches.

(c) and (d). Yes. The question has been engaging the attention of both the Indian Central Cotton Committee and the Government of Sind. Experiments conducted by the Provincial Department of Agriculture have shown that certain areas in Sind are suitable for growing quality cottons of staple length 1 1/4 inches to 1 1/2 inches. Two acclimatised varieties, which have been grown on Government Farms since 1933 have yielded promising results, though two difficulties, viz., (1) seasonal variations in yield and (2) inadequacy of the premium obtained for these cottons, have manifested themselves. The possibility of overcoming these two factors is being examined. The Indian Central Cotton Committee also recently decided that the Director of Agriculture, Sind, should put up a carefully worked out scheme for the development of long staple cottons for consideration of the Committee in March, 1939.

Prof. N. G. Ranga: May I know, Sir, if Government have considered the advisability of placing some funds at the disposal of the Indian Central Cotton Committee in order to expedite these researches and produce the necessary quantity of cotton of the requisite quality not only in Sind but also in other parts of India?

Sir Girdja Shankar Bajpai: As far as I am aware, there is no lack of funds with the Indian Central Cotton Committee.

Mr. S. Satyamurti: May I know, Sir, if my Honourable friend can throw some light, with regard to part (c) of the question, on the actual excess of imports of foreign cotton into India in recent months?

Sir Girdja Shankar Bajpai: My Honourable friend has a question later on, and I am supplying the figure in answer to it.

Mr. S. Satyamurti: With regard to parts (c) and (d), may I know if Government can inform this House whether any success has attended their efforts to produce long staple cotton which is now imported into India, and which is not produced here, on a commercial scale even to a limited extent anywhere in India?

Sir Girdja Shankar Bajpai: That really is the point of investigation. I have tried to explain that there are possibilities of growing on a commercial scale in Sind cotton of staple varying from 1 1/4" to 1 1/2", and that is the position which is being investigated in Sind.

Mr. Mannu Subedar: Sir, in view of the fact that even 8,000 bales, if offered at an uneconomic price, can affect the range of price in India to the detriment of the Indian cotton cultivator, may I know whether Government have considered the advisability of totally prohibiting import of cotton which can be produced in this country?

Sir Girja Shankar Bajpai: I have already answered that question on previous occasions. Government have examined the question carefully and have come to the conclusion that the bulk of imports into this country would not justify any such action.

Mr. Mannu Subedar: I am drawing the attention of the Honourable Member to the fact that it is not the bulk which matters, but it is the price which matters.

Mr. President (The Honourable Sir Abdur Rahim): The Chair cannot allow the Honourable Member to discuss a matter like that now.

Sardar Sant Singh: With reference to part (a) of the question, may I know, Sir, whether the import of foreign cotton into India is being done in the interests of the textile industry?

Sir Girja Shankar Bajpai: That is a matter of opinion.

Sardar Sant Singh: Who imports this cotton into India?

Sir Girja Shankar Bajpai: The consumers of cotton.

Sardar Sant Singh: Who are the consumers? Is it not the textile industry of Bombay and Ahmedabad?

Sir Girja Shankar Bajpai: Cotton is not a staple article of food; what is imported is for the manufacture of goods.

Sardar Sant Singh: If it is imported, will Government take steps to totally prohibit its imports and compel them to use Indian cotton in preference to imported cotton?

Mr. President (The Honourable Sir Abdur Rahim): It is a large question, and it cannot be raised here.

Mr. S. Satyamurti: May I know, Sir, if any experiments are being carried out in Sind on the growth of this long staple cotton?

Sir Girja Shankar Bajpai: Yes, Sir.

EFFECT OF THE TRADE AGREEMENT BETWEEN CANADA AND THE UNITED STATES OF AMERICA ON INDIA'S TRADE.

1618. ***Mr. M. Ananthasayanam Ayyangar:** (a) Will the Honourable Member for Commerce be pleased to state if negotiations for a trade agreement between Canada and the United States are nearing completion; and if his attention has been drawn to Reuter's news on the 8th November, reported in the *Hindu* to that effect?

(b) What are the articles included in that bilateral agreement and what are the effects of that agreement on the Ottawa Agreement, and on the Indian trade?

(c) Was a similar bilateral agreement entered into between the United Kingdom and the United States?

(d) Have these agreements been considered, while shaping the new Indo-British Trade Agreement?

The Honourable Sir Muhammad Zafrullah Khan: (a) Government have seen a Press Report to the effect that a trade agreement between Canada and the United States was signed on the 17th instant.

(b) Government have not yet seen the text of the Canada-United States of America Trade Agreement. This Agreement, however, can have no effect on the Ottawa Agreement, which, as the Honourable Member must be aware, in no way affects the trade relations between India and Canada.

(c) A trade agreement has been concluded between the United Kingdom and the United States of America.

(d) The Honourable Member's attention is invited to the answers given on the 14th September, 1938, to Mr. Thirumala Rao's question No. 1044 and its supplementaries.

Mr. Manu Subedar: May I know, Sir, whether Government have full information now as to the articles on which preference to Indian exports to the United Kingdom is being reduced on account of the agreement between the United States and the United Kingdom?

The Honourable Sir Muhammad Zafrullah Khan: There is a question by the Honourable Member himself later on.

Mr. Manu Subedar: It is not today, but I am only asking . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member had better wait.

Mr. Manu Subedar: Sir, I am only asking whether he has the information.

Mr. President (The Honourable Sir Abdur Rahim): Very well, the Honourable Member can wait.

Mr. S. Satyamurti: With regard to clauses (c) and (d), may I know, Sir, whether the Government in conducting the negotiations which they are now conducting in regard to fresh Indo-British agreement, have any information in their possession as to the agreement between the United Kingdom and the United States on those negotiations, in view of the results of a treaty between the United Kingdom and the United States?

The Honourable Sir Muhammad Zafrullah Khan: I believe the Honourable Member put a similar question to me on a previous occasion, and I said yes, that was being kept in view.

Mr. S. Satyamurti: May I know, Sir, whether the lowering of the Ottawa preferences has come to the notice of my Honourable friend, and if so, what value is being assigned to it in the conduct of these negotiations?

The Honourable Sir Muhammad Zafrullah Khan: It is difficult to assess the value on an item like that in rupees and annas, but the matter is being taken into consideration that the agreement between the United States and the United Kingdom will have this effect.

Mr. T. S. Avinashilingam Ohettiar: May I know, Sir, if they are not able to proceed even with this treaty because of their negotiations with the United Kingdom, and may I know how the United Kingdom is able to compete with the United States when my friend is not able to assess the value?

Mr. President (The Honourable Sir Abdur Rahim): That is arguing the matter.

Mr. Manu Subedar: May I know, Sir, from what date the Anglo-American treaty comes into operation, and, therefore, from what date the preferences to Indian exports will be altered?

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

Mr. Manu Subedar: May I know, Sir, whether the Honourable Member has made representations to His Majesty's Government with regard to the outstanding transactions in those items which are being sent to the United Kingdom and in respect of which preferences were hitherto being given?

The Honourable Sir Muhammad Zafrullah Khan: It is not necessary to make any representations.

EVOLUTION OF A SCHEME OF ECONOMIC AND INDUSTRIAL PLANNING FOR INDIA.

1619. *Mr. M. Ananthasayanam Ayyangar: (a) Will the Honourable Member for Commerce be pleased to state if Government are aware that the Indian National Congress has appointed an "Industrial Planning Committee" for organising industries in India?

(b) How far will Government render assistance to and co-operate with that committee in evolving a scheme of economic and industrial planning for India?

The Honourable Sir Muhammad Zafrullah Khan: (a) Government have seen press reports to this effect.

(b) The Government of India have not been approached in the matter. I would in this connection remind the Honourable Member that the development of industries is primarily the concern of the Provincial Governments.

Mr. K. Santhanam: Are Government aware that there are many industries of an All-India nature which can be developed only by the Government of India?

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

Mr. S. Satyamurti: Are not Government aware that the development of these industries to a large extent depends on the fiscal policy of the Government of India?

The Honourable Sir Muhammad Zafrullah Khan: That is an argument.

Mr. T. S. Avihandlingam Chettiar: May I know, Sir, whether the Secretary or the President of this Committee has addressed the Government of India on this subject?

The Honourable Sir Muhammad Zafrullah Khan: Not, so far as I am aware. My information is that we have received no representations from this Committee.

Mr. K. Santhanam: May I know, Sir, whether the development of locomotive manufacture is not a matter for the Central Government to decide upon?

Mr. President (The Honourable Sir Abdur Rahim): That does not arise.

Prof. N. G. Ranga: What is the nature of the co-operation that their Industrial Research Bureau is capable of rendering to this Industrial Planning Committee?

The Honourable Sir Muhammad Zafrullah Khan: Let the Industrial Planning Committee approach the Industrial Bureau first.

DISCRIMINATION AGAINST INDIANS IN THE KENYA HIGHLANDS.

1920. ***Mr. S. Satyamurti:** Will the Secretary for Education, Health and Lands please state:

- (a) whether the attention of Government has been drawn to a leading article in the *Hindu* of 31st October, entitled "Kenya Highlands question";
- (b) whether the attention of Government has been drawn to the memorandum submitted to the British Government by the executive committee of the East African Indian national congress;
- (c) whether it is a fact that the boundaries of the uplands area reserved for Europeans have continuously increased and in 1923 the transfer of land from Europeans to Indians and native Africans was sought to be prohibited;
- (d) whether Government are aware of the demand of Indians that the definition by the Secretary of State of the term 'privileged position' of Europeans should be withdrawn;
- (e) whether it is a fact that the Government of Kenya intend to appoint a Highlands Board to administer the highlands and there will be a majority of European elected members on it;
- (f) whether it is a fact that there is no provision for the appointment of Indians to the Native Land Trust Board; and

(g) whether the Government of India have taken and will continue to take necessary steps to see "that the continuance of this vicious administrative practice" which discriminates against British Indians who are British subjects, in favour of aliens who owe no allegiance to the British Empire, is stopped immediately?

Sir Girja Shankar Bajpai: (a) and (b). Yes.

(c) In accordance with the recommendations of the Kenya Land Commission, the area now defined as the Highlands represents an increase over the original area to which the administrative practice of excluding non-Europeans was to be confined. The answer to the second part is in the affirmative.

(d) Yes.

(e) and (f). The Crown Lands (Amendment) Ordinance, 1938, and the Native Lands Trust Ordinance, 1938, define the Highlands Board and the Native Lands Board respectively, but do not lay down the constitution or the functions of the two Boards.

(g) I have repeatedly stated to the House the attitude of the Government of India in this matter.

Mr. S. Satyamurti: With reference to the answer to clause (b) of the question, may I know whether Government have taken any action on the memorandum submitted to the British Government by the Executive Committee of the East African Indian National Congress?

Sir Girja Shankar Bajpai: Well, Sir, the memorandum, as my Honourable friend is aware, was sent by the East African Indian National Congress to the Secretary of State for the Colonies. The Government of India have not been asked by the East African Indian National Congress to take any action themselves, but I can inform my Honourable friend without any breach of confidence that the attitude of the Government of India more or less covers the points which are made in the memorandum.

Mr. S. Satyamurti: With reference to part (c) of the question, may I know whether my Honourable friend can inform the House what is the extent now of the boundaries of the uplands area reserved for Europeans by subsequent action both in 1926 and since?

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

Mr. S. Satyamurti: May I know whether this transfer of land from Europeans to Indians and native Africans has been finally prohibited?

Sir Girja Shankar Bajpai: No, Sir. The legal position is exactly what it has been so far; that is to say, inter-racial transfers are subject to approval by the Governor.

Mr. S. Satyamurti: With reference to the answer to part (d) of the question, may I know what is the latest position, and whether the Government of India have addressed the Secretary of State on this matter, that

is to say, that the definition, "privileged position" of Europeans, should be withdrawn?

Sir Girja Shankar Bajpai: As my Honourable friend is aware, two points arise in connection with that, one, that the definition, "privileged position", should be included in the proposed Order in Council. With regard to that, the Secretary of State for the Colonies has categorically stated that no such definition is to be included in the Order in Council; in other words, the administrative practice is not to have a statutory basis. The other one, namely, the practice itself or refusing to Indians permission to take land in the Highlands.—with regard to that, as I have told the House more than once, the Government of India have represented to His Majesty's Government that they do not favour this practice.

Mr. S. Satyamurti: With reference to the answers to parts (e) and (f), may I know whether the Government have any information as to whether these Boards are now functioning, and, if so, what their composition and functions are?

Sir Girja Shankar Bajpai: No. They are not functioning.

Mr. S. Satyamurti: With reference to the answer to part (g) of the question, may I know what is the latest position? I know that the Government of India have been addressing the Secretary of State, but in view of recent events, may I know whether Government have any information about the latest attitude of the Colonial Office in respect of this very important matter?

Sir Girja Shankar Bajpai: Some days ago I had occasion to inform the House in connection with the question of Jewish settlement that the Government of India had raised the matter with the Secretary of State for the Colonies again, but no answer has yet been received by the Government of India.

Seth Govind Das: Is it not a fact that on the whole the position of Indians has, so far as the question of Highlands is concerned, deteriorated?

Sir Girja Shankar Bajpai: Well, I think that is a matter of opinion. I do not know that anything has happened definitely since the deputation of the East African Indian National Congress was here.

Seth Govind Das: On the whole if the position remains the same as the Honourable Member has said, what ultimately are the Government of India going to do in this respect?

Sir Girja Shankar Bajpai: That is a hypothetical question.

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

Seth Govind Das: I am asking a definite question, what Government are going to do

Mr. President (The Honourable Sir Abdur Rahim): The Chair has called the next question.

PROTECTION OF THE INTERESTS OF INDIAN COTTON GROWERS.

1621. *Mr. S. Satyamurti: Will the Secretary for Education, Health and Lands be pleased to state:

- (a) whether his attention has been drawn to a message from the Associated Special Service, New Delhi, dated November 7th, 1938, published in the *Hindu* of the 8th November, 1938, on "Indian cotton in doldrums";
- (b) whether the world demand for Indian cotton has not declined;
- (c) what the latest figures are;
- (d) whether there has been a progressive increase in imports of foreign cotton and what the latest figures are;
- (e) whether it is a fact that the increased use of rayon in India for the manufacture of textile goods is a factor seriously affecting the Indian cotton grower; and
- (f) what steps, if any, Government propose to take to protect the interest of the cotton growers?

Sir Girja Shankar Bajpai: (a) Government have seen the article in question

(b) and (c). The total consumption of Indian cotton has fallen from 6,022,000 bales in the year ending July 31st, 1937, to 5,868,000 bales in the year ending July 31st, 1938.

(d) A statement is laid on the table.

(e) Government are aware that increased use of rayon in India might eventually adversely affect the cotton growers.

(f) The Government propose to examine the matter.

Statement.

The import of foreign cotton into India has recently shown a tendency to increase; the figures for the three years ending 1937-38 and for the six months ending September, 1938, are given below:

Imports of foreign cotton into British India.			
Tons.			
1935-36.	1936-37.	1937-38.	6 months 1st April to 30th September, 1938.
76,487	64,988	134,414	62,835

Mr. S. Satyamurti: My Honourable friend may say it refers to some other Department, but may I know whether, apart from the step of producing the right kind of cotton which the Indian textile mills require, to which my Honourable friend referred in answer to an earlier question—may I know whether Government are contemplating any other steps, considering the almost cataclysmic fall in prices of cotton and the effect it has on the agricultural economy of this country?

Sir Girja Shankar Bajpai: Well, Sir, I had occasion to answer questions about that before, and I believe I have indicated to the House the

action which had been taken by the Indian Central Cotton Committee, to draw the attention of the provinces to the desirability of certain readjustments of the area under cotton and the cultivation of different varieties of cotton.

Mr. S. Satyamurti: With regard to this possible increased production of various qualities of cotton, may I know if the Government of India have sought or have got the co-operation of the Indian textile mills in this matter?

Sir Girja Shankar Bajpai: I do not know whether at the moment long staple cotton of, shall we say, more than one and one-sixteenth of an inch is available in sufficient quantity, to permit of any approach being made in this matter to the mills. But I gather that actually during the current year the consumption by Indian mills of Indian cotton has gone up to the extent of 500,000 bales.

Mr. S. Satyamurti: With reference to the answer to clause (e) of the question, may I know if any steps are being taken,—because my Honourable friend has said in answer to that question that Government are convinced that the increased use of rayon will have an ultimate adverse effect on cotton consumed in textile mills—may I know if any steps are being taken by Government in this matter?

Sir Girja Shankar Bajpai: May I remind my Honourable friend that what I said was, in the usual cautionary attitude of the Government, that the increased use of rayon in India might eventually adversely affect the cotton growers. The report of the Indian Central Cotton Committee on the subject has not yet officially reached the Government of India, but my Honourable friend may rest assured that the position would be examined as expeditiously as possible.

Mr. S. Satyamurti: Will Government avoid the usual mistake of shutting the stable after the steed has been stolen?

Sir Girja Shankar Bajpai: In this case is it not the other way about?

Prof. N. G. Ranga: Have Government examined the advisability of putting an embargo on imports of this rayon as well as of those kinds of cotton whose imports can possibly be prohibited without any detriment to the cotton mill industry?

Sir Girja Shankar Bajpai: I have already informed the House that Government will consider the position. I cannot say at this stage what their decision will be.

Mr. T. S. Avinashilingam Shettiar: May I know whether Government are aware that control of cotton cultivation cannot be done by any individual province without the help of the Government of India because it has to be done throughout all the provinces?

Sir Girja Shankar Bajpai: Perhaps, my Honourable friend would indicate to us as to what action the Government of India can take to control cultivation of cotton.

Mr. T. S. Annaswalingam Chettiar: May I know whether they have taken any steps to convene a conference of the Ministers of Agriculture in the provinces, in order to consider this matter?

Sir Girja Shankar Bajpai: There is no special virtue in a conference. The necessary co-ordination is being done by the Indian Central Cotton Committee.

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

APPOINTMENT OF TARIFF BOARDS.

1622. *Mr. S. Satyamurti: Will the Honourable the Commerce Member be pleased to state:

- (a) the number of Tariff Boards and the subject of enquiry undertaken by them appointed *ad hoc* by Government during the last five years;
- (b) the number of Tariff Boards due to be appointed during the next three years and the subjects of enquiry thereof;
- (c) whether Government are aware of the strong criticism by the public in this country against the appointment of these *ad hoc* boards; and
- (d) whether Government have considered or propose to consider the suggestion of having a permanent Tariff Board to deal with all these questions for at least a limited period of years; if not, what are the reasons for that?

The Honourable Sir Muhammad Zafarullah Khan: (a) I would refer the Honourable Member to the statement laid on the table of this House on the 29th September, 1937, in reply to part (a) of his question No. 879. Since then three Tariff Boards have been appointed to enquire into the question of continuance of protection to the paper and paper pulp, magnesium chloride and sericultural industries.

(b) Government are unable to make any forecast of the number of enquiries which may be undertaken during the period.

(c) and (d). The attention of the Honourable Member is invited to the statement I made during the course of the debate on the adjournment motion moved and withdrawn by him on the 1st September, 1936, in this House, in regard to the abolition of the Tariff Board.

Mr. S. Satyamurti: With reference to the reply to part (b) of the question,—I am not asking the Government to give me a forecast of all possible Tariff Boards, but I am asking in respect of the tariff policy now in force—what are the subjects which my Honourable friend in the normal course hopes will be referred to Tariff Boards, in view of the expiry, during the next three years, of the existing level of tariff duties?

The Honourable Sir Muhammad Zafarullah Khan: That depends upon applications made to Government for the continuation of protection. I cannot say in respect of which of those industries such applications may be received.

Mr. S. Satyamurti: May I take it, therefore, that till these tariff duties automatically expire Government will not take any steps to constitute Tariff Boards, unless the industry concerned applies in time for the constitution of a Tariff Board?

The Honourable Sir Muhammad Zafrullah Khan: I will not say, unless they apply. Some of them may intimate that they do not require any further protection.

Mr. S. Satyamurti: Do Government contemplate themselves appointing *suo moto* any Tariff Board during the next three years, apart from applications from the industries concerned?

The Honourable Sir Muhammad Zafrullah Khan: As I have said, it is difficult to make a forecast today as to what may be done during the course of the next three years.

Mr. S. Satyamurti: With regard to the reply to part (d) of the question, may I know whether it is not necessary in the interests of sound fiscal administration in the country and of creating public confidence, to appoint a quasi-judicial body whose findings will not be subjected to the ordinary criticism which is attached to reports of *ad hoc* bodies?

The Honourable Sir Muhammad Zafrullah Khan: I have replied to that. That was my Honourable friend's question.

Mr. Mann Subedar: Has any representation been received from the salt industry of India making a request for the appointment of a Tariff Board to secure them a reasonable price in the Calcutta market?

The Honourable Sir Muhammad Zafrullah Khan: I do not think so but the Honourable Member had better put down a question to that effect to make sure.

Mr. T. S. Avinashilingam Othettiar: Considering that the present protection given to the textile industry will be shortly coming to an end, may I know whether Government propose to appoint a textile tariff board to go into that matter soon?

The Honourable Sir Muhammad Zafrullah Khan: That question is under consideration.

Prof. N. G. Ranga: Has the Tariff Board for the sericultural industry submitted its report?

The Honourable Sir Muhammad Zafrullah Khan: They are still carrying on their investigation.

Mr. S. Satyamurti: With reference to clause (d), may I know whether Government have examined or will re-examine the question of having a permanent Tariff Board at least for a period of years so as to avoid the criticism against *ad hoc* tariff boards?

The Honourable Sir Muhammad Zafrullah Khan: They did examine the question on previous occasions, and no further re-examination is necessary.

REPORT ON THE WORKING OF THE PAYMENT OF WAGES ACT.

1933. *Mr. S. Satyamurti: Will the Honourable the Labour Member be pleased to state:

- (a) whether the Government of India have received a report on the working of the Payment of Wages Act in the various provinces in India;
- (b) where they have received no such report, whether they propose to call for such reports; and
- (c) whether they will place them on the table of the House?

The Honourable Sir Muhammad Zafrullah Khan: (a) The Governments of Bengal, Bihar, Bombay and Madras have included notes on the working of the Payment of Wages Act in their annual Factory Reports for the year 1937. A report on the working of the Act on federal railways is under preparation.

(b) In reply to a request made by the Central Government, all Provincial Governments have agreed to prepare and furnish to the Central Government a Report on a uniform plan.

(c) The provincial reports, when furnished, will be consolidated, and a copy of the consolidated Report will be placed in the Library of the Legislature.

Mr. S. Satyamurti: Similarly also, will the report on the general working of the Payment of Wages Act in Indian Railways be also placed in the Library of the House as soon as it is ready?

The Honourable Sir Muhammad Zafrullah Khan: I will certainly consider the suggestion.

Prof. N. G. Ranga: Will it form part of the usual Railway Board's annual report?

The Honourable Sir Muhammad Zafrullah Khan: I am unable to say.

Mr. S. Satyamurti: May I know whether, in addition to placing copies of the report in the Library, copies will be supplied to all the Members in view of the fact that this Act was passed by the Legislature and naturally Members would like to see how the Act is working?

The Honourable Sir Muhammad Zafrullah Khan: If copies are placed in the Library of the House, they become available to such of the Honourable Members as are interested in observing the working of the Act.

Mr. S. Satyamurti: May I make a submission on this point? Placing it in the Library means only that six copies are available. Most of us have not the time or the inclination to sit in the Library, but we can find time at home where we are comparatively free to read. May I know what are the insuperable difficulties in the way of Government supplying copies to every Member of the House on the working of an Act which was passed by this House?

The Honourable Sir Muhammad Zafrullah Khan: It is really a question of cost. I suggest that such Honourable Members as are desirous of obtaining copies for study at home may get copies on loan from the Department.

Mr. S. Satyamurti: What is the cost involved in printing 150 copies and giving a copy to every Member?

The Honourable Sir Muhammad Zafrullah Khan: We do not know how big the reports may be.

Mr. N. M. Joshi: May I know whether the report will be published for the benefit of the public?

The Honourable Sir Muhammad Zafrullah Khan: If it is printed and placed in the Library of the House, it is published to all intents and purposes.

Mr. Mohan Lal Saksena: Who is preparing the report on the working of the Act in the Railways? Is it an officer of the Railway Department or an officer of the Labour Department?

The Honourable Sir Muhammad Zafrullah Khan: I am unable to say.

Mr. N. M. Joshi: Will copies be available for the public to buy?

The Honourable Sir Muhammad Zafrullah Khan: I cannot say in advance.

PROCEDURE IN DEALING WITH QUESTIONS RELATING TO INDIAN CONSTITUTIONAL REFORMS.

1624. ***Mr. S. Satyamurti:** Will the Honourable the Leader of the House be pleased to state:

- (a) the normal procedure in dealing with questions relating to Indian constitutional reforms;
- (b) whether the Reforms Office deals with these questions apart from the Government of India;
- (c) whether all communications on questions relating to Indian constitutional reforms pass through the Government of India to the Secretary of State;
- (d) or whether such correspondence passes only through the Governor General; and
- (e) whether pending questions on Indian constitutional reforms are considered by the Executive Council of the Government of India as a whole, or are dealt with by the Governor General alone?

The Honourable Sir Nripendra Sircar: The several parts of this question relate to the internal transaction of business within the Government, on which I regret I am not able to make any statement.

Mr. S. Satyamurti: I am asking what is the normal procedure in dealing with questions relating to Indian constitutional reforms. Surely that does not mean that I want to know the distribution of work among the various members of Government.

The Honourable Sir Nripendra Sircar: I think my answer covers that. Normal procedure must mean that a file has got to be started by somebody and then sent on to some other people and then a decision is arrived at. I say that I am unwilling to disclose all that.

Mr. S. Satyamurti: I only want to know the normal procedure that is adopted in the Government of India for dealing with questions relating to Indian constitutional reform.

The Honourable Sir Nripendra Sircar: The procedure is normal, not abnormal.

Mr. S. Satyamurti: With reference to part (b), may I know whether the Reforms Office is subject to the Government of India or is attached only to the Governor General?

The Honourable Sir Nripendra Sircar: That is exactly the question which I have answered.

Mr. S. Satyamurti: What is the answer?

The Honourable Sir Nripendra Sircar: The several parts of this question relate to the internal transaction of business within the Government on which I regret I am not able to make any statement.

Mr. S. Satyamurti: I am not referring to internal transactions. I am at a handicap in dealing with my friend, who always tries to raise a laugh by saying something humorous. I am not so humorous as he is, but I am more serious. I am anxious to find out whether the Reforms Office which we pay for is run as an ordinary Department under the Government of India, or as a Department attached to the Governor General. I submit I am entitled to an answer on that point.

The Honourable Sir Nripendra Sircar: I am not trying to raise a laugh, but in a very mournful spirit I say that the question whether the Reforms Office deals with these questions apart from the Government of India or not is part of the internal transaction of business within the Government on which I cannot make a statement.

Mr. S. Satyamurti: With reference to part (c), may I know whether all questions on constitutional reforms pass through the Government of India or over their heads to the Secretary of State, apart from demi-official correspondence between the Governor General and the Secretary of State?

The Honourable Sir Nripendra Sircar: That, again, is part of the internal transaction of business within the Government.

Mr. S. Satyamurti: With reference to part (d)—I know the answer that I will get from my friend—may I know whether questions relating to

Indian constitutional reform are considered by the Executive Council of the Government of India as a whole, or are they dismissed altogether from the picture, and the Governor General deals with these questions over the heads of the Government of India?

The Honourable Sir Nripendra Sircar: That is also a matter of internal transaction of business within the Government.

REPORT ON THE AMALGAMATION OF THE LONDON STORES DEPARTMENT WITH THE INDIAN STORES DEPARTMENT.

1625. *Mr. Manu Subedar: (a) Will the Honourable the Commerce Member please state if Government have received a copy of the report of Sir James Pitkeathly on the amalgamation of the London Stores Department with the Indian Stores Department? Will such a copy be placed on the table of the House?

(b) When was this work entrusted to Sir James Pitkeathly and when was this report submitted to Government?

(c) What action have Government taken on this report?

(d) Have Government received any representations from commercial bodies urging the amalgamation of the London Stores Department with the Indian Stores Department?

(e) Have Government found any counter-balancing financial advantages for continuing a duplicate machinery for stores purchase to accomplish the same end?

(f) Are the indents on the London Stores Department sent out after the scrutiny of the Indian Stores Department, or, is the scrutiny taking place later after the indents have already gone?

(g) Have Government considered that certain indents which go to the London Stores Department from some Departments could be dealt with promptly and economically by the Indian Stores Department making the necessary purchases from the agents in India?

The Honourable Sir Muhammad Zafrullah Khan: (a) The Report has been received and is under consideration. No decision regarding publication of the report has yet been taken.

(b) In the summer of 1936. The Report was submitted to Government last July.

(c) The Report is still under consideration.

(d) Not since 1930.

(e) The India Store Department, London, is not a "duplicate machinery" but a complementary organisation as it is entrusted with the purchase and/or inspection only of those stores which cannot be arranged for efficiently and economically by the Indian Stores Department or the consuming departments in India.

(f) and (g). Copies of the indents forwarded to the Director-General, India Store Department, London, are, as a rule, forwarded to the Indian Stores Department simultaneously as the indents are despatched, but in special cases drafts of such indents are sent to that Department for prior

scrutiny. If they contain any items which the Stores Department consider can be obtained in India under the Rules, such items are at once brought to the notice of the indenting officer and the demands are diverted to India whenever possible.

Mr. Manu Subedar: What is the estimated saving if the London Stores Department were abolished?

The Honourable Sir Muhammad Zafrullah Khan: I am unable to say.

Mr. Manu Subedar: May I know what steps Government have taken in order to make the Company Railways and the Defence Department go either through the Indian Stores Department or the London Stores Department instead of purchasing direct?

The Honourable Sir Muhammad Zafrullah Khan: That does not arise out of this.

Mr. S. Satyamurti: With reference to clause (a) of the question, may I know what is the recommendation of Sir James Pitkeathly?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid I am unable to disclose the recommendations.

Mr. S. Satyamurti: May I know if Sir James Pitkeathly has not recommended that the London Stores Department should continue?

The Honourable Sir Muhammad Zafrullah Khan: That is an attempt to find out the same thing in another manner.

Mr. S. Satyamurti: What is the amount of expenditure incurred on the London Stores Department year after year, and the amount of orders placed through them directly?

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

Mr. S. Satyamurti: Why was it said then that no appreciable saving would result by abolishing the London Stores Department?

The Honourable Sir Muhammad Zafrullah Khan: Because I required notice of the previous question, it does not follow that the answer I have previously given is thereby rendered incorrect.

Mr. S. Satyamurti: My Honourable friend stated that in his opinion the abolition of the London Stores Department would not result in any appreciable saving to the Government of India, may I know the premises on which he made that statement?

The Honourable Sir Muhammad Zafrullah Khan: I said I was not aware that any saving would be made.

Mr. S. Satyamurti: Is my Honourable friend aware that this Department spends a lot of money and has only a few orders sent through it?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir.

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

LEVY OF AN IMPORT DUTY ON WHEAT.

1626. *Sardar Sant Singh: Will the Honourable the Commerce Member please state:

- (a) the quantity of foreign wheat imported into India during the years 1936, 1937 and up to the end of October, 1938;
- (b) the quantity re-exported in the form of wheat flour during the same period;
- (c) in view of the heavy imports of foreign wheat into India, whether Government propose to re-levy import duty on wheat to prevent such wheat entering India; and
- (d) whether Government are aware that the actual import of Australian wheat has considerably affected local prices?

The Honourable Sir Muhammad Zafrullah Khan: (a) The imports of wheat into India from foreign countries during 1936 to 1937 and January to October, 1938, were 6,680, 1,523 and 62,575 tons, respectively.

(b) Separate figures are not available for exports of wheat flour made from imported wheat. Total exports of wheat flour during 1936, 1937 and January to September, 1938, were 17,786, 55,062 and 50,582 tons respectively.

(c) The matter is still under examination.

(d) There has been a decline in the prices of wheat in India in sympathy with the fall in world prices.

Sardar Sant Singh: May I know if the Government of India are keeping an eye over the quantities imported into the Bombay and Calcutta ports from Australia, and is it a fact that during the months of October and November the imports have gone up to over 90,000 tons?

The Honourable Sir Muhammad Zafrullah Khan: As regards the first part, yes; as regards the second part, I have not the exact figures.

Sardar Sant Singh: Will Government kindly make an effort to find out the exact figures of the quantities that have reached these two ports and the quantities expected to reach these ports in recent times and decide about re-levying the duty very soon?

The Honourable Sir Muhammad Zafrullah Khan: That is rather a composite question, but I will push forward the decision of the matter as quickly as possible.

Prof. N. G. Ranga: Have Government ascertained the percentage of the fall in the prices obtained for Indian wheat?

The Honourable Sir Muhammad Zafrullah Khan: I think it could be worked out if the Honourable Member was anxious to have it done.

Prof. N. G. Ranga: May I know whether it is a fact that the fall in the prices of Indian wheat is very much more than any corresponding fall, if there has been any, in the world parity of price of other wheat?

The Honourable Sir Muhammad Zafrullah Khan: I am not sure that that is so; as a matter of fact I think the prices outside have fallen still more.

Seth Govind Das: When will Government decide about the levying of a duty on the imports of wheat?

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

SLUMP IN COTTON PRICES.

1627. *Sardar Sant Singh: (a) Will the Honourable Member for Communications be pleased to state if the attention of Government has been drawn to the slump in cotton prices in India?

(b) If so, what steps do Government propose to take to raise such prices?

Sir Girja Shankar Bajpai: (a) Yes.

(b) The Honourable Member's attention is invited to the reply given to parts (a) and (b) (i) of Sardar Mangal Singh's starred question No. 189 on the 15th August, 1938.

Prof. N. G. Ranga: Are Government in constant consultation with the Provincial Governments in regard to this matter?

Sir Girja Shankar Bajpai: I can assure my Honourable friend that the Provincial Governments show no reluctance to address the Government of India.

Sardar Sant Singh: May I know whether the slump in prices has been outrageously great during the last few months, and if so, what steps the Government of India have taken to protect the Indian interests so far as cotton is concerned?

Sir Girja Shankar Bajpai: The underlying assumption, Sir, is that the fall in the prices of cotton in India has been due to the imports of cotton, and I have been trying to contest that.

Sardar Sant Singh: Even if it is not due to the import of cotton, is it not a fact that somewhere from 265 points the prices have fallen to 140 points? Is it not a fact that it is the concern of the Government of India to see that the Indian traders do not suffer from such catastrophic changes in price?

Sir Gijra Shankar Bajpai: I do not see how the Government of India can interfere in this matter.

Prof. N. G. Ranga: Is it not a fact that the Governments of Bombay and the Central Provinces have recommended to the Government of India to put an embargo on the imports of foreign cotton into India?

Sir Gijra Shankar Bajpai: I have more than once answered that particular question. I have stated that the Government of Bombay at one stage did make such a recommendation, and when Government of India found that the imported foreign cotton was not competing with Indian cotton at all, they informed the Government of Bombay that the action recommended by them would not have the effect desired.

PURCHASE OF WHEAT BY HIS MAJESTY'S GOVERNMENT FROM RUMANIA.

1628. ***Sardar Sant Singh:** (a) Will the Honourable the Commerce Member be pleased to state if he is aware of the purchase of 200,000 tons of wheat by His Majesty's Government from Rumania?

(b) If so, does the Honourable Member know that there is a great surplus of wheat in India causing great reductions in the price of wheat and consequently seriously affecting the economic conditions of the agriculturists in India?

(c) Did Government make any effort to induce His Majesty's Government to purchase wheat from India? If not, why not?

Sir Gijra Shankar Bajpai: (a) No.

(b) Higher production in 1937-38 and a drop in exports during 1938 have probably increased stocks appreciably. The fall in price is mainly sympathetic, as world prices have fallen. Indian prices are now much above world parity.

(c) Government are not aware that His Majesty's Government are purchasing wheat.

FIXATION OF MINIMUM PRICE OF WHEAT AND COTTON.

1629. ***Sardar Sant Singh:** (a) Will the Honourable the Commerce Member please state whether Government propose to fix the minimum price of wheat and cotton in India for the benefit of agriculturists?

(b) If not, why not?

Sir Gijra Shankar Bajpai: (a) Initiative in such matters rests primarily with Provincial Governments.

(b) Does not arise.

Seth Govind Das: Are Government aware that so much wheat is being imported that the Provinces cannot levy minimum prices?

Sir Gijra Shankar Bajpai: With regard to the import of wheat, that has been answered separately by the Honourable the Commerce Member.

Seth Govind Das: I am saying that the fall in price is due to the import of wheat, and when Government are not going to do anything as far as the import of that is concerned, I am asking how Provincial Governments are going to fix minimum prices?

Sir Gijra Shankar Bajpai: I think my Honourable friend could not have followed the answer given by the Honourable the Commerce Member.

Prof. N. G. Ranga: Is it not a fact that the Punjab Government recommended the fixation of a minimum price for wheat?

Sir Girja Shankar Bajpai: I am not aware of any such recommendation.

Prof. N. G. Ranga: Has any other Provincial Government made such a recommendation.

Sir Girja Shankar Bajpai: As far as I am aware, no other Provincial Government has made such a recommendation.

ANTI-TRUST LAW AND OTHER MEASURES IN THE UNITED STATES OF AMERICA.

1630. *Mr. Mann Subedar: Will the Honourable the Commerce Member please state:

- (a) whether Government have got particulars of the anti-trust law and other measures in the United States of America;
- (b) whether the common law provision of the United Kingdom forbidding combination in restraint of trade is applicable to India; if so, whether it has ever been applied to any cases in this country; and
- (c) whether the action in such cases is to be taken by Government on their own initiative or on a representation from the public?

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

(b) The Honourable Member's attention is invited to section 27 of the Indian Contract Act.

(c) Only the parties to a contract can take action to have the contract declared void on the ground that it is in restraint of trade.

Mr. Mann Subedar: Since Government have got no information, may I inquire what is the legal position in this country if in any particular article it is found by Government that the prices have been fixed by such trusts, and that these prices are unnecessarily high?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid I cannot give the Honourable Member legal advice.

Prof. N. G. Ranga: Are we to understand that the Government of India are unaware of the existence of what is known as the "Sherman law" which is the anti-trust law in America?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member may understand anything he likes.

Mr. Mann Subedar: May I inquire whether the Government of India consider it their duty to watch the situation and, if complaints are received to that effect, to take some remedy with regard to the prices of articles such as kerosene which is in the consumption of the poor, when such prices are fixed arbitrarily by a combine among the manufacturers?

The Honourable Sir Muhammad Zafrullah Khan: That does not arise out of a general question like this.

Mr. President (The Honourable Sir Abdur Rahim): This is a very general question.

TRADE RELATIONS OF THE UNITED STATES OF AMERICA WITH INDIA.

1631. *Mr. Manu Subedar: Will the Honourable the Commerce Member please state:

- (a) whether there is a Convention dated 1815, between the United States and the United Kingdom, in which the United States of America get favourable treatment for their goods in India without any obligation for similar treatment to goods from India going to the United States;
- (b) whether there is any convention of any kind, by which the trade relation of the United States with India is governed, or, whether there is a clean slate for India to negotiate a bilateral trade treaty when the Indo-British trade negotiations are concluded;
- (c) whether Government can assure this House that the full benefit of imports to India from the United States has not been secured by the United Kingdom in the recent negotiations, which are going on for preferential treatment to goods emanating from the United Kingdom, and that this bargaining power will be available to India for favourable treatment of her exports to the United States against favourable treatment of the United States goods coming to India;
- (d) whether the Trade Commissioner for India in New York⁷ has been asked to collect the necessary material and to open preliminary talks on this subject;
- (e) whether Government are in a position to say categorically that the negotiations between the United Kingdom and the United States will not involve the immediate grant of preference to the United States goods coming to India until independent negotiations have taken place, and/or without a definite *quid pro quo* to India in the form of preference to Indian goods going to the United States; and
- (f) whether Government have considered the desirability of making the question of the entry into the United States of Indians and reasonable facilities to them to (i) own lands in the United States, and (ii) trade in the United States, a part of the negotiations between the United States and India?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). It is true that Article 3 of the Anglo-American Convention of 1815 contains no reciprocal provisions so far as India is concerned; but in practice American vessels and goods receive no more favourable treatment in India than those of other foreign countries, and Indian exports to the United States of America are assured of most-favoured-nation treatment in that country.

(c) Government are not aware of any ground for the suggestion that India's bargaining power has been adversely affected by the recent trade agreement between the United Kingdom and the United States of America.

(d) No.

(e) Government have not yet seen the text of the Agreement, but have no reason to suppose that there is any truth in the suggestion conveyed by this part of the question.

(f) The Government of India are considering in consultation with His Majesty's Government whether a treaty of Commerce and navigation can be negotiated with the Government of the United States of America and in that connection the suggestions made by the Honourable Member will be borne in mind.

Mr. Mann Subedar: May I inquire—with regard to the answer to clause (d) of the question—why the Trade Commissioner in New York is not asked to collect the material even prior to the negotiations which the Honourable Member said is a question which is being considered?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member will appreciate that this part of the question refers to a trade treaty. I have made a reference to a treaty of commerce and navigation and so far as the requisite material for that is concerned, the material is available.

RENTS FOR QUARTERS OF MEMBERS OF THE LEGISLATIVE ASSEMBLY IN NEW DELHI CHARGED FROM OFFICIALS.

1632. *Mr. Sham Lal (on behalf of Mr. Sri Prakasa): Will the Honourable the Leader of the House state:

- (a) if it is a fact that Government officers are permitted to occupy quarters at New Delhi available to members during the Sessions of the Legislative Assembly, when the Assembly is not sitting;
- (b) if it is so, what rents are charged from them and how that compares with those charged from the members;
- (c) if the cost of water and electric lights are included in the rents charged from these Government officers, and, if not, whether they have to pay in accordance with metre readings, or any other methods of calculations;
- (d) if the cost of water and electric lights are included in the rents charged from Members of the Assembly when they occupy these quarters; and
- (e) if Government are considering the desirability of reducing the rents for members and charging for water and electricity consumed separately?

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

(b) A statement giving the information required is laid on the table.

(c) and (d). At the Western Court, where there is no independent metering, charges for water and electricity are collected throughout the year from all occupants, official as well as non-official, as part of the additional rent for the special conveniences provided. In the case of the other quarters, all occupants pay for such services according to meter readings, when the Assembly is not sitting. When the Assembly is sitting

the cost of these services forms part of the additional rent for special conveniences collected from all occupants.

(e) No.

Comparative statement showing the rent charged from the Members of the Legislature for the residential quarters reserved for them in New Delhi, and from the Government officials to whom those quarters are allotted during the non-session periods.

	Standard rent under Funda- mental Rule 45-A, exclusive of furniture and other special conveniences.	Rent payable by Government officials, exclu- sive of furniture and other special conveniences.	Rent payable by Members, exclusive of furniture and other special conveniences.
	Rs. A.	Rs. A.	Rs. A.
I.—Western Court—			
(i) Single suites	32 0	32 0	32 0
(ii) Married suites	48 0	48 0	48 0
II.—Orthodox Members' quarters and bungalows.	84 8	Ranges from Rs. 60 to Rs. 84-8.	84 8

NOTE 1.—The houses are allotted to Government officials drawing Rs. 600 or more per mensem.

NOTE 2.—The Government officials pay rent for the quarters at 10 per cent of their emoluments or the standard rent of the houses allotted, whichever is less.

NOTE 3.—In addition, rent is also recovered at fixed monthly rates for the furniture provided. These rates are, Rs. 6 and Rs. 9-8 for single and married suites respectively, in the Western Court while those for the orthodox type of houses vary from Rs. 10-12 to Rs. 12 per mensem.

NOTE 4.—Additional rent is recovered for "special conveniences" provided. The charges for the special "conveniences" during a winter season, in the case of the Western Court, and during the Assembly session in the case of the orthodox type of houses, are based on the actual cost incurred in providing these amenities during the preceding year. These charges are liable to vary from year to year. For the current session, the charges are Rs. 23-5 and Rs. 48-8 for single and married suites respectively, in the Western Court, and Rs. 26 for the orthodox type of houses.

NOTE 5.—During the session period an extra charge is made from all occupants of quarters reserved for Members in the Western Court in respect of Conference rooms.

ELECTRICITY CONSUMED IN QUARTERS OF MEMBERS OF THE LEGISLATIVE ASSEMBLY IN NEW DELHI.

1633. *Mr. Sham Lal (on behalf of Mr. Sri Prakasa): Will the Honourable the Labour Member state:

- the highest and the lowest amounts of electricity consumed in a single residence occupied by a Member of the Assembly during the budget session held in Delhi in 1938, in Windsor Place, Queensway, Ferozeshah Road, Canning Lane or Electric Lane (taken together) which were included in the rents paid by such Members;
- the name of the authorities who supply electricity to New Delhi, and the price per unit that Government have to pay them; and
- the net amount that was paid by Government for the electricity consumed in the residences referred to in part (a) above?

The Honourable Sir Muhammad Zafrullah Khan: (a) Omitting a few cases in which Members stayed for short periods only, the highest figure was 399 units and the lowest 29 units.

(b) The New Delhi Municipal Committee. The price paid by Government is four annas per unit less the usual ten per cent. discount, plus meter rent.

(c) Rs. 119.

AMOUNT PAID FOR HAULAGE OF CARS TO MEMBERS OF THE LEGISLATIVE ASSEMBLY.

1634. *Mr. Sham Lal (on behalf of Mr. Sri Prakasa): Will the Honourable the Leader of the House state:

- (a) the highest and the lowest amount paid by the Government to Members of the Legislative Assembly for the haulage of their cars by rail from their residence to Delhi, during the present Session of the Assembly;
- (b) if it is a fact that only about Rs. 50 or Rs. 150, would have been paid to each of them in accordance with their residence in New or Old Delhi, if they had not brought these cars;
- (c) if those members who charge the cost of haulage of their cars by rail are entitled to a further sum of Rs. 75 per month if they chose to remain in Old Delhi; and
- (d) the principle underlying the difference in payment to Members of conveyance allowance on the basis of their place of residence in Delhi?

The Honourable Sir Nripendra Sircar: (a) Rs. 442 from Mangalore and Rs. 95 from Lucknow.

(b) Rs. 50 per mensem or Rs. 5 per diem as the case may be.

(c) Yes.

(d) The principle is that the conveyance allowance admissible to a Member should approximate as closely as possible to the amount of expenditure reasonably incurred by him in performing journeys necessary to the discharge of his duty as such.

Mr. Badri Dutt Pande: May I inquire why there is this difference of Rs. 100 in the matter of the allowance between Old and New Delhi when the distance is practically the same?

The Honourable Sir Nripendra Sircar: That is a question which I have answered in reply to part (d) of the question.

IMPORT OF FOREIGN WHEAT.

†1635. *Seth Haji Sir Abdoolah Haroon: Will the Honourable the Commerce Member be pleased to state:

- (a) whether Government are aware of the fact that large quantities of wheat are being imported from foreign countries at Bombay and Calcutta ports now-a-days;
- (b) whether Government are aware that due to large importation, the price of wheat has gone down abnormally, causing great embarrassment to zamindars in Sind and Punjab; and

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

- (e) in view of the rates having gone down, whether Government have considered or are prepared to impose a protective duty on wheat so as to prevent the import of foreign wheat and thus save the zamindars of Sind and the Punjab from being ruined; if not, why not?

The Honourable Sir Muhammad Zafrullah Khan: (a) Government are aware of the position in regard to imports of wheat at Bombay and Calcutta.

(b) and (c). Government have received certain representations to this effect which are receiving consideration.

CONNECTION OF KAROL BAGH WITH NEW DELHI BY A DIRECT ROAD.

†1636. ***Sardar Sant Singh:** (a) Will the Secretary for Education, Health and Lands please state whether the Delhi Improvement Trust propose to connect the Karol Bagh area with New Delhi by a direct road joining at the Punch Kuin Road or any other nearest approach to New Delhi and whether such a proposal has so far been examined?

(b) If so, with what results?

Sir Girja Shankar Bajpai: (a) It is reported that no proposal to construct a direct road from Karol Bagh to New Delhi is a present before the Improvement Trust, but examination of the possibility of providing such a road will not be lost sight of.

(b) Does not arise.

ABSENCE OF HEDGES, ETC., IN ARAM BAGH QUARTERS, NEW DELHI.

†1637. ***Sardar Sant Singh:** (a) Will the Honourable the Labour Member please state if it is a fact that the 'E' type quarters of Aram Bagh, New Delhi, are not properly looked after by the Horticulture Division of the Central Public Works Department, Delhi, and no efforts have so far been made by them to improve the locality?

(b) How much amount was set apart by the Horticulture Division to improve the area during each year since these quarters were constructed and how was it spent?

(c) Are Government prepared to see that hedges and shrubbery as well as trees are put up soon at proper places around those quarters to improve the locality and to maintain the privacy of the quarters?

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

(b) The expenditure on the area is about Rs. 5/8/- per acre per mensem, excluding water charges, and covers only the cost of maintenance.

(c) The planting of hedges, shrubberies and trees cannot be undertaken under present financial conditions.

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

**INSANITARY SURROUNDINGS OF ARAM BAGH AND DILKUSHA SQUARE QUARTERS,
NEW DELHI.**

†1638. *Sardar Sant Singh: Will the Secretary for Education, Health and Lands please state:

- (a) whether it is a fact that the surroundings of the Aram Bagh and Dilkusha "E" type quarters in New Delhi are very dirty and the area is lying absolutely neglected by the Health Department of New Delhi;
- (b) whether it is a fact that there is a big jungle in close proximity of these quarters and is used by the public for nature's call, etc.;
- (c) whether it is a fact that on account of the close proximity of the dumping ground near the Idgah these "E" type quarters were considered unfit for habitation sometime ago and now another dumping ground has been created by the Health Department of the New Delhi Municipal Committee nearby the same area towards the Ridge thus again making the locality unhealthy;
- (d) whether it is a fact that on account of all these nuisances the area is full of flies and other germs which adversely affect the health of the residents;
- (e) how much amount has been spent by the Health Department during the last five years to improve the area and how it was spent; and
- (f) whether Government propose to see that the locality does not now remain neglected any longer and more attention is paid to improve it?

Sir Girja Shankar Bajpai: (a) No. On the contrary, the area is reported to be in good condition.

(b) There is some waste ground close to these quarters and it is probable that it is used by certain members of the public for the purpose mentioned by the Honourable Member.

(c) The quarters may have been exposed to some discomfort when the old dumping ground was in use, but now that dumping ground has been closed and no new one has been opened.

(d) No.

(e) As no separate accounts are kept for each area it is regretted that the required information is not available.

(f) In view of the answer to part (a), this does not arise.

FLOOD PROTECTION SCHEME.

1639. *Mr. K. S. Gupta: (a) Will the Secretary for Education, Health and Lands please state if Government are aware of the fact that two retired Chief Engineers of Irrigation, Madras Government, were invited by the Ministry of Agriculture and Lands, Ceylon, to submit a report on various flood protection schemes in the Island of Ceylon?

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

(b) Is there an All-India Flood Protection Scheme contemplated by the Government of India to alleviate the sufferings of millions of Indians by the annual devastation of floods in several parts of India?

(c) If not, why not?

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

(c) The subject of 'flood control' is a responsibility of the Provinces.

STATISTICS re UNEMPLOYMENT OF EDUCATED PERSONS IN INDIA.

1640. *Mr. K. S. Gupta: (a) Will the Honourable the Labour Member please state whether there are any statistics with the Government of India with regard to the educated unemployed in India? If so, would Government place them on the table?

(b) Is there any scheme with the Government of India to reduce the damaging effects of unemployment of the intelligentsia on the social structure of the country?

(c) Are the Provincial Governments consulted in the matter of formulating a scheme?

(d) If so, what are the suggestions of the various Provincial Governments?

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

(b) to (d). I would refer the Honourable Member to the answer given to Mr. Mohan Lal Saksona's starred question No. 355 of the 7th September, 1937.

INTERPELLATION IN THE HOUSE OF COMMONS re CONTROL OF POLICY OF CONGRESS GOVERNMENTS BY THE WORKING COMMITTEE.

1641. *Mr. K. S. Gupta: Has the attention of the Honourable the Leader of the House been drawn to the recent interpellation in the House of Commons, in which it was suggested that the control of policy of Congress Governments by the working committee is a Government parallel to the Government of India?

The Honourable Sir Nripendra Sircar: This question and question No. 1642 should have been addressed to the Honourable the Home Member.

CENSORSHIP OF CORRESPONDENCE OF AGENCIES AND NEWSPAPERS OF BRITISH INDIA IN THE UNITED KINGDOM.

1642. *Mr. K. S. Gupta: Will the Honourable the Leader of the House please state whether it is a fact that the correspondence of reputable agencies and newspapers of British India is not allowed uncensored into the United Kingdom? If so, why?

STRENGTH OF STAFF AND EXPENDITURE OF THE DELHI IMPROVEMENT TRUST.

1643. *Mr. K. S. Gupta: (a) Will the Secretary for Education, Health and Lands please state separately the strength of each Branch of the office of the Delhi Improvement Trust as it stood on the 1st November.

+ For answer to this question, see answer to question No. 1642.

1938, together with the pay and deputation or other allowances drawn by each one and the proportion which the Superintendents or Supervisory staff bears to the clerical and other establishment?

(b) Have Government or the Delhi Improvement Trust considered the desirability of bringing down the expenditure either by reducing or replacing the supervisory staff with equally efficient but less expensive men? If not, why not?

Sir Girja Shankar Bajpai: I have asked for information and will furnish it to the House when I receive it.

LEVY OF AN IMPORT DUTY ON WHEAT.

1644. *Sardar Mangal Singh: Will the Honourable the Commerce Member please state:

- (a) whether Government have now finished their consideration of the question of the imposition of wheat import duty; and
- (b) what their decision is?

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

(b) Does not arise.

Sardar Mangal Singh: May I ask when Government hope to finish their consideration? The Government of India have been considering this matter for the last six months.

The Honourable Sir Muhammad Zafrullah Khan: I have already replied to this question this morning.

Sardar Mangal Singh: What is the difficulty before the Government of India when all parts of the House have agreed that the wheat import duty should be re-imposed?

The Honourable Sir Muhammad Zafrullah Khan: The difficulty is that the matter has to be considered on the merits and not merely on opinion.

Prof. N. G. Ranga: May I ask if Government have got the necessary powers to take emergency action and re-impose this particular duty without having to come to this House before they actually do so?

The Honourable Sir Muhammad Zafrullah Khan: Legislation would be necessary.

Seth Govind Das: Is the present fall of prices not a sufficient indication for Government to decide the question on the merits?

(No answer.)

Seth Haji Sir Abdoola Hamrovi: Are Government aware that up till now 175,000 tons of wheat has already been sold in Bombay, Karachi and Calcutta and yet Government do not want to consider this question immediately?

The Honourable Sir Muhammad Zafrullah Khan: Government are aware of the import of wheat, although I am not able to accept the quantity mentioned by the Honourable Member and they are considering the question.

Prof. N. G. Ranga: In view of the fact that the Honourable Member himself has said that the previous legislation is necessary for the re-imposition of this particular duty, does it not follow that before the Assembly meets again for the next Session it will not be possible for Government to acquire the necessary protection for the people even if they were to finish their consideration on this matter?

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member has put an argument to me.

Seth Govind Das: Is it not a fact that by the time the next Session of the Assembly meets, it would be time for the next harvest of the wheat to be ready?

The Honourable Sir Muhammad Zafrullah Khan: We will be getting very much nearer to the next harvest.

MURDER OF MR. N. G. MAJUMDAR OF THE ARCHAEOLOGICAL DEPARTMENT.

1645. ***Mr. Brojendra Narayan Chaudhury:** Will the Secretary for Education, Health and Lands please state:

- (a) whether he will make a short statement as to where, how and under what circumstances Mr. N. G. Majumdar of the Archaeological Survey was killed;
- (b) whether his party was supplied with protective measures in men and arms; if so, what;
- (c) whether additional and sufficient protective measures are intended to be supplied to such parties; if so, what;
- (d) whether Government intend to give the family of the late officer handsome monetary compensation;
- (e) the qualifications of the murdered officer and his position in his profession;
- (f) whether Government have considered the advisability of insuring at Government cost such officers who work for the Government at considerable risk of life; and
- (g) whether Government intend to express their estimation of the work of the deceased officer in any other shape?

Sir Girja Shankar Bajpai: (a) Government deeply regret that Mr. Majumdar, Superintendent of Archaeology, who was touring in Sind with a small party for the purpose of surveying pre-historic sites was shot dead by a body of armed men who attacked his camp on the morning of the 11th November, 1938, at Nai Gaj in Dadu District.

(b) Archaeological exploration in Sind had been carried on before with complete safety without the need for resort to special protective measures. Mr. Majumdar's party, therefore, was not accompanied by any guard.

(c) The question is under consideration.

(d) The matter will be carefully considered.

(e) and (g). As stated in the special notification published in the Government of India Gazette dated the 26th of this month, Mr. Majumdar was an officer of exceptional ability and promise. He was a Master of Arts, a Fellow of the Royal Asiatic Society of Bengal, and Superintendent, Archaeological Section, Indian Museum and Special Officer for Exploration. By his death, which the Government of India deeply regret, Archaeology in India has lost a worker of great merit.

(f) No.

Mr. Lalchand Navalrai: May I know what arrangements the Government of India had before to prevent such accidents and may I also know whether the Government of India have done now anything in the matter of protection so that no more accidents of this kind may recur?

Sir Girja Shankar Bajpai: I was going to remind my Honourable friend of the answer which I have already given to the first part of the question, namely, that there has been no accident in Sind before and the need for protective measures had not been felt. Now that this accident has occurred, the question is being examined.

Mr. Lalchand Navalrai: Is not the Honourable Member aware that there have been several such incidents and occurrences before also on the border and they were brought to the notice of Government in this very House and nothing was done?

Sir Girja Shankar Bajpai: So far as archæology is concerned, this matter has not been brought to the notice of this House before.

Mr. Lalchand Navalrai: If the archæological officers have not been killed, other persons have been killed and there have been many dacoities. May I know what was done by Government in those cases?

(No answer.)

Mr. Badri Dutt Pande: Was it only Mr. Majumdar who was killed or was there any subordinate officer or some menial servant who was also killed?

Sir Girja Shankar Bajpai: No, Sir. Mr. Majumdar alone of this party was killed; another member of the Party was injured.

Mr. Brojendra Narayan Chaudhury: With regard to the answer to part (f), may I know whether the emoluments ordinarily attached to such officers cover the risk of life of these officers also?

Sir Girja Shankar Bajpai: Ordinarily, there is no such exceptional risk to life attending upon the duties of an archæological officer, and that is why I have stated that in this particular case, because a risk had materialised, the question as to whether any compensation should be paid will be examined.

Mr. Brojendra Narayan Chaudhury: Have not the archaeological officers got to go to the out of the way places near the border which are not very safe and do they not thereby incur a risk which the officers in other Departments do not?

Sir Girdja Shankar Bajpai: I have already explained to the House that this is the first incident of its kind in the history of the Archaeological Survey.

Prof. N. G. Ranga: Are any special steps being taken to see that the regular Police afford necessary protection to these people whenever they have to visit out of the way places?

Sir Girdja Shankar Bajpai: That is the point which has been taken up by the Government of Sind already.

WANT OF COMMERCIAL INSTITUTIONS IN INDIA.

1645. *Mian Ghulam Kadir Muhammad Shahban: Will the Honourable Member for Commerce be pleased to state:

- (a) if it is a fact that there is no Government institution for imparting practical commercial education to Indian youths anywhere in India;
- (b) if it is a fact that competitive examinations are held in Delhi every year in Civil, Military, Public Works and Railway Accounts, for admission to the Imperial Service;
- (c) if he is aware that, owing to the want of any Government commercial institution in India, Indian youths have to go abroad for such training at a tremendous cost, which can only be met by very rich people; and
- (d) if so, whether Government are prepared to consider the desirability of starting commercial institutions for imparting training to Indian youths in accounts, banking, etc., in every Province in India, including Sind, particularly in every important cosmopolitan and mercantile port, especially Karachi?

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

(b) Competitive examinations for recruitment to certain Audit and Accounts Services are held in Delhi from time to time.

(c) No.

(d) Does not arise.

REPRESENTATION FROM THE SOUTH AFRICAN INDIAN CONGRESS, DURBAN, RE COMMERCIAL ACTIVITIES OF EUROPEANS.

1647. *Seth Govind Das: Will the Secretary for Education, Health and Lands be pleased to state:

- (a) whether he has received a representation from the South African Indian Congress, Durban, with regard to the activities in matters of commerce by European commercial interests, creeping in the propaganda of "colour bar";

- (b) whether he has taken any action in the matter; and
 (c) if so, what those actions are; if not, his reason therefor?

Sir Girdja Shankar Bajpai: (a)–(c). No such representation has been addressed to Government. Government's attention has been drawn to a letter published in the *Indian Views* of 9th September purporting to have been addressed by the Honorary Secretaries of the South African Indian Congress to the Honourable Member. The Agent General in South Africa has been asked to submit a report on the allegations of commercial discrimination made in that letter.

REFUSAL TO SUPPLY PETROL TO INDIAN DEALERS IN SOUTH AFRICA.

1648. *Seth Govind Das: Will the Secretary for Education, Health and Lands please state:

- (a) whether he is aware that the South African Motor Traders' Association have refused the supply of petrol to even the old established Indian dealers on the grounds that they are not exclusively motor service stations;
 (b) whether he is aware that there is a move on the part of the European commercial interests in South Africa to eliminate Indians from this line of commerce;
 (c) whether he is aware that in the rural district towns, petrol service stations have been carried on for years with general dealers business by Indian traders; and
 (d) whether he has had any correspondence from the Agent General in South Africa on the matter, and the action taken by him thereon?

Sir Girdja Shankar Bajpai: (a), (b), (c) and (d). Some time ago an agreement was entered into between the Motor Traders' Association and the Petrol Companies of South Africa for the removal of petrol pumps from hotels, general stores, and so on, where other facilities for motorists were not available, and to secure an adequate return to garages with repair services. In pursuance of this agreement a large number of pumps were removed in various places throughout the Union. Many Indian general dealers kept petrol pumps, but no other facilities for motorists. They were, therefore, affected by the agreement. The Agent General's Secretary saw the Manager of the Atlantic Petroleum Company and was assured that there was no racial discrimination in the Company's policy. The matter was also brought to the notice of the Department of the Union Government concerned and in two cases the restoration of pumps was insisted on by the Department. In matters of this kind, the Honourable Member can rest assured that the Agent General in the Union will do any thing that lies in his power to prevent inequality of treatment as between Europeans and Indians.

Seth Govind Das: Is it a fact that on account of the agreement which
 12 Noon. was made it was mostly Indians who were affected?

Sir Girdja Shankar Bajpai: I gather that it so happened not because there was a desire to discriminate racially but because Indians were the only people who ran petrol pumps along with general stores.

(b) WRITTEN ANSWERS.

SAFEGUARDING OF THE INTERESTS OF INDIANS IN RHODESIA.

1649. *Seth Govind Das: Will the Secretary for Education, Health and Lands please state:

- (a) whether he is aware that the Chairman of the Royal Commission to enquire into closer relations or association of Southern and Northern Rhodesia and Nyasaland, refused to allow the representatives of Indians in Africa to give oral evidence and to place the views and requirements of the Indian community of Northern Rhodesia before the Commission;
- (b) whether his attention has been drawn to the statements submitted by the South African Indian National Congress on behalf of the Indian community of Northern Rhodesia to the Commission;
- (c) whether he has represented this case to His Majesty's Government to protect the interests of Indians in Rhodesia and offer them similar facilities as have been extended to other nationalities, including British;
- (d) whether he has had any communication, in reply, from His Majesty's Government and whether any action has been taken in the matter to safeguard Indian interests in Rhodesia; and
- (e) whether he has had any representations to seek redress from Government in this matter of the Indian element not included in the personnel of the Commission?

Sir Girja Shankar Bajpai: (a) Government have seen a press report to the effect that two Indians who went from the Union of South Africa to give evidence before the Royal Commission on behalf of the Indian community in Northern Rhodesia were refused the necessary permission.

(b) No.

(c) to (e). The attention of the Honourable Member is invited to the reply given by me on the 6th September, 1938, to Mr. C. N. Muthuranga Mudaliar's starred question No. 771 and the supplementaries arising out of it.

RACE PREJUDICE AGAINST INDIANS ON CERTAIN SHIPS.

1650. *Seth Govind Das: Will the Secretary for Education, Health and Lands please state:

- (a) whether he is aware that steamship lines, such as Italian Line, the DeutscheOost-Afrika Line, and the Holland Africa Line, refuse Indians first and second class passages on their ships to England, to Cape Ports and to the East African ports;
- (b) whether he is aware of a large number of cases of tourist class passages to Indians being refused;
- (c) whether he is aware that the British India Steam Navigation Company and the Bullard King Boats refuse first class passages for India to Indians;

- (d) whether he has taken any action against actions of race prejudice and intolerance by Europeans to Indians calculated to insult Indians and hurt their sentiment and interest; and
- (e) if so, what those actions are; if none, his reasons for not doing so?

The Honourable Sir Muhammad Zafrullah Khan: Enquiries are being made and a reply will be laid on the table in due course.

FAMINE CONDITIONS PREVAILING IN THE DELHI PROVINCE.

1651. *Prof. N. G. Ranga: Will the Secretary for Education, Health and Lands be pleased to state:

- (a) if it is a fact that famine conditions prevail in parts of Delhi Province and if so, in which portions, and what is the number of population affected and the percentage of the area thus famine ridden;
- (b) what are the main causes for this famine; since when rains have failed and what crops have been spoiled owing to this drought;
- (c) whether any test works or relief works have been opened and, if so, where and since when;
- (d) how many peasants and workers are engaged at these test or relief works; what wages are paid to them;
- (e) so far, how much money has been spent on such relief;
- (f) whether the land revenue has been remitted and, if so, what portion of it and in which parts, and what is the total sum so far remitted;
- (g) whether any land revenue or other tax is being collected in the affected area;
- (h) whether any voluntary Famine Relief Committee has been started; if so, what has been the co-operation offered by the Government to it; and
- (i) what steps are taken to provide free grazing facilities in the local forests, or provide cheaper fodder for local cattle?

Sir Girja Shankar Bajpai: I have referred the Honourable Member's question to the Local Administration with a request for any information that may now be available in addition to what I conveyed to the House in reply to Mr. Badri Dutt Pande's question No. 1381 and connected supplementaries on the 22nd of this month. At present I am unable to supplement what I said then.

CONVENING OF AN ALL-INDIA FODDER AND GRAZING FACILITIES CONFERENCE AT DELHI.

1652. *Prof. N. G. Ranga: Will the Secretary for Education, Health and Lands be pleased to state:

- (a) if it is a fact that an All-India Fodder and Grazing Facilities Conference is being convened at Delhi and, if so, when;

- (b) what is its agenda;
- (c) whether the advisability of abolishing all grazing fees for forest grazing, as had been done by Bombay Government, will be a part of its agenda;
- (d) who are being represented on this conference and how; and
- (e) whether Government propose to consider the advisability of including the representatives of the All-India Kisan Sabha?

Sir Girda Shankar Bajpai: (a) Presumably the Honourable Member is referring to the Central Fodder and Grazing Committee (a sub-committee of the Imperial Council of Agricultural Research) which met in New Delhi on 21st November, 1938.

(b) and (c). A copy of the agenda of the Committee is placed on the table of the House.

(d) It is an expert Committee, which is appointed on the recommendations of the Advisory Board of the Imperial Council of Agricultural Research, composed of members possessing technical and scientific knowledge of the subject. At present all the members are officials of the Central and Provincial Governments.

(e) Considering the nature of the Committee, Government think that the inclusion of representatives of the Kisan Sabha will serve no useful purpose.

Agenda for the Meeting of the Central Fodder and Grazing Committee to be held in November, 1938.

1. Status of the Committee.
2. Confirmation of the minutes of the Fodder and Grazing Committee which met in November, 1937.
3. Report on the action taken on the recommendations of the first meeting of the Committee.
4. Bombay and the United Provinces Fodder and Grazing Schemes—Modifications made by the Governing Body.
5. The possibility of introducing cheap fencing in grazing areas, particularly a suitable live fence.
6. Reports from members of the Central Fodder and Grazing Committee who attended the International Grassland Conference held at Aberystwyth in 1937.
7. New schemes for grassland research :
 - (a) Application from the Government of Madras for a grant of Rs. 10,050 spread over a period of 5 years for the Madras University Scheme of research on proteins of South Indian Grasses.
 - (b) Scheme from the Government of Baroda for the improvement of pasture lands and improvement of cattle breeding in Gujarat and adjoining areas in Rajputana.
8. Consideration of the best method of harvesting and storing grass in heavy rainfall areas, e.g., Assam, Bombay Konkan districts, etc.
9. Reports from Provincial Fodder and Grazing Committees.
10. Notes from Directors of Agriculture, Directors of Veterinary Services and Conservators of Forests (in such Provinces where Provincial Fodder and Grazing Committee has not been set up).
11. The collection of any results obtained by the introduction of controlled and rotational grazing.
12. Simple methods of preventing or reducing erosion in grazing areas.
13. Miscellaneous items.

Central Fodder and Grating Committee Meeting, November, 1938.

Supplementary Agenda.

7(c). Scheme from the Government of Orissa for sand flora experiments on the sea beach at Puri.

HOLDING OF AN ALL-INDIA AGRICULTURAL MARKETING CONFERENCE AT DELHI.

1653. *Prof. N. G. Ranga: Will the Secretary for Education, Health and Lands be pleased to state:

- (a) if it is proposed to hold an All-India Agricultural Marketing Conference at Delhi and, if so, when;
- (b) what is the agenda for it;
- (c) who will be represented at this conference and how;
- (d) whether any representatives of the small holding *hissans* are being invited; and
- (e) whether Government propose to consider the advisability of inviting the All-India Kisan Sabha to send some representatives to this Conference?

Sir Girja Shankar Bajpai: (a) Yes; on the 29th and 30th November, 1938.

(b) I lay a copy on the table.

(c) Provincial Governments, Indian States and the Central Government; mainly by Ministers.

(d) No.

(e) In view of the nature of the agenda, the Government do not consider that this will serve any purpose.

CONFERENCE OF MINISTERS ON AGRICULTURAL MARKETING—1938.

Agenda.

1. Report on:

- (a) work done and results obtained by the Marketing Staffs,
- (b) further work awaiting immediate attention for the development and improvement of marketing.

2. Agencies necessary (Central, Provincial and State) for carrying on marketing work, and relation between the Central Staff and Marketing Staffs in Provinces and States, with special reference to the technical assistance required in future (after December, 1939) from any Central Staff.

3. Steps taken (or to be taken) in various Provinces and States:

- (a) with the object of establishing a closer relationship between local marketing staffs and other departments concerned and with Ministers,
- (b) for the correlation of agricultural production and marketing with a view to the production of the type, quality and quantity required.

4. Any other relevant business.

CONSIDERATION OF THE REPORT OF THE ADULT EDUCATION COMMITTEE.

1654. *Prof. N. G. Ranga: Will the Secretary for Education, Health and Lands be pleased to state:

- (a) if Government have considered the report of the Adult Education Committee set up by the Bombay Government;
- (b) whether this report was placed before the Central Advisory Committee on Education for its consideration;
- (c) if the answer to parts (a) and (b) be in the affirmative, what conclusions they have come on the recommendations of that Committee; and
- (d) what action they propose to take to develop adult education in the centrally administered areas?

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

(c) Does not arise.

(d) The general question of the development of adult education in India is on the agenda of the meeting of the Central Advisory Board of Education to be held on the 3rd December, 1938. The action to be taken in the centrally administered areas will be considered on receipt of the Board's recommendations.

INSTITUTION OF A TEMPERANCE CAMPAIGN FOR THE PROTECTION OF INDIAN LABOURERS IN MALAYA.

1655. *Prof. N. G. Ranga: Will the Secretary for Education, Health and Lands be pleased to state:

- (a) if he is aware that owing to the general habit of drinking prevalent among the plantation and other labour in Malaya, most Indian labourers who are not previously so much addicted to this ruinous habit contract it during their stay in Malaya;
- (b) what revenues the Malayan Government derives from its excise duties;
- (c) whether it has done or proposes to do anything to fight this habit of drinking prevalent among workers; and
- (d) whether Government propose to consider the advisability of pressing on the Delegation of Malayan Government, when they next visit India, the need for bringing about prohibition or at least for instituting a temperance campaign for the protection of Indian labourers in Malaya?

Sir Girja Shankar Bajpai: (a) The Honourable Member's information is probably true of some Indian labourers.

(b) and (c). I would invite the attention of the Honourable Member to the reply I gave on the 6th September, 1938, to Mr. C. N. Muthuranga Mudaliar's starred question No. 770 and the supplementaries that arose therefrom.

(d) Government will consider the possibility of discussing this question with representatives of the Malayan Government.

UNSTARRED QUESTION AND ANSWER.

INSURANCE COMPANIES FAILING TO DEPOSIT SECURITIES.

128. Qazi Muhammad Ahmad Kasmi: Will the Honourable the Commerce Member be pleased to lay a statement on the table regarding Insurance Companies which have failed to deposit with Government in time Government securities required in terms of the Indian Life Assurance Company Act, 1912 (Act VI of 1912), section 4 (1), regarding deposits in respect of their published balance sheet :

(i) for the period ending 31st March, 1937; and

(ii) for the period ending 31st March, 1938?

The Honourable Sir Muhammad Zafrullah Khan: (i) and (ii). The Honourable Member is referred to my reply to question No. 1226, asked by Mr. Badri Dutt Pande on the 14th November, 1938.

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

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume consideration of the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee. The question before the House is:

"That clause 4 of the Bill be omitted."

The Honourable Sir James Grigg (Finance Member): Sir, may I make a statement at the beginning of this business? Sir, in accordance with the arrangement arrived at by the House yesterday, the Party Leaders and myself met yesterday afternoon to discuss the basis of a possible comprehensive compromise, if I may so describe it. Quite definite progress was made and I think the prospects of such an arrangement being arrived at are sufficiently favourable to justify me and I think the Leaders of Parties in suggesting to you and to the House that we should postpone discussion of clauses 4 and 5 for a little longer and proceed this morning with clause 6 and the succeeding clauses. That, I think, is in accordance with the wishes of those who attended the conference yesterday.

Mr. President (The Honourable Sir Abdur Rahim): The Chair takes it that is the general desire of the House. The House will now proceed with the consideration of clause 6. The question is:

"That clause 6 stand part of the Bill."

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadian Urban): Sir, I beg to move:

"That in clause 6 of the Bill, in clause (c) of sub-section (1) of the proposed section 5, the word 'Appellate', occurring in the second line, be omitted."

Sir, the object of this amendment is that I want to do away with the existing system of appeals in regard to income-tax cases and I am also opposed to the system of establishing Appellate Assistant Commissioners

[Dr. P. N. Banerjee.]

for trying such appeals. I desire that there should be a distinction throughout between the executive and judicial functions in income-tax matters. I have given notice of an amendment with regard to clause 2 of this Bill where I suggest that all First appeals should be heard by Income-tax Judges of a certain status. As I had no opportunity of discussing this matter, I shall discuss this matter later on when clause 2 comes up for discussion. But for the present I wish to make it clear that Assistant Income-tax Commissioners should have nothing to do with the trial of appeals. There are two objections with regard to such trials. In the first place, the Court of an Appellate Assistant Commissioner has not the proper judicial atmosphere where an appeal should be heard. Secondly, people have not that amount of confidence in such Assistant Commissioners as would be desirable. It may be said that income-tax questions are of a very intricate nature and appeals relating to such cases should be tried only by persons who have sufficient knowledge of these matters. But this objection can be met by providing that Subordinate Judges or District Judges who would try income-tax cases should have training in income-tax work for a few months. The questions relating to income-tax are not so complex and intricate that Judges who have tried civil and criminal cases will not be able to master them. The vesting of executive and judicial functions in the same department is very anomalous and very undesirable. It may be said that Appellate Assistant Income-tax Commissioners although forming part of the Income-tax Department will be a separate set of officers. That may be true. But they will not have the same amount of independence as Income-tax Judges. In the matter of promotion, in the matter of transfer, and in all matters affecting the prospects of an Appellate Income-tax Commissioner, he will have to depend on the good graces of the Central Board of Revenue. Therefore, I suggest that there should be complete separation between judicial and executive duties in the Income-tax Department. It is with that object I move this amendment.

An Honourable Member: Why not in the land revenue administration also?

Dr. P. N. Banerjee: That ought to be done in all departments. I move.

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

"That in clause 6 of the Bill, in clause (c) of sub-section (1) of the proposed section 5, the word 'Appellate', occurring in the second line, be omitted."

The Honourable Sir James Grigg: Sir, I am sorry that I cannot accept this amendment. The Honourable Member is not satisfied. I understand, with the arrangements which were produced by the Select Committee for the super-imposition on the present appellate machinery of a Tribunal as soon as the arrangements for that can reasonably be made. There is an amendment down on the Supplementary List No. 3, page 12, which carries that out. The Honourable Member wants to destroy the present machinery before anything new is set up in its place. That, of course, means a complete break down of the machinery altogether. On that ground any immediate introduction of an alternative machinery is impossible. But,

Sir, even if you leave out of account the question of time, there is another objection. If you have the ordinary judicial appeal machinery it will be necessary to have some means of sifting out a large number of appeals on questions of fact inside the department itself. Otherwise, the whole machine will be clogged and the machinery will break down. For these reasons I ask the House to reject this amendment.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I have an amendment in my name, No. 185, which is akin to this question, but is only more specific, that is that the Appellate Assistant Commissioner who should decide these cases should be a District Judge or First Class Sub-Judge. But as the very principle on which this is being asked by me is involved in this amendment, I have, therefore, got up to say a few words on this amendment. Under the present system, decisions are given by an Assistant Commissioner who is also the inspecting Assistant Commissioner and is an administrative officer and a man who is directly under the Central Board of Revenue and has to see the interest of the Central Board of Revenue more than that of the public. The demand of the public has been that the appellate portion of the income-tax procedure should be in the hands of a judicial officer. The present Bill gives the power of assessment to the same higher Income-tax Officer. In my speech on the consideration motion I submitted that there should be some one with knowledge of income-tax to help the Income-tax Officer; but that is beside the point. My point is that when making of the assessment is with the Income-tax Officer who is an administrative officer, he will naturally see that money comes in; and that is my reply to Mr. Joshi.

Mr. N. M. Joshi (Nominated Non-Official): The Assistant Collectors do it as regards land revenue.

Mr. Lalchand Navalrai: There also we want separation, at least in the appellate side of it. My submission is that the assessment of the Income-tax Officer will be more with an eye to revenue than to the interests of the assesses. Therefore, there should be some safeguard against that and the country has been demanding the separation of judicial from the executive. Here we say that some one who commands the confidence of the public should sit over the Income-tax Officer and give us a judicial, legal and an equitable decision. And I do not see why the Finance Member should say, "Oh, we do not want anything judicial; we want only more money". I submit that the principle is being accepted in this Bill, namely, that the higher appellate authority is going to be a tribunal in which there will be judicial officers and those who are conversant with the income-tax law. Therefore, why not the first appellate authority too? Therefore, a judicial officer should also sit and give a decision in order to see whether the assesses have been rightly assessed or not. We are only asking for what is equitable. My Honourable friends say that the second appellate court will be a judicial tribunal; but there will be very few cases before them. The only cases which will come before them will be those under sections 27 and 81 and no others.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadan Rural): No, no.

Mr. Lalchand Navalrai: That is how I read it.

Mr. Bhulabhai J. Desai: You have not read it correctly.

Mr. Lalchand Navalrai: I have read and re-read it. The words are: "When there is an appeal under sections 28 and 31." That does not include all.

Dr. P. N. Banerjee: That refers to second appeals and not first appeals.

Mr. Lalchand Navalrai: That does not refer to all decisions of the Assistant Commissioner. I am open to correction on this, but it only says that decisions made on certain grounds are open to appeal. The first man is an administrative officer who will have evidence before him. And the second appellate court also may take some evidence. So the case will be decided as in the civil courts. Therefore, from all points of view it is a very important amendment. The country wants separation of judicial and executive and as the tribunal is going to be judicial, the first Assistant Commissioner should also be a judicial man. In my own amendment (No. 185) I have asked for a District Judge, and failing that, an Advocate of the High Court with ten years' practice. After all there will be two men, one an inspecting officer and the other an appellate officer. When there will be two men, why should not the second man be a judicial officer? I, therefore, appeal to all parties in this House that in order to create confidence among the people, this system must be introduced. Sir, I support the amendment.

Mr. Bhulabhai J. Desai: Sir, on this matter I ask leave to make a statement, with reference to the machinery for inquiring into the taxation, once for all for this reason that there is quite a large number of amendments intended to provide some other machinery than the one which was unanimously accepted by the Select Committee, and we, therefore, owe it to the House to explain the reasons and the actual circumstances relating to this matter. I may at once point out to my Honourable friend, Mr. Lalchand Navalrai, that if he will look at clause 30 printed at page 39 in this parallel column book, it will be clear to him that on every single order that is made there is an appeal provided. And, therefore, when you come to the further appeal, it is an order by way of appeal on an order revising the first order. Therefore, a reference to clauses 30 and 31 covers every possible kind of order which can be worth objecting to at all. Therefore, merely because only two sections are mentioned, our friends need not remain under the impression that it is not comprehensive.

Coming next to the substance of the matter, as it is pointed out in supplementary list 8—page 12—there is printed the present proposal with reference to the appellate tribunal. So far as I understand it, my Honourable friend's objection is that in addition to the appellate tribunal in the very first appeal which is provided to the appellate Assistant Commissioner, there ought to be substituted a judicial machinery. The answer to that is short. There are at present, as was reported, some 29,000 appeals. It is, however, clear that if the records are looked up, a large number of them—more than two-thirds or nearly two-thirds of them—are what may roughly be described as haggling appeals: there is hardly any point of law: it is only a question of whether the amount ascertained by the income-tax officer is

correctly ascertained and involves more or less matters of adjustment: and if all these 29,000 appeals were to go immediately to what is called a judicial tribunal, there are two insuperable objections. The first is that if he is solely the first appellate body, he may or may not be qualified with sufficient knowledge of accountancy to be able to deal with it: in other words, a tribunal for the purpose of income-tax would have to consist of a man having judicial qualifications and a man sitting with him who has accountancy qualifications. Therefore, so far as we have been able to see, it would easily clog the machinery if there are to be two tribunals, which is the only possible solution. In other words, the Assistant Commissioner with a judicial officer, and, on that, again, the proposed tribunal. We felt and we were satisfied, so far as we have been able to see, from the facts presented to us that a large number of these appeals—nearly two-thirds of them—really end in a proper adjustment in what you may call give and take manner, and it is only the remaining third which involves difficult questions either of law or of accountancy and which will go before the tribunal. In every matter of this kind, there is the consideration that, if the machinery is not sufficiently elastic, expeditious tax collection would for all practical purposes be rendered so difficult as to make it impossible

Mr. Lalchand Navarai: Will not a judicial officer also go into such adjustments?

Mr. Bhulabhai J. Desai: I am afraid my Honourable friend has missed the point. The answer is this: He may be able to do it, but that one man whom you can think of would not be sufficiently qualified. If you want to have machinery which is simply everlasting, there is no objection. Anyway, that is the answer I can give. (Interruption.) I dare say, my Honourable friend entertains a different opinion. I am only trying to place before him the reasons which appealed to the whole of the Committee which sat for this purpose. I cannot do any more. To continue what I was saying to the House, the only point is that he really wants to intervene between the mixed tribunal of law and facts, a tribunal of what you may call purely a judicial officer. The result of it would be that what we hope to obtain, a sort of rough clearing house leaving only questions of law and fact to be tried by the tribunal, that machinery does not and would not exist and, in fact, would break down. Then the one-third in which there are important questions of law and fact left would come before the tribunal: there would be a man of judicial qualifications as well as accountancy qualifications, and I may also remind the House that that is not what you may call the final decision. The Bill seeks to preserve unimpaired the reference to the High Court in section 62 and the following sections

An Honourable Member: And, of course, the appeal to the Privy Council.

Mr. Bhulabhai J. Desai: Yes. Therefore, for any reasonably dissatisfied assessee the machinery which is provided is fairly convenient and expeditious and every amendment that now seeks to substitute some other machinery I would oppose.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Sir, it appears to me that the amendment of Dr. Banerjee is not self-contained.

[Syed Ghulam Bhik Nairang.]

All that he requires us to do is to omit the word "appellate" from sub-section (1) of clause (c) of the proposed section 5. Suppose we do so, then how will the clause read? It will read:

"There shall be the following classes of Income-tax authorities for the purposes of this Act, namely,—

(a) the Central Board of Revenue,

(b) Commissioners of Income-tax,

(c) Assistant Commissioners of Income-tax who may be either Assistant Commissioners of Income-tax or Inspecting Assistant Commissioners of Income-tax."

To my mind, it will make the clause meaningless, and, therefore, with this brief remark I would say that we oppose the amendment.

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

"That in clause 6 of the Bill, in clause (c) of sub-section (1) of the proposed section 5, the word 'Appellate', occurring in the second line, be omitted."

The motion was negatived.

Mr. Lalchand Navarai: Sir, I beg to move:

"That in clause 6 of the Bill, in sub-section (2) of the proposed section 5, all the words occurring after the words 'specified in the order of appointment' be omitted."

Sub-section (2) says:

"The Central Government may appoint a Commissioner of Income-tax for any area specified in the order of appointment, and may appoint Commissioners of Income-tax, not more than three in all, each to discharge, without reference to area, and to the exclusion of any Commissioner appointed for any area, the functions of a Commissioner in respect of any cases or classes of cases assigned to him by the Central Board of Revenue."

According to this section power is given to the Central Government to appoint Commissioners of Income-tax. At present or as it would be hereafter, there will be commissioners appointed for particular areas—just as Commissioner for Calcutta, Bombay and so forth. But at present the idea is to create more Commissioners and the House should understand that if this amendment is not accepted you are going to have more Commissioners than those who have been created for the areas. Now, power is being given to Government to create two or three Commissioners, so that we are empowering the Government to create more and more appointments . . .

The Honourable Sir James Grigg: Only three more.

Mr. Lalchand Navarai: Even three more appointments will be too much, because when you have imported one man from England, we have spent so much, though that Chief Commissioner appears to be a very good gentleman of very good nature, and if we can have such people gifted with greater knowledge and experience than Indians, that might perhaps be an excuse for creating more appointments, but here that is not the question. The question here is if you want to spend more and more money on more and more higher appointments, and at the bottom to reduce some posts and a few subordinates, while increasing the number at the top. Sir, I am very sorry to say again that I am in a very difficult position, because the Bill itself did not want these additional Commissioners. It is the Select Committee which has incorporated this clause, and I do not know what I

should say to the Select Committee on this question. The very members of the Select Committee used to cry hoarse in the House on the top heavy administration of the Government and not to have any more so-called experts from abroad,—I am not referring to the expert here—and yet the Select Committee Members thought it best to embody this particular clause. Sir, we have seen in practice that the same Commissioner of an area can do additional work in addition to his duties. I will give an instance. When these men are put on special duty, they have their able assistants who are also sufficiently senior men and who draw a little less than the Commissioner himself, and the Commissioner's work can be attended to by his senior or other Assistant Commissioner of the area and the special work can be done by the Commissioner himself. For instance, when the Income-tax Bill and was being framed the Inquiry Committee was going on, Khan Bahadur Vachcha, Commissioner for Bombay, was brought here on special duty. He remained in the Government of India and did the special work, in addition to his own duties, while Mr. Merchant, who was his senior Assistant, was doing Mr. Vachcha's work on the spot. Where is the necessity, therefore, of increasing the expenditure? Why is income-tax being increased? It seems first of all, to meet the high salaries. I would, therefore, appeal to the Members of the Select Committee, who are present here, to think over this matter once again because they themselves are otherwise giving a handle to Government to increase officers at the top and thus increase the expenditure.

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

"That in clause 6 of the Bill, in sub-section (2) of the proposed section 5, all the words occurring after the words 'specified in the order of appointment' be omitted."

Mr. M. S. Aney (Berar: Non-Muhammadan): Sir, I only want to make a few observations with a view to eliciting some information . . .

The Honourable Sir James Grigg: I was about to give it.

Mr. M. S. Aney: After hearing the Honourable Member, I shall speak, if necessary.

The Honourable Sir James Grigg: Sir, the Honourable Member from Sind is, as usual, barking up the wrong tree. The object of the alteration made in the clause by the Select Committee was to enable a certain amount of co-ordination work to be done at headquarters, and not in relation to any territorial jurisdiction of the existing Commissioners. It was pointed out by the Select Committee when we were discussing the penalty clauses that the administration of penalties in the various circles or in the areas of the various Commissioners was by no means uniform, and some Income-tax officers imposed very serious penalties and others imposed very lenient ones, and as the penalties were being increased, the Committee felt that some co-ordination was necessary. I, therefore, gave the undertaking to the Committee that the work in relation to penalties should be co-ordinated and to all intents and purposes supervised from headquarters. In order to that, we will require to have a staff, and without overlapping and duplication the simplest way would be to give the headquarters staff the power, in regard to cases or classes of cases and not in regard to particular areas, to do this work. Penalties was the main question on which this arose. The other classes of cases which may be dealt with at headquarters are cases where fraud is suspected. In the United Kingdom administration, that is done

[Sir James Grigg.]

at the headquarters branch. Then in Insurance companies specially complicated cases and classes of cases arise, where technical knowledge and familiarity with the classes of cases is required, and those are done at the headquarters. What we propose to do is no more than that. And here perhaps I may deal with Amendment No. 189 where it is proposed to accept the provision made by the Select Committee, but limited to classes of cases and not individual cases. I hope the House will not insist on that limitation, because in the case of fraud cases as also penalty cases, I suppose in a way they can be described as classes of cases, but they are in fact individual cases. I am very doubtful whether the full benefit of what we intend to do, that is the centralisation of difficult and important work of a specialised character, will be possible unless the wording of the clause is retained as it is. My recollection is,—I am not very certain,—but my recollection is we did discuss it in the Select Committee and came to the conclusion that not only classes of cases, but individual cases ought to be covered by it. Sir, I oppose the amendment.

Mr. M. S. Aney: Sir, I only want some further information on two points. I gathered that it was with a view to consider certain classes of cases and to bring about some kind of co-ordination that the appointment of these three officers is deemed necessary. I am not clear whether these appointments will be made from officers who are already in service at the headquarters or they will be specially recruited from outside for the purpose. Officers who are working at the headquarters can be promoted to that rank and made to work as Additional Commissioners. I am not sure whether this is the idea. But if that is not so, I should like to know whether the Public Service Commission will have any hand in making these appointments.

Then, the second point is, whether the Government is in a position to give an undertaking that under no circumstances non-Indians will be appointed. . . .

The Honourable Sir James Grigg: I cannot possibly give an assurance as the existing income-tax staff is not entirely confined to Indians. If the Honourable Member means if I have got in my breast the idea of another appointment of a special officer from England. . . .

Mr. M. S. Aney: I am not attributing any motives. .

The Honourable Sir James Grigg: I can say that as far as I am concerned, I am near enough to the end of my time in India to desire to have a quiet time for the rest of my life, so far as quiet is consistent with the progress of the present Bill. As regards Public Service Commission, as I say, at the moment I have no idea myself of importing any people outside the income-tax service. The question of Public Service Commission does not arise.

Mr. S. Satyamurti (Madras City: Non-Muhammadian Urban): May I say a word? I quite realise that this amendment will go against the idea of the Select Committee. We did agree unanimously, as our Leader pointed out, to these Special Commissioners being appointed, not more than three in number. I hope that three will be the maximum and will not

become the practical minimum for practical purposes, because there is the danger, with regard to the Government of India, whenever we sanction appointments by legislative enactment, the maximum tends to become the normal figure. I do hope that these three posts will not be filled at once, that only one or two at the utmost will be appointed, according as the exigencies of work demand.

The Honourable Sir James Grigg: The Honourable Member can be perfectly sure that the appointments will not be made in advance of necessity, and, at the moment, I may tell him quite frankly I do not see as many as three being required.

Mr. S. Satyamurti: There is another point to which my Honourable friend referred in amendment No. 189 which I may anticipate. My Leader's recollection and the Honourable the Finance Member's recollection coincide that this matter "of cases" was mentioned and if that is so it is binding upon me, and the House may consider the unanimous decision of the Select Committee. But I am rather anxious that this word "cases" should be interpreted very, very carefully. It is not the object of this amendment to substitute new, all-India Commissioners for discussing and deciding in the normal course of things, individual cases of assesses or assessments. I heard the Honourable the Finance Member say that it is only in special cases of difficulty, of fraud, or of anything else, that the cases will be referred to the Special Commission. Normally, the normal procedure is to apply,—for each assessee to be assessed by the income-tax officer of the area, then go to the Appellate Assistant Commissioner, then to the Tribunal, to the High Court, and then to the Privy Council. In view of the position that this word "cases" seems to have been accepted by the Select Committee, I cannot very well object to it, but I see dangers of the word "cases" being extended, especially as officers who have no other work will tend to clutch at work because, if they cannot get special cases of penalties or of large insurance cases, or of frauds, there will be a temptation in all Government officers to clutch at work which will keep them busy all the year round. I should like the House to have an assurance that these Commissioners will be Special Commissioners entrusted with special kinds of work which the ordinary income-tax officer cannot be expected to deal with adequately or with adequate knowledge and experience, and will be confined to particular classes of cases or of persons. One last point, I want to make. As regards these three appointments, if they are to be confined to the present occupants of the income-tax offices, no question such as my Honourable friend, Mr. Aney, has raised, arises, but if they are to be recruited outside, I think all Honourable Members of this House would desire that, first, they ought to be on the recommendation or at least in consultation with the Public Service Commission, and, secondly, they ought to go to Indians. I do hope that this section will not be used merely to make a permanent addition to the income-tax staff at headquarters.

The Honourable Sir James Grigg: With your permission, Sir, may I say this? The Honourable Member who has just spoken has asked for an assurance that there is no intention of merely picking out individual cases because the Commissioners at headquarters would like to work particular individual cases. Apart from the class of case I have mentioned, the only

[Sir James Grigg.]

kind of cases which I can imagine being centralised is somewhat as follows. Supposing you have a group of companies controlled by the same people who are assessed in different parts of India or whose incomes in various circles are assessed in three or four different areas, it may be desirable to bring together all those assessments under one head so to speak. I do not say that that class of case will be dealt with that way, but outside the class of case, that is the only kind that I can think of. I can assure the Honourable Member that it is not a question merely of making extra staff and of allowing them to grab cases to justify their existence.

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

"That in clause 6 of the Bill, in sub-section (2) of the proposed section 5, all the words occurring after the words 'specified in the order of appointment' be omitted."

The motion was negatived.

Dr. P. N. Banerjee: Sir, I beg to move:

"That in clause 6 of the Bill, in sub-section (2) of the proposed section 5, the words 'cases or' be omitted."

The Honourable the Finance Member has just offered an explanation. He said that individual cases will not be referred, and he mentioned a certain class of cases. If that be so, I do not see what harm will ensue if the words "cases or" are omitted. If the Special Commissioners confine their activities only to certain classes of cases, such as, penalty, fraud, and so forth, why should you not omit the words? The Honourable the Finance Member himself has admitted that there is no necessity for these two words.

The Honourable Sir James Grigg: The Honourable Member misunderstands me. I said that class of case was not wide enough. Kinds of case there will be, but each of the kinds of case would be individual cases.

Dr. P. N. Banerjee: Kinds of case and classes of case—I do not know what distinction there is between these two terms. But if my Honourable friend does not think that individual cases will be taken up, then he may substitute the words "kinds of case" for "classes of case", but we object to individual cases being taken up by these Special Commissioners, because that will interfere with the ordinary system of income-tax administration in this country.

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

"That in clause 6 of the Bill, in sub-section (2) of the proposed section 5, the words 'cases or' be omitted."

The Honourable Sir James Grigg: I do not want to add anything to my previous remarks.

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

"That in clause 6 of the Bill, in sub-section (2) of the proposed section 5, the words 'cases or' be omitted."

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim): No. 191.*

Maulvi Abdur Rasheed Chaudhury (Assam: Muhammadan): Yes, I move. . . .

The Honourable Sir James Grigg: May I take a point of order on this? This deals with the functions of the Public Service Commission. In so far as the amendment covers cases in which the Public Service Commission operates it is unnecessary, and in so far as it proposes to extend the functions of the Public Service Commission I submit it comes within the damage of section 267 of the Government of India Act. That section runs:

"Subject to the provisions of this section, an Act of the Federal Legislature or the Provincial Legislature may provide for the exercise of additional functions by the Federal Public Service Commission or, as the case may be, by the Provincial Public Service Commission:

Provided that—

- (a) no Bill or amendment for the purposes aforesaid shall be introduced or moved without the previous sanction of the Governor General in his discretion. . . ."

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member says that this is an additional function.

The Honourable Sir James Grigg: There is no doubt that this amendment does confer additional functions.

Mr. President (The Honourable Sir Abdur Rahim): What does the Honourable Member (Maulvi Abdur Rasheed Chaudhury) say?

(There being no answer.)

The Chair declares that this amendment is out of order.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): When the question of previous sanction is raised, it should be referred to the Governor General and the Chair itself has no jurisdiction to decide the matter.

Mr. President (The Honourable Sir Abdur Rahim): Supposing it is absolutely clear. Look at the provisions of 19A:

"If any Member desires to move an amendment which under the Act cannot be moved without the previous sanction of the Governor General, he shall annex to the notice required by the Standing Orders a copy of such sanction and the notice shall not be valid until this requirement is complied with."

It is the duty of the Chair to see that sanction has been obtained. If any difficulty arises, then it is not for the Chair, but for the Governor General to decide.

Mr. S. Satyamurti: This is not an additional function. The Public Service Commission is established for the purpose of advising the Government and recommending to them the persons to be appointed.

*"That in clause 6 of the Bill, in sub-section (3) of the proposed section 5, after the words 'Central Government' the words 'on the recommendation of the Public Service Commission' be inserted."

Mr. President (The Honourable Sir Abdur Rahim): Why does the Honourable Member then want these additional words?

Mr. S. Satyamurti: In order to make the meaning clear. Surely there are words in Statutes, which are surplusage.

Mr. President (The Honourable Sir Abdur Rahim): The amendment seeks to add these words and the Chair holds that the amendment is out of order, because it seeks to add to the functions of the Public Service Commission by legislation and no sanction has been obtained as required by the Act.

Mr. K. Santhanam: Sir, I beg to move:

"That in clause 6 of the Bill, in sub-section (4) of the proposed section 5, for the words 'Commissioner of Income-tax' the words 'Central Board of Revenue' be substituted."

It is provided that all income-tax officers and officers above that grade are to be appointed by the Central Government, while the income-tax inspectors are to be appointed by the Commissioner of Income-tax. There will be many commissioners throughout the country and I do not think that each commissioner should be given discretion to appoint as many income-tax officers as he chooses. It should be regulated by the Central Board of Revenue and I do not see what difficulty there can be in each Commissioner submitting proposals about the number and their salaries to the Central Board of Revenue. Another point is that the Select Committee have provided for the appointment of three special Commissioners of Income-tax and it is not made clear whether they also will have the right of appointing income-tax inspectors. For all these reasons I think that the Central Board of Revenue should be entrusted with these powers. Sir, I move.

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

"That in clause 6 of the Bill, in sub-section (4) of the proposed section 5, for the words 'Commissioner of Income-tax' the words 'Central Board of Revenue' be substituted."

Mr. J. F. Sheehy (Government of India: Nominated Official): Government have no objection to this amendment.

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

"That in clause 6 of the Bill, in sub-section (4) of the proposed section 5, for the words 'Commissioner of Income-tax' the words 'Central Board of Revenue' be substituted."

The motion was adopted.

Mr. K. Santhanam: Sir, I move:

"That in clause 6 of the Bill, in sub-section (4) of the proposed section 5, after the word 'and', occurring in the second line, the words 'the Commissioner of Income-tax' be inserted."

It only means that while the appointments will be made by the Central Board of Revenue, the actual area may be allotted by the Commissioner. This is only for administrative convenience.

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

"That in clause 6 of the Bill, in sub-section (4) of the proposed section 5, after the word 'and', occurring in the second line, the words 'the Commissioner of Income-tax' be inserted."

Mr. J. F. Sheehy: Government have no objection to this amendment.

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

"That in clause 6 of the Bill, in sub-section (4) of the proposed section 5, after the word 'and', occurring in the second line, the words 'the Commissioner of Income-tax' be inserted."

The motion was adopted.

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

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Clause 7 was added to the Bill.

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

"That clause 8 stand part of the Bill."

Dr. P. N. Banerjee: Sir, I move :

"That sub-clause (a) of clause 8 of the Bill be omitted."

This sub-clause (a) reads thus :

"the words 'received by him' shall be omitted."

The object of this clause, which is sought to be introduced, is to tax salaries which are not received but which are only due. The actual words "salaries or wages which are due to him whether paid or not or are paid by or on behalf of". These words did not exist in the Act of 1922. Now, what will be the effect of the introduction of these words? The effect will be that salaried persons will have to pay the tax upon salaries which have not yet been received. Now, this is wholly contrary to the principle of ability to pay. I do not get any salary but I am compelled to pay the tax on an amount which is only due to me. This is exceedingly unfair, and will cause a great deal of hardship on all persons, particularly, poor persons. I, therefore, submit that this House should accept my amendment, and I also appeal to my Honourable friend, the Finance Member, to accept this amendment.

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

"That sub-clause (a) of clause 8 of the Bill be omitted."

Mr. S. P. Chambers (Government of India: Nominated Official): Sir, I oppose this amendment. The object of the proposal in the

1 P.M. Bill I think was made quite clear last week, viz., that if we assess an income only on the basis of the amounts that are actually received, that leaves a loop-hole for evasion, and I also gave an instance. I explained that in one single circle not less than four hundred cases had

[Mr. S. P. Chambers.]

been discovered in that circle and that a considerable amount of tax had been evaded. This proposal would make it possible for these loopholes to remain although we have attempted to stop them. As far as cases of hardship are concerned, an assurance has already been given that where the salary has not been paid, arrangements will be made to hold over the collection of the tax if it can be shown that the assessee, that is, the recipient of the salary, is in difficulties and cannot pay the tax in consequence of the non-payment of salary. There is a further point which relates to some amendments which come on a little later on, particularly amendment No. 220. If the salary is never paid, either because the employer becomes bankrupt or because the employer raises some objection to paying the salary, then we need no specific provision in the Income-tax Act to say that tax is not chargeable on the amount which was originally payable, because, it is already accepted law that income which is payable but becomes not ultimately paid, in any circumstances whatsoever, is not income and cannot be assessed.

Dr. P. N. Banerjee: Where is the accepted law?

Mr. S. P. Chambers: No specific ruling, as far as I am aware, has been given on this point in India but as the law on this subject is identical with the law in the United Kingdom, there are High Court cases in the United Kingdom which would cover the point and probably, if such cases were taken to courts in India, that would be the position

Dr. P. N. Banerjee: But you are changing the wording of the existing law.

Mr. S. P. Chambers: The wording now equals or is equivalent to the wording in the United Kingdom where such rulings have been given.

Mr. M. S. Aney: Sir, I have listened to what my Honourable friend, Mr. Chambers, has said and his point comes to this, that the Finance Department thinks it necessary to provide by a statutory provision against what they imagine to be cases of evasion.

The Honourable Sir James Grigg: Not imagined but what they know to be cases of evasion.

Mr. M. S. Aney: My position is this. I infer that from his own statement. But as regards hardship, he has asked us to remain content with the assurance given by him that those cases will be dealt with leniently. I do not know how that assurance is going to be translated, unless it be by means of certain instructions to be issued later on to the departmental officers concerned when that Act comes into force. That is probably the idea. I think it would be better not to leave things in this rather unsatisfactory manner.

An Honourable Member: You must plug the loop-holes.

Mr. M. S. Aney: That has become a common expression, "plugging the loop-hole"! My suggestion is this. It is admitted that the provision as it is is at any rate likely to prove a hardship in a number of cases where the salaries may not be received and there would be no ground for a suspicion of any evasion of tax, but suppose that that non-receipt is due not to any attempt at evasion of the tax, then such cases ought to be provided for and some remedy to get over that hardship must be directly provided for in the clause itself and not be left to the discretion of the officer. I am, therefore, constrained to say that I am not satisfied with the explanation my Honourable friend has given, because, we are leaving these cases of hardship to mere chance later on, and then in each case of hardship the question will arise whether it is really a case of hardship or it is a matter of evasion, and after the inquiry, if the departmental officer is satisfied that it is a case of hardship and not evasion, then he might think of acting up to the instructions which will be issued later on. That would be an extremely anomalous and undesirable state of things. I, therefore, think the original law as it is is right, that is, salary which is received should be taxed, that is the income that is in my pocket, and income that is merely due to me but which for many reasons cannot be or is not realized on account of some difficulties ought not to be taxed till it is a reality. If it be a case of evasion, that could be separately dealt with, but it is not proper that cases of evasion should be provided for only in this way and that the other cases should be dealt with in any manner. I submit that a tax on salary should really mean a tax on salary received and not merely due. I, therefore, support the amendment which my Honourable friend has moved.

Mr. K. Santhanam: Sir, there are two issues in this amendment, viz., whether the tax should be payable, and from whom the tax should be collected. So far as the payability of the tax is concerned, I do think it should be payable as soon as it is due. But so far as the collection is concerned, if it is deductible by the employer only, the employer should be liable and not the man until the latter has received the money. There are two different issues which have to be dealt with in a different manner. If the employer is liable to deduct the salary and if that is not paid to the employee, then the employee should not pay, but there is no reason why the employer should not be asked to pay. There are later amendments which provide that until the employee has received the pay in his hands he ought not to be called upon to pay the tax. If Honourable Members over there will concentrate on these amendments, that would be better.

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

"That sub-clause (a) of clause 8 of the Bill be omitted."

The motion was negatived.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I move:

"That in sub-clause (c) of clause 8 of the Bill, after the words 'or otherwise', occurring in the sixth line, the words 'in lieu' be inserted."

[Mr. M. Ananthasayanam Ayyangar.]

Sir by the amendment of section 7 even salaries which are due have been made taxable. Before that, only those salaries were taxable which had been received. Even when a man takes a loan or when the payment of his salary has been deferred, that has also been brought in by this amendment. My amendment seeks to avoid an error which has crept in. Sub-clause (c) of clause 8 runs thus:

"and for the purposes of this sub-section advances by way of loan or otherwise of income chargeable under this head shall be deemed to be salary due on the date when the advance is received."

The object of the clause as it stands at present is that if a loan is taken on the income or the salary due, then even the loan will be included in the taxable income on the date when the loan was made. In January, for instance, an employee may take Rs. 10,000 when his annual salary is only Rs. 1,000 in advance for the coming period or he may take as a loan all the salary that may be due to him for the coming years. There is no justification to treat that as the income for that year in the month of January when it is only a loan on his salary. This was no doubt necessary according to the report of the Select Committee which sat over that matter,—but section 7 has been suitably amended in the earlier portion in the cases where no salary is fixed. That has also been brought in the category of salaries under section 7. That is enough. But the other amendment, namely, that even when there is a loan it should be taxed, will give rise to harassment of the assessee. In this connection, I will read an extract from the Income-tax Enquiry Report, page 28, where they say:

"There are other cases, e.g., (a) deferring remuneration of the penultimate year of service and drawing it in the final year when remuneration is less than that for a full year, (b) drawing only part of commission in a year when it is abnormally high and (c) taking loans in lieu of salary."

If it is made to appear that only loans are being given, and the employee escapes taxation because it is only a loan from his employer, to avoid evasions of that kind, section 7 has already been amended in the earlier portion where it is said that any payment in lieu of salary will also be taxed. Therefore, in the later portion where the salary is definitely fixed it is not necessary. Take, for instance, an employee who takes an advance for the purchase of a car which may become due from him after a period of two or three years. That amount should not be treated as his salary which has accrued in that year, otherwise he will have to pay the tax on his salary as well as the advance for the purchase of the car. On the accrual basis his salary is liable to be taxed and there is no harm in taxing the salary which accrues later in the years to come. I want to make it clear by my amendment that loans in lieu of salary ought alone to be taxed because the date has not been fixed.

Mr. President (The Honourable Sir Abdur Rahim): Unless the Honourable Member wants to finish his speech now, he can continue it after lunch.

Mr. M. Ananthasayanam Ayyangar: Sir, I will take a few minutes more to finish my speech.

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

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

Mr. M. Ananthasayanam Ayyangar: Sir, by my amendment two objects will be achieved, firstly the evasion of tax on salaries sought to be concealed by granting of loans will be prevented. Secondly, where salaries can be taxed, and where they are definitely known, loans on salaries will not be taxed. That is the double object of this amendment. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta): Amendment moved:

"That in sub-clause (c) of clause 8 of the Bill, after the words 'or otherwise', occurring in the sixth line, the words 'in lieu' be inserted."

Mr. S. P. Chambers: Sir, I oppose this amendment. I am not quite sure whether this amendment secures what the Honourable Member intends to secure: But all I can say is that where an advance is a genuine advance of salary, it is the intention of the Bill to see that it is taxed. Where there is hardship owing to the advance being very large, so that more than one year's income would otherwise be included in one year's assessment there is a statutory provision in sub-section (2) of section 60 for relief. In other cases, where the advance is not an advance of salary or anything in the nature of salary, then it is clearly not caught by this section. So, I submit that to the extent to which relief is justified that relief is granted by another section and this amendment is therefore unnecessary.

[At this stage, Mr. Deputy President (Mr. Akhil Chandra Datta) vacated the Chair which was then occupied by Mr. Chairman (Mr. S. Satyamurti).]

Mr. K. Santhanam: Sir, I am unable to see what objection the Honourable Member has to this amendment. I understand from his statement that he intends that if somebody takes for motor car advance a sum of Rs. 5,000 on the 1st of January, the tax should be deducted on the 1st January on that advance. I want to know if that is the intention of the Government.

The Honourable Sir James Grigg: The Honourable Member will refer to sub-section (2) of section 60 to which reference has been made.

Mr. K. Santhanam: The Honourable Member forgets that he is introducing the slab system and under the slab system one-twelfth will be taken in the first month. Will the tax on Rs. 5,000 also be deducted in the first month?

The Honourable Sir James Grigg: No, we cannot, because the man cannot be taxed on more than a year's salary in a year under sub-section (2) of section 60.

Mr. K. Santhanam: The Central Government may grant appropriate relief. Why should we allow the Government to tax advance taken on the basis of salary which is taxable as soon as it is due and then allow discretion to grant such relief as it may think fit. What is wrong in taking advance on fixed salaries for definite purposes. I can understand the Honourable Member saying that if you have no salary fixed and if somebody takes advance and tries to evade tax, then it should be collected. When a man has got a definite salary fixed, why should they not tax it when it is due and when it is taken as an advance? Why should they have this complicated provision. I do suggest that my Honourable friend's amendment carries out precisely what he intends. "In lieu of" will mean 'instead of'. When loans are advanced or are issued instead of salary, they can be taxed on the date on which the advances are taken. There is another absurdity if it is income chargeable now. It is already salary by the definition and what is the fun of making it salary again. It is already taxable. Why should you again say it is taxable. Either it is tautology or it is mischievous. In either case the amendment is necessary. I do contend that this amendment carries out precisely the object. I would otherwise ask the Honourable Member to prove how this amendment will not effect an improvement. What will be his interpretation if this amendment is carried? Will it do any harm? I challenge him to say that it will interfere with his purpose. I appeal to the House to accept the amendment.

The Honourable Sir James Grigg: My objection to accepting this amendment is I do not think it does the Honourable Member any good. That is my position. It will not achieve what he wants. What he wants is already achieved under the Act and therefore it is not only unnecessary but useless.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): I want the Honourable the Finance Member or Mr. Chambers to assure me, that if a servant takes a loan on the security of his salary and when the loan is four or five times the amount of the salary, will he be charged to income-tax on the whole loan immediately or will the income-tax be charged on the full amount of the salary as if no loan had been taken and the man will not be charged in one particular year on the full loan? If he assures us of that, that that is provided for in this Bill somewhere, that the man will not be charged on the full amount of the loan, but that he will be charged gradually as if it was his salary, then that meets the case. But if it is not so, then provision must be made that the man cannot be charged on the full amount of loan that is taken.

The Honourable Sir James Grigg: Sir, I have no hesitation in giving the Honourable Member that assurance.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That in sub-clause (c) of clause 8 of the Bill, after the words 'or otherwise', occurring in the sixth line, the words 'in lieu' be inserted."

The Assembly divided :

AYES—45.

Abdul Qaigum, Mr.
 Abdur Rasheed Chaudhury, Maulvi.
 Aney, Mr. M. S.
 Asaf Ali, Mr. M.
 Ayyangar, Mr. M. Ananthasayanam.
 Bajoria, Babu Baijnath.
 Banerjee, Dr. P. N.
 Basu, Mr. R. N.
 Chaudhury, Mr. Brojendra Narayan.
 Chettiar, Mr. T. S. Avimashilingam.
 Chetty, Mr. Sami Vencatachalam.
 Damzen, Mr. P. R.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Desai, Mr. Bhulabhai J.
 Gadgil, Mr. N. V.
 Govind Das, Seth.
 Gupta, Mr. K. S.
 Hans Raj, Raizada.
 Hegde, Sri K. B. Jinaraja.
 Jedhe, Mr. K. M.
 Jogendra Singh, Sardar.
 Kailash Behari Lal, Babu.

Maitra, Pandit Lakshmi Kanta.
 Mangal Singh, Sardar.
 Misra, Pandit Shambhu Dayal.
 Mudaliar, Mr. C. N. Muthuranga.
 Muhammad Ahmad Kazmi, Qazi.
 Paliwal, Pandit Sri Krishna Dutta.
 Pande, Mr. Badri Dutt.
 Parma Nand, Bhai.
 Raghubir Narayan Singh, Choudhri.
 Ramayan Prasad, Mr.
 Ranga, Prof. N. G.
 Rao, Mr. M. Thirumala.
 Sant Singh, Sardar.
 Santhanam, Mr. K.
 Sham Lal, Mr.
 Sheodas, Daga, Seth.
 Singh, Mr. Gauri Shankar.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Satya Narayan.
 Som, Mr. Suryya Kumar.
 Subbarayan, Shrimati K. Radha Bai.
 Subedar, Mr. Manu

NOES—58.

Abdul Hamid, Khan Bahadur Sir.
 Abdullah, Mr. H. M.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Aikman, Mr. A.
 Ayyar, Mr. N. M.
 Azhar Ali, Mr. Muhammad.
 Bajpai, Sir Girja Shankar.
 Bartley, Mr. J.
 Bewoor, Mr. G. V.
 Boyle, Mr. J. D.
 Chambers, Mr. S. P.
 Chanda, Mr. A. K.
 Dalal, Dr. R. D.
 Dalpat Singh, Sardar Bahadur Captain.
 Essak Sait, Mr. H. A. Sathar H.
 Fazl-i-Haq Piracha, Khan Bahadur
 Shaikh.
 Ghiasuddin, Mr. M.
 Ghulam Bhik Nairang, Syed.
 Gorwala, Mr. A. D.
 Greer, Mr. B. B. T.
 Grigg, The Honourable Sir James.
 Hardman, Mr. J. S.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar
 Sir.
 Jehangir, Sir Cowasji.
 Joshi, Mr. N. M.
 Kushalpal Singh, Raja Bahadur.
 Mackcown, Mr. J. A.
 Maxwell, the Honourable Mr. R. M.
 Mehr Shah, Nawab Sahibzada Sir Sayad
 Muhammad.

Menon, Mr. P. A.
 Menon, Mr. P. M.
 Metcalfe, Sir Aubrey.
 Miller, Mr. C. C.
 Mody, Sir H. P.
 Mukerji, Mr. Basanta Kumar.
 Nur Muhammad, Khan Bahadur Shaikh.
 Rahman, Lieut.-Col. M. A.
 Row, Mr. K. Sanjiva.
 Scott, Mr. J. Ramsay.
 Shabban, Mian Ghulam Kadir Muham-
 mad.
 Sheehy, Mr. J. F.
 Sher Muhammad Khan, Captain Sardar
 Sir.
 Siddique Ali Khan, Khan Bahadur
 Nawab.
 Sircar, The Honourable Sir Nripendra.
 Sivaraj, Rao Sahib N.
 Sobha Singh, Sardar Bahadur Sardar.
 Spence, Mr. G. H.
 Stewart, The Honourable Sir Thomas.
 Sukthankar, Mr. Y. N.
 Sundaram, Mr. V. S.
 Talukdar, Mr. J. N.
 Town, Mr. H. S.
 Umar Aly Shah, Mr.
 Yamin Khan, Sir Muhammad.
 Zafar Ali Khan, Maulana.
 Zafrullah Khan, The Honourable Sir
 Muhammad.
 Ziauddin Ahmad, Dr. Sir.

The motion was negatived.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *con* North Arcot: Non-Muhammadan Rural): Sir, I beg to move:

"That to sub-clause (c) of clause 8 of the Bill, the following be added at the end:

'provided that the tax shall not be payable in respect of any sum which the assessee by the conditions of his employment is required to spend out of his remuneration wholly or necessarily in the performance of his duties'."

Sir, on page 29 of the Income-tax Enquiry Report, the experts have recommended that such allowances should be made, they say:

"Our attention has been drawn to the fact that the employee who by the conditions of his employment is required out of his remuneration to incur expenses wholly and necessarily in the performance of his duties, receives no deduction therefor in his Income-tax assessment, and we recommend that provision be made to meet this case."

I do think, Sir, that a specific provision is necessary in the Act for there are people like Insurance Agents who are given lump sum under their conditions of employment and they are asked to keep a motor car. In such a case it is wrong to take the whole sum as salary to that man. And I do think that if this provision is not incorporated, it will work great hardship. Sir, I move.

Mr. Chairman (Mr. S. Satyamurti): Amendment moved:

"That to sub-clause (c) of clause 8 of the Bill, the following be added at the end:

'provided that the tax shall not be payable in respect of any sum which the assessee by the conditions of his employment is required to spend out of his remuneration wholly or necessarily in the performance of his duties'."

Mr. J. F. Sheehy: Sir, if the Honourable Member who moved the amendment is prepared to accept a slight alteration of the wording Government will raise no objection. The alteration that I suggest is that for the words "wholly or necessarily" the words "wholly, necessarily and exclusively" be inserted.

Mr. Bhulabhai J. Desai: What is the force of "exclusively"?

Mr. J. F. Sheehy: That is the wording of the English law.

Mr. T. S. Avinashilingam Chettiar: Sir, I accept it.

Mr. Chairman (Mr. S. Satyamurti): As Mr. Sheehy's amendment is not altogether a verbal one, the Chair has got to take the opinion of the House for Mr. Sheehy being permitted to make that amendment, and for the Chair to incorporate those words in the amendment and put it to the House. Is there any objection to the amendment?

(Cries of "No".)

The question is:

"That to sub-clause (c) of clause 8 of the Bill, the following be added at the end:

'provided that the tax shall not be payable in respect of any sum which the assessee by the conditions of his employment is required to spend out of his remuneration wholly, necessarily and exclusively in the performance of his duties'."

The motion was adopted.

Mr. K. Santhanam: Sir, I beg to move:

"That after sub-clause (c) of clause 8 of the Bill, the following new sub-clause be inserted and the subsequent sub-clauses be re-lettered accordingly:

'(d) after the proviso the following further proviso shall be inserted, namely:

'Provided further that where salary is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction'."

The point is clear. It has already been explained by me and others and I merely move the amendment.

Mr. Chairman (Mr. S. Satyamurti): Amendment moved:

"That after sub-clause (c) of clause 8 of the Bill, the following new sub-clause be inserted and the subsequent sub-clauses be re-lettered accordingly:

'(d) after the proviso the following further proviso shall be inserted, namely:

'Provided further that where salary is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction'."

Mr. J. F. Sheehy: Sir, my answer to this amendment is that it is unnecessary. The amendment deals with cases where the salary has been deducted by the employer. That is dealt with already in section 18(5) of the Act which says:

"Any deduction made in accordance with the provisions of this section shall be treated as payment of income-tax or super-tax on behalf of the person from whose income the deduction is made, and credit shall be given to him therefor in the assessment, if any, made for the following year."

So that there can be no question of taxing him on it again as he is getting credit for it in his assessment.

Dr. P. N. Banerjee: Sir, this amendment seeks to secure in a somewhat roundabout way what I wanted to secure by my amendment in a straightforward manner. However, as the substance of the amendment is the same as that of mine I heartily support it.

Mr. Bhulabhai J. Desai: Sir, the attention of the House has been called to clause 19 but if the House will see it, it becomes all the more necessary that the amendment should be made. The clause to which attention has been called runs as follows:

"In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of section 18, income-tax shall be payable by the assessee direct."

The object of this amendment is that where it is not so deducted unless the assessee receives the salary he should not be called upon personally to pay. Therefore it is a necessary provision and I hope the House will accept it.

An Honourable Member: What about section 18 (5) of the present Act?

Mr. Bhulabhai J. Desai: That does not cover this case. The point is that where in fact it has been deducted there is no question of recovery for a second time. The amendment wants that where in fact it has not been deducted and it therefore becomes payable by the assessee he should not be assessed personally until he has received his pay without any such deduction.

Syed Ghulam Bhik Nairang: Will "deductible" include both what is actually deducted and what is only liable to be deducted?

Mr. Bhulabhai J. Desai: The point is that the person who ought to have deducted should have deducted in the first instance. Secondly, it provides for the case where having failed to deduct he gives the whole of the salary. In such a case the assessee should pay. It is only where he does not pay, that the assessee unless he has received his salary without deduction should not be called upon to pay personally. I submit that it is a correct point.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That after sub-clause (c) of clause 8 of the Bill, the following new sub-clause be inserted and the subsequent sub-clauses be re-lettered accordingly:

'(d) after the proviso the following further proviso shall be inserted, namely:

'Provided further that where salary is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction.'"

The Assembly divided:

AYES—72.

Abdul Ghani, Maulvi Muhammad.
Abdul Qaiyum, Mr.
Abdullah, Mr. H. M.
Abdur Rasheed Chaudhury, Maulvi.
Aikman, Mr. A.
Aney, Mr. M. S.
Asaf Ali, Mr. M.
Ayyangar, Mr. M. Ananthasayanam.
Azhar Ali, Mr. Muhammad.
Bajoria, Babu Baijnath.
Banerjee, Dr. P. N.
Basu, Mr. R. N.
Bhagchand Sani, Rai Bahadur Seth.
Bhutto, Mr. Nabi Baksh Illahi Baksh.
Boyle, Mr. J. D.
Chaudhury, Mr. Brojendra Narayan.
Chettiar, Mr. T. S. Avinashilingam.
Chetty, Mr. Sami Vencatachelam.
Chunder, Mr. N. C.
Damzen, Mr. P. R.
Das, Mr. B.
Das Pandit Nilakantha.
Desai, Mr. Bhulabhai J.
Deshmukh, Mr. Govind V.
Easak Sait, Mr. H. A. Sathar H.
Gadgil, Mr. N. V.
Ghiasuddin, Mr. M.
Ghulam Bhik Nairang, Syed.
Govind Das, Seth.
Greer, Mr. B. R. T.
Gupta, Mr. K. S.
Hans Raj, Raizada.
Hogde, Sri K. B. Jinaraja.
James, Mr. F. E.
Jedhe, Mr. K. M.
Jehangir, Sir Cowasji.
Jogendra Singh, Sirdar.

Kailash Behari Lal, Babu.
Lalchand Nayalrai, Mr.
Maitra, Pandit Lakshmi Kanta.
Mangal Singh, Sardar.
Mehar Shah, Nawab Sahibzada Sir Sayad Muhammad.
Miller, Mr. C. C.
Misra, Pandit Slambhu Dayal.
Mody, Sir H. P.
Mudaliar, Mr. C. N. Muthuranga.
Muhammad Ahmad Kazmi, Qazi.
Murtaza Sahib Bahadur, Maulvi Syed.
Paliwal, Pandit Sri Krishna Dutta.
Pande, Mr. Badri Dutt.
Parma Nand, Bhai.
Raghbir Narayan Singh, Choudhri.
Ramayan Prasad, Mr.
Rao, Mr. M. Thirumala.
Saksena, Mr. Mohan Lal.
Sant Singh, Sardar.
Santhanam, Mr. K.
Scott, Mr. J. Ramsay.
Sham Lal, Mr.
Sheodass Daga, Seth.
Siddique Ali Khan, Khan Bahadur Nawab.
Singh, Mr. Gauri Shankar.
Singh, Mr. Ram Narayan.
Sinha, Mr. Satya Narayan.
Som, Mr. Suryya Kumar.
Subbarayan, Shrimati K. Radha Bai.
Sunder, Mr. Manu.
Town, Mr. H. S.
Umar Ali Shah, Mr.
Yamin Khan, Sir Muhammad.
Zafar Ali Khan, Maulana.
Ziauddin Ahmad, Dr. Sir.

NOES—32.

Abdul Hamid, Khan Bahadur Sir.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Ayyar, Mr. N. M.
 Bajpai, Sir Girja Shankar.
 Bartley, Mr. J.
 Bewoor, Mr. G. V.
 Chambers, Mr. S. P.
 Chanda, Mr. A. K.
 Dalal, Dr. R. D.
 Dalpat Singh, Sardar Bahadur Captain.
 Gorwala, Mr. A. D.
 Grigg, The Honourable Sir James.
 Hardman, Mr. J. S.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Mackeown, Mr. J. A.
 Maxwell, The Honourable Mr. R. M.

Menon, Mr. P. A.
 Menon, Mr. P. M.
 Metcalfe, Sir Aubrey.
 Mukerji, Mr. Basanta Kumar.
 Nur-Muhammad Khan Bahadur Shaikh.
 Rahman, Lieut.-Col. M. A.
 Row, Mr. K. Sanjiva.
 Sheehy, Mr. J. F.
 Sher Muhammad Khan, Captain Sardar Sir.
 Sircar, The Honourable Sir Nripendra.
 Sobha Singh, Sardar Bahadur Sardar.
 Spence, Mr. G. H.
 Stewart, The Honourable Sir Thomas.
 Sukthankar, Mr. Y. N.
 Sundaram, Mr. V. S.
 Talukdar, Mr. J. N.

The motion was adopted.

Dr. P. N. Banerjee: Sir, I beg to move:

"That in sub-clause (d) of clause 8 of the Bill, in the proposed *Explanation 2*, the words 'due to or', occurring in the first line, be omitted."

The absurdity of the Government's proposal and the eminently fair character of my amendment will be at once evident as soon as you look at the words of the clause, which are:

"A payment due to or received by an assessee from an employer, etc., etc., is a profit received in lieu of salary, etc."

So a payment due is a profit received. Now, what is due may not be received, but here, for the purposes of this clause, it is to be regarded as received. As the Honourable the Law Member on one occasion put it, what is black is to be regarded as white. As the House only a few minutes ago accepted a proposal of a similar character made by me and my Honourable friend, I hope the House will accept this amendment also.

Mr. Chairman (Mr. S. Satyamurti): Amendment moved:

"That in sub-clause (d) of clause 8 of the Bill, in the proposed *Explanation 2*, the words 'due to or', occurring in the first line, be omitted."

Mr. S. P. Chambers: Sir, I oppose this amendment for reasons similar to my opposition to an earlier amendment of a similar kind. If we delete the words "due to or", then under this explanation, if an employer allows a large sum to an employee,—and for this purpose we include Directors,—though not actually paid,—then we cannot collect tax on it. There are a large number of cases in which it would be impossible for an employee,—and I think in this case it is almost entirely of important employees,—who, after receiving large sums, go back to England or to some other country after retirement, and we would never be able to collect the tax at all. Unless we can collect the tax when it is due, then we should probably be unable to collect it at all. I, therefore, submit that this amendment is undesirable.

Mr. M. S. Aney: Sir, all the arguments which my learned friend has advanced come to this. He imagines cases of persons to whom this amount may be due but who may later on leave this country. It will be impossible

[Mr. M. S. Aney.]

for the Government to trace them later on and recover the tax from them. It seems to be an extreme case which he has cited to justify the provision

Mr. S. P. Chambers: Sir, May I make an explanation? I had not imagined cases, but there are actual cases; and moreover, it is not at some future date that the provisions of this clause will be applied, but at the termination of the employment. It is quite possible that quite a large number of persons will shortly after their retirement leave this country if they are domiciled outside and they go Home when they have finished their time here.

Mr. M. S. Aney: Such a case could have been provided for by means of separate provision bringing in those circumstances under which evasion of that kind becomes possible; but to make it a general rule that an amount due should be taken as a profit will work as a hardship in at least 99 cases where there is no question of evasion of that kind at all. Secondly, in 99 cases, the position will be this. It may be that the amount is due this year; it is not collected or received; next year it may be received, and when it is received, it will be subject to taxation. The only cases which my friend has cited are really of an exceptional nature, and to provide for those cases, specific provision could be introduced somewhere only intended to apply to such cases, and not to apply generally. I, therefore, think, Sir, that the provisions here are of a general nature and will cause greater hardship than the relief expected in cases of the kind to which my learned friend referred if we allow the words "due to or" to remain undeleted. Therefore, I think these words must go.

Sir Gowasji Jehangir: Sir, I would again like to ask a specific question to my Honourable friend, Mr. Chambers. An amount is due and you charge income-tax on it, and then it is not received. What is the relief for the assessee and under what section?

Mr. S. P. Chambers: There is no section of the Act under which relief can be given, but it is a matter of general definition of income. If an amount is due, but it is ultimately irrecoverable, then it is not income, because it has been laid down in the courts in England,—and in this respect the law is substantially the same here,—if the income is not ultimately received, it is not income because income has been defined as what comes in,—if it never comes in, it is not income.

Mr. M. S. Aney: What is likely to come is the question . . .

Mr. Chairman (Mr. S. Satyamurti): No doubt, in a Bill of this kind, there are possibly occasions to put questions, but the Chair cannot allow a conversation to go on. The Honourable Member will complete his speech, and somebody will answer.

Sir Gowasji Jehangir: I thank you, Sir, for allowing Mr. Chambers to answer the question. Suppose the amount is due and is not received for some years. Income-tax will be charged on that amount though the

amount has not been received. Then, is the assessee to get a refund and if it is so, after how many years? Or is he to go without it? The result will be that Government will get the income-tax and they will be enjoying the use of an amount which they are not justified in holding. I can understand that the assessee pays his income-tax, because the amount is due,—then, he does not get it for certain reasons. He has to put himself to the trouble of asking for a refund. Even if the refund is easily obtainable, the man has paid the income-tax out of his pocket, and meanwhile Government utilise that amount. I think there ought to be some provision in the Act, whereby, it must be made quite easy for the assessee to get a refund within a limited time. I therefore think that the provision laid down is rather harsh; and unless those points are answered, these words "due to or" must remain. Notwithstanding the risk of evasion, you cannot do hardship to a large number of people in order to catch a few.

The Honourable Sir James Grigg: Sir, I thought the position had been clearly explained to the Honourable Member in the Select Committee, but if it has not, I am sorry. The position is that, when the salary is due but proves ultimately not to have been paid, then there is no tax due, and, therefore, if tax has been paid, it will have to be refunded. It was made clear, I thought, in the Select Committee, that no demand for that tax would be made in the case of salaries not paid. But if Honourable Members feel that that an administrative assurance is not enough that the tax will not be collected and the assessment will be discharged when it is ultimately proved to be irrecoverable, I am quite agreeable that it should be made clear. But I suggest this is a wrong place to do it, and I undertake to bring forward an amendment in connection with clause 45 which deals with payment of tax in order to cover that point.

Mr. Bhulabhai J. Desai: I will certainly accept that assurance if in the refund section this item is also included.

The Honourable Sir James Grigg: The tax will not be paid. It is not a question of refund; it will not be collected.

Dr. P. N. Banerjee: In view of the assurance that has been given, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. M. Ananthasayanam Ayyangar: I beg to move:

"That in sub-clause (d) of clause 8 of the Bill, in the proposed *Explanation 2*, before the word 'profit', occurring in the seventh line, the following be inserted:
'to the extent it does not consist of contributions by the assessee or interest on such contributions.'"

The object of this amendment is to exempt that portion of the contributions made by an assessee to an unrecognised provident fund. If the contribution is made to a recognised provident fund, both the contributions, the one by the assessee as well as the one by the employer, are exempted from taxation. In Chapter IXA there is section 58F which says:

"An employee shall not be liable to pay income-tax on contributions to his individual account in a recognised provident fund, in so far as the aggregate of such contributions in any year does not exceed one-sixth of his salary in that year or Rs. 6,000 whichever is less."

[Mr. M. Ananthasayanam Ayyangar.]

This specific provision is made to exempt contribution by an assessee and the employer in so far as the fund is a recognised fund. Then, as regards unrecognised funds, the contribution by the assessee is taxed in his hands even though it has not been received by him, the moment it accrues as a salary. If my amendment is not accepted, the contribution will be taxed twice, once as and when that portion of his salary accrues each month or each year, and again, when it accumulates into a fund and the provident fund is paid as a whole. Thus, there will be double taxation of the same contribution. To relieve it I have brought this amendment.

Mr. Chairman (Mr. S. Satyamurti): Amendment moved:

"That in sub-clause (d) of clause 8 of the Bill, in the proposed *Explanation 2*, before the word 'profit', occurring in the seventh line, the following be inserted:

"to the extent it does not consist of contributions by the assessee or interest on such contributions'."

Mr. S. P. Chambers: Sir, I oppose this amendment, and I propose to deal with it very shortly. The Honourable Member says that without this amendment there will be double taxation. On an earlier occasion, I think, I explained that it is not possible, or legal either in this country or elsewhere, to charge the same assessee twice in respect of the same income; any attempt to do that, and any section which purports to do that, is, I think, outside the general charging section of the Income-tax Act. I suggest, therefore, that these words are unnecessary.

Mr. K. Santhanam: If the Honourable Member means that a man cannot be taxed twice on the same income in the same year, I agree with him, but this is income accruing after 20 or 25 years. A man goes on paying month by month, or year by year to an unrecognised provident fund. Because that allowance is not exempt, he pays tax on all the salary, including the sum which he pays to the unrecognised provident fund. This goes on accumulating for a period of 20 or 25 years and then it comes to him in a lump sum. How is the income-tax officer to find out which portion of this accumulated sum should bear the tax and which portion should not? I do not see any provision of the Bill by which he can separate the amount on which he has already paid tax, and the amount which the employer has given as donation. I think that unless this amendment is incorporated the entire amount will be taxed and there will be no means, even if the income-tax officer were willing, by which the two amounts could be separated. Therefore, in order to make it clear that the same amount which has been taxed twenty years ago shall not be taxed again this proviso has been brought in. I, therefore, think that this is necessary, otherwise there is sure to be double taxation in spite of what Mr. Chambers has said.

Syed Ghulam Bhik Nairang: I am again confronted with the same kind of difficulty as I had this morning in understanding the amendment of my Honourable friend, Dr. Banerjee. This amendment seeks to insert before the word "profit" these words, "to the extent it does not consist of contributions by the assessee or interest on such contributions." I am, rather, weak in English composition and cannot understand how by inserting these words after "a" and before "profit" it will make any sense at all. I am afraid, my honourable friend will have to make a slight verbal amendment in order to make it intelligible, and unless we understand how

these words will fit in the line between "a" and "profit" it is really difficult to make up one's mind whether to support the amendment or oppose it.

Mr. Bhulabhai J. Desai: Sir, I will attempt to explain what is intended to be carried out, and I hope my Honourable friend will then see that, bad though the English may be, it does carry out the intention. The whole point is this. The Explanation reads—I will only read the material words:

"A payment due to or received by an assessee from an employer. . . . from a provident or other fund at or in connection with the termination of his employment. . . . is a profit. . . ."

Therefore, the Explanation says, it is profit received in lieu of salary which is now intended to be taxed. What is intended to be taxed is profit in lieu of salary, and the Explanation says that the item to be so received is a payment from a provident fund. A provident fund consists of two parts, one contribution by the employee and one by the employer. Inasmuch as this is not a recognised fund, the employee's contribution would not get exemption as and when he pays it. In other words, to take an illustration, supposing a man gets a fifty rupees salary and he pays Rs. 5 at the end of the year towards this fund. Then, he does not get any exemption over it, because it is not a recognised fund. This Rs. 5 spread over 20 years accumulates to Rs. 100. Then, the employer's contribution also of Rs. 5 accumulates to another Rs. 100. Then, the two together is Rs. 200. On the Rs. 5 that the employee has already paid, he has paid income-tax, because the whole of the Rs. 50 income is taxable. Therefore, what is intended is that the profit which he will get, namely, not the Rs. 100, which he has paid, but the Rs. 100 which is not paid by him should be treated as profit. In the light of this explanation, if my Honourable friend will read it, I do not think there is much difficulty:

"A payment due to or received. . . . from a provident fund. . . . is a profit. . . ."

Syed Ghulam Bhik Nairang: May I suggest that the Honourable Member should read all the words and compose a complete sentence with the amendment in?

Mr. Bhulabhai J. Desai: I am omitting only immaterial words:

"A payment due to or received. . . . from a provident fund is to the extent that it does not consist. . . ."

Syed Ghulam Bhik Nairang: "that" is left out.

Mr. Bhulabhai J. Desai: As I said, I apologise for the English. I am trying to see whether, as it stands, it does not purport to carry out the meaning, namely, that to the extent to which it does not consist of contributions by the assessee it is a profit. The only thing is that this profit is an excess over his own contribution paid by somebody else, because, in so far as he is concerned, he has paid it and I am quite willing to add the words "to which" after the word "extent" to make the meaning clear, so that what you are taxing is what the employer pays and not his own contribution on which he has already paid tax.

Mr. Chairman (Mr. S. Satyamurti): It is not the function of the Chair to give arguments for or against any amendment, but it is the function of the Chair to explain the scope of the amendment. The Chair is anxious,

[Mr. Chairman.]

Therefore, that the House should understand that the amendment, No. 226, which the House is discussing, merely seeks to exempt contributions by the assessee or interest on such contributions to provident funds; and the Chair wants also to point out to the House that at the third reading stage, it is possible for the Government or for others to move formal or consequential amendments to any amendment made now. The Chair is, therefore, anxious that the House should vote on the merits of the amendment, and not on a small omission in the mere wording of it which can be corrected later.

The Leader of the Opposition suggests the addition of the words "to which" after the word "extent", in the amendment. Is there any objection?

(No objection was raised.)

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That in sub-clause (d) of clause 8 of the Bill, in the proposed *Explanation 2*, before the words 'a profit', occurring in the seventh line, the following be inserted:

"to the extent to which it does not consist of contributions by the assessee or interest on such contributions."

The motion was adopted.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Sir, I move:

"That in sub-clause (d) of clause 8 of the Bill, to the proviso to the proposed *Explanation 2*, the words 'or any payment in the nature of a consolidated compensation for death or injuries' be added at the end."

The necessity for adding this proviso is that in the present Act we had an exemption from taxation for the sums of money that were received by a man as damages for injuries or compensation for death. You will find it on page 8 of the comparative list. Under section 4(2)(v), we had under the exemptions any capital sum received in commutation of the whole or a portion of a pension or in the nature of consolidated pension for death or injuries or any payment of any insurance policy or as the accumulated balance at the credit of a subscriber to any such provident fund. Under the present Bill, the whole of this is deleted. My submission is that looking at the nature of the compensation, it cannot be called an income, and, therefore, it should not be rendered liable to income-tax. Therefore, I move this amendment.

Mr. Chairman (Mr. S. Satyamurti): Amendment moved:

"That in sub-clause (d) of clause 8 of the Bill, to the proviso to the proposed *Explanation 2*, the words 'or any payment in the nature of a consolidated compensation for death or injuries' be added at the end."

Mr. J. F. Sheehy: Mr. Kazmi is under a misapprehension when he says that the removal of clause (v) of sub-section (3) of section 4 means that items under that clause become subject to tax. This clause was taken out

because the Privy Council in the Shaw Wallace case said that none of these items were income or could be taxed. The Privy Council in their judgment say:

"Any capital sum received in commutation of the whole or a portion of a pension or in the nature of consolidated compensation for death or injuries or any payment of any insurance policy or is the accumulated balance at the credit of a subscriber to any such provident fund.

Their Lordships do not think that any of these sums, apart from their exemption, can be regarded in any scheme of taxation as 'income' and they think that the clause must be due to the over anxiety of the draftsman to make this clear beyond possibility of doubt."

I submit that we will be stultifying the judgment of the Privy Council if we put these words back into the Act.

Qazi Muhammad Ahmad Kazmi: In view of the explanation, I beg leave of this House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. S. P. Chambers: Sir, I move:

"That in sub-clause (d) of clause 8 of the Bill, to the proviso to the proposed Explanation 2, the following be added:

"or any payment from an approved superannuation fund within the meaning of Chapter IX-B made on the death of a beneficiary or in lieu of or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established."

The object of this is to provide specifically for the exemption of certain payments which, under rules which are being submitted for superannuation funds, would otherwise be regarded as income. It has been already explained that these sums would not be income unless they were specifically made income under these rules. In order to make sure that sums paid are properly dealt with when an employee has only been for a short period with a firm, it is necessary to make further provision that such payments from these superannuation funds which should, in our opinion, be regarded as capital sums, are specifically exempted. Therefore, I move this amendment.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That in sub-clause (d) of clause 8 of the Bill, to the proviso to the proposed Explanation 2, the following be added:

"or any payment from an approved superannuation fund within the meaning of Chapter IX-B made on the death of a beneficiary or in lieu of or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established."

The motion was adopted.

Mr. Chairman (Mr. S. Satyamurti): Certain amendments have been placed in the hands of the Chair—one received at 2-20 p. m. and another set of amendments at 2-23 p. m. Standing Order 49 lays down the procedure. Of course, the Chair has got its discretion to suspend or not suspend that

[Mr. Chairman.]

Standing Order; but, first, the Chair would like to know if all Honourable Members have got copies of the amendment? (*Cries of "No, no."*) Is there any Honourable Member who objects? (*Cries of "Yes, yes."*) Then, the Chair declines to suspend the Standing Order.

The question is:

"That clause 8, as amended, stand part of the Bill."

The motion was adopted.

Clause 8, as amended, was added to the Bill.

Mr. T. S. Avinashilingam Chettiar: Sir, with your permission, I should like to make a small verbal change in amendment No. 233. Instead of the words "given to" I want to substitute the words "made for" and before the word "purpose", I want to insert the word "the". I beg to move:

"That after clause 8 of the Bill, the following new clause be inserted:

'8 A. In section 8 of the said Act, after the first proviso, the following shall be inserted:

'Provided further that while calculating the income of the assessee under this section allowance shall be made for any interest paid on money borrowed for the purpose of investment in the securities by the assessee.'

Mr. Chairman (Mr. S. Satyamurti): The Chair believes these are verbal amendments—there is perhaps no objection? There appears to be none.

Mr. T. S. Avinashilingam Chettiar: It will be clear from the précis of opinions supplied that the Indian Merchants' Chamber, Bombay, the Share-holders' Association, the Incorporated Accounts' Association, Bombay, etc., have recommended that interest paid on money borrowed for the purpose of investment in securities may be allowed to be deducted under section 8 of the Act. This is now allowed as a deduction under executive orders. This allowance will be recognized now by a specific provision in the Act, and I see that the latest volume of the Income-tax Manual on page 206 says that such allowance has been made under executive orders:

"Assessee other than Banks or similar concerns may set off interest on money borrowed specifically for investment in taxable securities or shares, and so invested against their income liable to tax taken as a whole, and not merely against the interest on such securities or the dividends on such shares."

Sir, I do not think it is necessary for me to elaborate the point. This is a point which has been conceded by executive order and by this amendment I seek to incorporate it in the Bill. Sir, I move.

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

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

"That after clause 8 of the Bill, the following new clause be inserted:

'8 A. In section 8 of the said Act, after the first proviso, the following shall be inserted:

'Provided further that while calculating the income of the assessee under this section allowance shall be made for any interest paid on money borrowed for the purpose of investment in the securities by the assessee.'

The Honourable Sir James Grigg: Sir, if it be the wish of the House to pass this new clause, Government have no objection.

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

"That after clause 8 of the Bill, the following new clause be inserted:

'8 A. In section 8 of the said Act, after the first proviso, the following shall be inserted:

'Provided further that while calculating the income of the assessee under this section allowance shall be made for any interest paid on money borrowed for the purpose of investment in the securities by the assessee'."

The motion was adopted.

New clause 8A was added to the Bill.

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

"That clause 9 stand part of the Bill."

Mr. Sham Lal (Ambala Division: Non-Muhammadan): Sir, I move:

"That after part (i) of clause 9 (a) of the Bill, the following new part be inserted, and the subsequent parts be re-lettered accordingly:

'(ii) after clause (iii), the following new clause shall be inserted:

'(iv) the amount of any tax paid to any Municipality, Cantonment Board or any Local Board'."

Sir, the object of the amendment is to exclude from assessment the tax imposed by a Municipality, Local Board or Cantonment recovered by the house-owner from the tenant. This should not be treated as part of the income. In Simla, for instance, the house-owner realizes ten per cent. of the annual rent from the tenant as the house tax and that is paid to the municipality. This should not be treated as income. This is referred to at page 288 of the printed Opinions:

"At various places house tax at different rates is charged by the local bodies. It is a main item of expenditure, sometimes up to ten per cent. as in Simla, but is not allowed to be deducted from the annual letting value of the property. It is a tax which is collected by the house owners like water tax, from their tenants, and paid to the Municipal Committee. The house owners do not in any way stand to gain anything in this respect except unnecessary botheration to them."

Sir, the point is this. If it is convenient to any Local Board or Municipality to make the annual rent as the basis for assessing Municipal or Board tax then it may be convenient but it does not become the income of the house-owner and it should be treated as an item of expenditure. In some cases the house tax may be 20 per cent. or 30 per cent. and to say that it is the income of the house-owner is, I think, quite unreasonable. The position, therefore, is that whatever tax is imposed by any local board, which the house-owner realises from the tenant, should not be treated as income, and the house-owner should pay income-tax only on the actual rent received by him. Sir, I move.

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

"That after part (i) of clause 9 (a) of the Bill, the following new part be inserted, and the subsequent parts be re-lettered accordingly:

'(ii) after clause (iii), the following new clause shall be inserted:

'(iv) the amount of any tax paid to any Municipality, Cantonment Board or any Local Board'."

Shri Rajkesh Bafeta (Marwari Association: Indian Commerce): Sir, I rise to support this amendment. In Calcutta we have to pay 20 per cent. of the rent to the municipality, ten per cent. is payable by the owner and ten per cent. by the occupier. As a matter of fact, in most cases the whole of the 20 per cent. is to be paid by the owner himself as the rent includes the occupier's share of taxes also. We are not allowed that deduction from the income-tax. It is, I think, a great hardship on the property-owners in Calcutta and also in Simla, as my Honourable friend, Mr. Sham Lal, has pointed out. This hardship also exists in many other cities like Bombay and other places. Therefore, I think that this is a just amendment and should be accepted by the House.

Mr. Sami Vencatachalam Chetty (Madras: Indian Commerce): Sir, I rise further to support this amendment. It is not only in respect of the house property tax that a tax is not deductible from the assessable income, but also there is another tax called the professional tax which is almost equivalent to the income-tax levied in certain municipalities. That tax is particularly noticeable in the Madras Presidency. The tax amounts to as much as Rs. 1,500 per year. In addition to this tax, there are also what are called levies for the installation of machinery and various other things. I am not quite sure whether such amounts as are paid either in the name of the tax or in the name of the licence fee for the installation of machinery and other things come under business expenditure or not, but so far as the professional tax is concerned, there cannot be two opinions with regard to the necessity of admitting it as a business expenditure. It is a tax on business and not only that it is a tax on income. I am afraid it is also infringing upon the domain of the Central Government's authority in regard to the levy of income-tax. In any case, there seems to be a very good case for exempting the tax as is complained of by my Honourable friend, Mr. Sham Lal, but more particularly with regard to the professional tax.

Mr. T. S. Avinashilingam Chettiar: Sir, on page 30 of the Income-tax Enquiry Report, the experts have recommended that a certain deduction allowance should be given for local rates. On page 30, they say:

"(d) *Municipal Taxes*.—Representations have been made generally that local rates in respect of property payable by the owner, especially those levied for specific services such as water-supply or conservancy in respect of property, should be deductible in arriving at the annual value."

They further go on to say:

"It is recommended, however, that instructions be given that in computing the annual value of property, allowance should be made for charges borne by the owner, levied specifically in respect of services, e.g., water and conservancy, rendered to the occupier of the property."

If I may say so, services like the water-supply and conservancy are absolutely essential for the property to get an income, for, without these services you cannot utilise the property and without these services the property won't fetch any income. So, I do think that they are legitimate expenses and, therefore, they should be deducted and the experts themselves have recommended that such a deduction should be made. What is recommended to be made by executive action, we want it to be incorporated in the Act itself. Sir, I support the amendment.

Seth Haji Sir Abdulla Hassan (Sind: Muhamnadan Rural): Sir, I beg to support the amendment. The landlords of the Karachi City have been complaining for a long time that they are not allowed whatever they are

paying to the municipality. The income-tax officer allows only one-sixth, including repairs, depreciation and collection charges, whereas in Karachi the landlords are paying at least 15 per cent. taxes to the municipality alone. I think in Calcutta and Bombay they are paying even more. I think it is a very reasonable amendment, and I hope the Honourable the Finance Member will agree to it because this is an expenditure which is compulsorily paid by landlords to the municipality. With these words, I support the amendment.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Itar): Sir, I feel some difficulty in this matter. My friend, Mr. Sham Lal, said that a representation has been made by the house-owners of Simla and he said that it is the custom in Simla that the house-owners charge a house-tax apart from the usual rent of the house from the tenants. This is the first time that I have heard about this house-tax being paid by the tenants although I have also got to deal with a little house property there. Such a tax is never charged from them. Whatever the landlord has to pay to the municipality is never charged from the tenant. No agreement is ever made on that account. If some landlords have made an agreement of that kind that the rent of the house is Rs. 100 and the tax of the municipality is Rs. 10 extra which the tenant has to pay, then that extra amount of Rs. 10 is never added on to the income of the landlord as is done in New Delhi. In New Delhi, agreement is generally entered into that so much rent will be paid to the house-owner and the tenant will also pay so much to the municipality as house-tax. Here, the burden is thrown on the tenant himself. So, the amount never comes into the hands of the house owner, and, therefore, it cannot be added on to his income. Besides, I do not like the wording of the amendment, which says: "the amount of any tax paid to any Municipality, Cantonment Board or any Local Board". This tax will include the conservancy tax, the water-tax, the water meter rent, electric charges, and so on. These things are meant to give service to the tenant, and these are never charged from the owner. These taxes are meant to be paid by the tenant and they are specifically mentioned. I think this is not a justifiable amendment and it cannot be supported on equitable grounds, because if it does not form part of the income of the house owner, it cannot be in any sense included in the income of the house owner if the agreement is properly drafted. If some owners take the whole responsibility upon themselves to include it in their income they have to bear the consequence, and I do not think there is any justification for supporting this amendment.

Mr. S. P. Chambers: Sir, I think the first thing I had better do would be to clear away some obvious misunderstandings. There are three different classes of taxes which have been referred to in various Honourable Members' speeches. First of all, let me deal with profession tax. Now, we are dealing with the assessment of property—property income—and there can be no question, I think, of deducting a tax on professions which are dealt with in a different section altogether from the assessment on the income from property. I take it, therefore, that it is not the wish of Members here to press the amendment which would allow as a deduction, from property income, a tax which is assessed on professions. As the amendment is drafted, it would, in fact, allow such a tax and for that reason alone the amendment, as drafted, in any case would be completely unacceptable. I think, therefore, I will leave the profession tax and hope that the Honourable Member who has moved this

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[Mr. S. P. Chambers.]

amendment does not wish to press it in the form of words in which it has been put down. Then, as regards property taxes, that is to say, taxes imposed by a municipal authority on house property, those taxes again can be divided into two classes: first of all, there is the tax which is imposed and intended to fall ultimately upon the occupier, and secondly, there is the tax which is intended to fall upon the owner. The first type of tax is imposed with the object of paying for specific services rendered—it may be for water, it may be for electricity: there are a number of charges which can be imposed by a municipal authority on property. Where the owner pays—I think this is a very important point and if Members understand this I think they will not press their amendment—where the owner pays taxes, which are taxes intended to fall upon the occupier for specific services rendered to the occupier, then those taxes are already liable as a deduction in arriving at annual value. They are not a deduction from annual value and there is no necessity to make a specific provision to deduct these from annual value because they are deductible in arriving at annual value . . .

An Honourable Member: How?

Mr. S. P. Chambers: The word 'annual value' as far as I remember is not specifically defined in the Income-tax Act, nor is it specifically defined in the corresponding Act in the United Kingdom. But where the same difficulty arose in determining what was annual value in the absence of a specific definition it was laid down in the courts that annual value meant the rent at which the property was worth to be let, taking one year with another, the owner bearing all owner's taxes and the tenant bearing all tenant's taxes and charges; so that if I may use some figures to make myself absolutely clear, if the rent is Rs. 1,000 and the owner pays Rs. 200 taxes which are tenant's taxes the annual value is Rs. 800 and not Rs. 1,000. The Honourable Member referred to page 80 of the Income-tax Enquiry Report and I think, although he read it correctly, he did not draw the correct inferences from it. I beg the indulgence of the House if I read the same sentence again and explain what exactly it means:

"It is recommended, however, that instructions be given that in computing the annual value of property, allowance should be made for charges borne by the owner levied specifically in respect of services, e.g., water and conservancy, rendered to the occupier of the property."

That exactly bears out what I was saying a moment ago, that in arriving at the annual value these and other taxes which should fall upon the occupier but which are paid by the owner are deductible in arriving at the annual value and are not therefore deductible again from the annual value as computed

An Honourable Member: May I ask what about taxes payable by the owner and not by the occupier?

Mr. S. P. Chambers: I am coming to that. I explained that there were two types of taxes paid by the owner, one which was intended ultimately to fall upon the occupier for specific services rendered to the occupier and which was deductible from the rent in arriving at the annual value; and then, there is the second class of tax charged upon property. This second

tax charged upon property is in the nature of an income-tax. When I say income-tax it is intended to be charged upon the owner of the property, not for specific services, but for the general expenditure of the municipality or the province or whatever the authority is. That is in the nature of a tax upon his income and is intended to be borne by him out of his income and it is against the general theory of a tax upon income what we should allow anything which is in the nature of expenditure of income. For that reason we do not allow income-tax in arriving at income upon which we are going to charge income-tax. We regard income-tax as one way which income is allocated and in the same way the tax which falls upon the owner of property and is intended, ultimately, to be borne by him is one way in which his income is allocated and is not a proper deduction from his income. Therefore, I suggest that of these three types of taxes, first of all, the profession tax is quite inappropriate and has nothing to do whatever with this section, secondly, that part which falls upon the occupier is already deductible from the rent in arriving at annual value, and the only remaining class is one which should not be deducted in arriving at the income of the owner of such property. I, therefore, oppose the amendment

Sir Cowasji Jehangir: Is the last one what you call the general tax?

Mr. S. P. Chambers: A general tax borne by the owner or what is called in England, a general rate. It is intended to be a tax charged on the basis of the annual value of the property and to fall upon the owner for the purpose of meeting the general expenditure of the municipality, improvement trust . . .

Sir Cowasji Jehangir: For drains, roads, lighting, etc. Why should that be considered income?

Mr. S. P. Chambers: I do not suggest that that is income any more than expenditure by the Central Government or by the provinces out of income-tax is income. What I do suggest is that in arriving at income no deduction should be made in respect of such taxes because they are the manner in which the State or municipality or local authority, whatever it is called, spends part of the income of the persons within its area and, therefore, it would be quite improper to deduct that tax, just as it is improper to deduct income-tax in arriving at income.

Mr. Bhulabhai J. Desai: Sir, the issue is of some importance, I quite agree. But it should be approached in the correct way. I quite agree that in so far as what are called profession taxes are concerned, that is entirely outside the scope of this section. It deals only with what is called the annual value, or an expression which is more common in the taxing Statutes, the annual letting value. But either of these two expressions is precisely intended to convey the same meaning. Take, for instance, the illustration of the City of Bombay Municipal Act, the provisions of which are to be found *in pari materia* in many other Acts of the same kind. It is true that there are three types of taxes,—there is what is called the general tax, there is the water tax and there is the *halalkore* tax or the conservancy tax. These are the three taxes which are charged by the Bombay Municipality. The question now is whether any of these, if not all, should form the subject of deduction before you

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arrive at the annual letting value. My Honourable friend, Mr. Chambers, pointed out that with regard to this conservancy tax or the water tax if in substance the rent is so ranged or so arranged that for the services which go to each of the tenants it is to be found in the rent itself, it stands on one footing. In other words, if he pays what ought to have been paid by the tenant himself to that extent he ought not to be taxed. But when it comes to the general tax, the question is of paramount importance. It is said that a general tax is not deductible because it has some resemblance, which I fail to see, to the income-tax when you assess a man's income; that is to say, arrive at the income, then in anticipation deduct a tax out of that income in order to assess the taxable amount. That is the argument. But in so far as a general tax in a city like Bombay is concerned, it is a matter of serious consequence, and for this reason. It is true that in that the general tax is reflected or used by the municipality for the purpose of roads and lighting and other amenities. Everybody who understands anything of letting value should know that the greater the amenity the greater the rent. In other words, you have already got a rent which reflects the amenities given. The same premises which fetch Rs. 20 in Karol Bagh, for instance, will fetch Rs. 25 in another place. So the landlord starts as against himself for this assessment with Rs. 25. Now, my Honourable friend argues that this Rs. 25 should not have any deduction whatever on the ground that in order to provide the increased letting value of Rs. 5 he has already to pay a general tax of 17 per cent. as it is under the Bombay Municipal Act. Now, what happens is that he pays on a larger income which is provided by the very tax itself. Now, test it the other way. There are many suburbs of Bombay, for instance, where the amenities are not there. Space for space he gets lesser rent,—apart from the situation. There the landlord will pay, as I said, Rs. 20, because the amenities do not exist. The amenities exist in Bombay. He is asked to pay on Rs. 25 without allowing him to deduct for what produces the amenities and increases the rent. That is the issue. What increases the rent is the fact that the amenities are there, and the amenities are provided by the tax that he pays. In other words, the true issue is whether he has to pay on net income or not, on proper and reasonable net income. I quite agree, speaking for myself at all events, that to the extent to which the *halalkore* or conservancy tax and water tax are in fact part of the rent, it is really paid by the tenant and it stands on a different issue. But to the extent to which the general tax is concerned, it seems to me that that is a primary factor in the enhanced rent on which he is called upon to pay, and, therefore, it would be improper not to allow deduction for the general tax.

The Honourable Sir James Grigg: Sir, this is the first amendment which raises a general question of some importance, and I should like to make an appeal to the House on a general aspect. I leave the question of principle because that has been argued sufficiently, and in spite of the extremely clever disquisition of the Leader of the Opposition it is left in exactly the same state as it was before. I will give another analogy: Suppose I am a taxpayer of this country who carries on an iron and steel business. The iron and steel business is subsidised. Part of the income-tax which goes to pay that subsidy is obtained from me and, therefore, it should be a deduction in arriving at the profits of my business.

It is exactly the same principle. But what I want to get at is a much more general point. This amendment will undoubtedly cost a lot of money. There is no doubt that what it amounts to is making a general concession to property-owners and reducing the amount of tax collected from them, and nothing that you can say is going to alter that fact. It is a general reduction of tax on property-owners and it will cost money. It is impossible to say how much money it will cost but in the amendment as it stands it means that every pie of municipal taxation levied on property-owners shall be a deduction for tax. It must cost a considerable sum of money,—whether it is five lakhs or 15 lakhs I do not know, but I shall not be surprised if it is 10 or 15 lakhs in reduction of receipts.

An Honourable Member: Is it fair?

The Honourable Sir James Grigg: It is not even fair; and if the House is going to use the Bill as a means of giving Christmas presents all round, not only will there be no money left from those clauses where increased taxation is imposed but it will cut into the existing yield of the Act. And in that case what is happening is that the House will destroy the Bill not by making large wounds in it but by a series of small cuts; and I very much hope that the House will agree that a procedure of that sort will as surely ruin the Bill as defeating the Bill on some large question of principle. I appeal to them not to let their hearts run away with their heads and to try and give concessions wherever they are asked for.

Syed Ghulam Bhik Nairang: Sir, it appears to me that it is impossible to support the amendment as it stands. In the light of the speech of my Honourable friend, Mr. Desai, it appears that the wording of the amendment would cover all manner of taxes payable to local bodies, municipalities and district boards, while according to his own classification of taxes it is not intended to cover the *halalkore* tax and the other taxes but only the general tax as the phrase goes in Bombay. That is in his mind. Anyhow taking the classification of taxes as given by him and considering them with the wording of the amendment before this House, it is impossible to support the amendment as it stands. All the same it is perhaps desirable, as far as I am at present able to see, that we should consider for what taxes payable to local bodies exemption can legitimately be given in the assessment of income-tax and what taxes should not be taken into consideration in giving exemption. The matter is of some importance as explained by the Honourable the Finance Member. We cannot afford to allow this amendment wholesale in its present form, but all the same the interests of fairness require that we should get a little more time to consider to what extent and in what form an amendment like this can be allowed at all. I would, therefore, request you, Sir, to take the sense of the House, and if possible to adjourn the discussion of this amendment till tomorrow so that in the meantime we may have a discussion among ourselves and arrive at some workable compromise.

Mr. M. S. Aney: Sir, it would appear that there is some agreement between the Honourable the Finance Member and the Honourable the Leader of the Opposition to the effect that although all taxes from municipalities cannot be taken into account, there are at least some taxes which can be taken into account for the purposes of income-tax. Now,

[Mr. M. S. Aney.]

the amendment, as it stands, is certainly widely worded. Even a professional tax is included in it, but I do not agree with what the Honourable the Leader of the Opposition has said that conservancy taxes and other rates which are paid for the amenities of life, or taxes paid by those who occupy houses, should not be taken into account in assessing the annual letting value of the property. As a matter of fact, there is a specific recommendation made by the Inquiry Committee on that point. From what I have heard from Mr. Chambers, he also agrees that that ought to go towards the deduction of the rent in order to find out the annual letting value. So those kinds of taxes

Mr. S. P. Chambers: I want to make it quite clear that I do not agree that there should be a deduction from the annual letting value, but that the law already provides that it must be deducted in arriving at annual letting value.

Mr. M. S. Aney: It is a difference without a distinction, and I am thankful for the explanation given. If there is a deduction, we are only asking to adhere to the existing practice in that matter. As regards the general tax to which reference has been made, I have failed to understand the objection which the Honourable the Finance Member has raised on that ground except this, that if it is allowed, it is likely to take out a very big slice from the income which he has estimated to get by the passing of this measure. Now, Sir, considerations of that kind ought not to stand in the way of our finding out what is equitable and what is not. If on equitable grounds we think a tax coming under the head general tax can be properly taken into account, the mere fact that it is likely to get a good deal of deduction from the income-tax to be collected ought not to weigh with us so much. Therefore, the suggestion made by Mr. Ghulam Bhik Nairang commends itself to me, that some time should be given to us to enable the Honourable the Leader of the Opposition or Mr. Sham Lal to bring forward a suitable amendment or the Finance Member to make a suitable proposal. So I also suggest that until then the consideration of this matter should be postponed. I support the suggestion made by my Honourable friend, Mr. Ghulam Bhik Nairang.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, there are two different ways in which the municipalities impose a tax. Some municipalities charge a house tax, and I call it an indirect tax; other municipalities do not charge a house tax, but they charge heavily for every article that is taken into the municipal limits. For instance, I have no house and I don't pay a house tax, but I have to pay very heavily for every little article that I take to my place. It ultimately means that those people who live in municipal areas, who are paying indirect taxes, will get some relief. For instance, if a man who lives in Aligarh has no house, there is no direct tax, but he will have to pay an indirect tax, and he will get no relief. So this is also a point which should be considered. In some places there will be relief granted on house properties, while in other places there will be no relief.

Sir Cowasji Jahangir: Sir, I quite agree that this raises a very important point of taxation, and as the Honourable the Finance Member has

pointed out, it is likely to make a "big hole" in the revenues; but there is no reason why we should not discuss it. I quite agree we should not come to a hasty conclusion, and this is the opportunity to discuss it.

The Honourable Sir James Grigg: I never sought to stifle discussion in any way, but if the House decides to make a further X-mas gift, the basket will very soon be empty.

Sir Cowasji Jehangir: That is an argument for saying that if there is an unjust tax, let it continue, don't do justice if there has been an injustice, because, if you rectify every error, you get nothing left. I don't think that is a very good argument. At any rate, let us discuss it on its own merits. I don't suggest for a moment that any "big holes" should be made in the revenues of the Government. In the first place, we are not discussing municipal taxes; we are discussing income-tax. I can understand talking about the annual letting value when we are talking of a municipal tax. The whole point, to my mind, is this. Discussing as we are an income-tax Bill, are we going to tax the gross income of a man from property or his net income from it? That is the main issue. If we are to tax a man's income from property, that is to say, his gross income, then I can understand the Finance Member arguing that municipal taxes should not be deducted out of his income and he ought to pay his income-tax on the actual rent he receives. If he has to pay income-tax on his net income from property, then you must see what is it that the man gets at the end of the year after paying out all sorts of taxes that are leviable on that property. We have been told by Mr. Chambers that an allowance is made by the municipalities in each case when the annual letting value is considered and decided. That is for the purposes of municipal taxes.

Mr. S. P. Chambers: On a personal explanation, Sir, I said that in arriving at the annual letting value for the income-tax assessment made under section 9. I did not say anything regarding the way in which a local authority may determine the annual letting value for their purpose. I say for the purpose of arriving at the annual letting value for the purpose of income-tax.

Sir Cowasji Jehangir: If a man has property which he cannot let.

Mr. S. P. Chambers: He gets a vacancies allowance.

Sir Cowasji Jehangir: He does pay the taxes; he cannot pay an income-tax on an income which he does not receive. Income-tax is charged on what he receives. If there is a landlord and his annual income from property is X, he is charged on that, and then he has got to pay municipal taxes. That is the present position. Now, Sir, whether that position should continue or not is a question of general policy, and I agree that we cannot possibly come to any hasty conclusion in this matter, because, it had not been discussed in the Select Committee. I would deprecate making any radical change straightaway in a House like this without giving the matter very serious consideration. I would be quite prepared to have this matter examined, but we have not the opportunity just now, and unless some method can be found whereby this matter can be examined from all points of view, I don't think it is right for us to come to a

[Sir Cowasji Jehangir.]

hasty conclusion. The discussion has been useful from all points of view. We understood more about it. We realise we are paying more than is due,—I quite realise that,—and there have been complaints over and over again. But I am not one of those, as sometimes, the Honourable the Finance Member makes us out to be, who really try to rob the revenues without justification. I think this little debate will have some use, at any rate, in instructing the Honourable the Finance Member of the mentality of the Opposition, that they are not always out to rob Government revenues but are also here with a sense of responsibility to see that "big holes" are not made in the revenues. When once they make up their mind, I hope this Honourable House will insist upon expressing their opinion and seeing to it that their opinion is accepted by the Government. In this case, at any rate, I trust that we shall not come to a hasty conclusion in this matter, it may be raised again at some future date.

Mr. Bhulabhai J. Desai: May I make a suggestion that this matter may be allowed to stand over?

Mr. President (The Honourable Sir Abdur Rahim): It is difficult in a matter like this, when there are a number of amendments to each clause,—if the Chair allows any particular amendment to stand over because the drafting is not acceptable to the House, then there will be no end to it. Honourable Members can consider it here and discuss it, till some better amendment is moved. The House can discuss it as long as it likes.

Syed Ghulam Bhik Nairang: Allow me to make a suggestion, that the present amendment may be withdrawn and another may be moved later on? There is time yet.

An Honourable Member: Two days' notice is necessary.

The Honourable Sir James Grigg: With your permission, I would like to supplement the remarks which I made just now. The amount of income-tax collected from property, excluding super-tax, in India is of the order of a crore of rupees a year. If you add something to that as super-tax it may be Rs. 130 lakhs. I do not know what the average level of municipal taxation is, but quite obviously, the owner's part of it may be 10 or 15 per cent.

Sir Muhammad Fawaz Khan: One-thirtieth of the letting value.

The Honourable Sir James Grigg: I have heard cases of 20 per cent. mentioned.

Sir Cowasji Jehangir: 22 per cent. in Bombay.

Dr. P. N. Banerjee: 20 per cent. in Calcutta.

The Honourable Sir James Grigg: If you assume that half of that figure—and I am now excluding professional taxes and all the other taxes which

nobody wants to touch—I am dealing now with municipal tax, the general municipal tax alone—if I assume half of this 22 per cent. figure, 11 per cent. is attributable to the owner and 11 per cent. of 180 lakhs is 14 lakhs. And that is the figure of 14 or 15 lakhs of which I gave just now as the amount which would be lost by even a narrower wording of the amendment than the one just before the House, and I suggest to the House that we simply cannot give away 15 lakhs here, 10 lakhs there, 30 lakhs somewhere, without wrecking the Bill.

Mr. K. Santhanam: I am afraid the Honourable Member is making a miscalculation. It is tax on the 15 lakhs and not 15 lakhs is the tax.

The Honourable Sir James Grigg: A crore is the tax, and I submit I am right.

The Honourable Sir Nripendra Sircar (Law Member): I do not want to discuss the question of policy which has been dealt with by my Honourable colleague, but certain statements of fact have been made which do not agree with my own experience, and if I shall give an example. My experience is limited only to the Calcutta Municipality. If I have a house there, and assume that it fetches a rent of Rs. 100 a month. According to the Calcutta municipal law, it is charged, I believe, 21 or 21½ per cent., consolidated rate.

Dr. P. N. Banerjee: 20 per cent.

The Honourable Sir Nripendra Sircar: I believe it is 21, Dr. Banerjee, if you look at your books.

Dr. P. N. Banerjee: 20—I am absolutely certain.

The Honourable Sir Nripendra Sircar: I stand corrected. It is 20, but I think Dr. Banerjee will agree that, although a part of it may be referable to water, even if I do not take any water connection at all, and I get no services in the shape of water being supplied to me, yet I have to pay a consolidated rate of tax which is 20 per cent. On the Rs. 100 which I get as rent I pay Rs. 20 as municipal tax. Out of that, speaking roughly, again subject to correction by Dr. Banerjee,—possibly something in the region of Rs. 9 or 10 is called the owner's share of taxes, and Rs. 10 is the occupier's share of taxes. For the purpose of assessment for income-tax they deduct Rs. 10 which is the occupier's share of taxes in calculating the value, but they do not deduct the Rs. 10 which is paid by the owner. These are the facts.

Mr. Bhulabhai J. Desai: If my Honourable friend will assure me that they do allow by way of deduction what is called the tenant's share of the taxes I am quite willing.

Mr. Sami Vencatachelum Chetty: This is not generally the case. It may be the case in Calcutta, but in Madras there is no such thing as owner's share of the tax or tenant's share of tax. There is only one kind of tax.

An Honourable Member: In Karachi. . . .

Mr. President (The Honourable Sir Abdur Rahim): We do not want information regarding every town.

The Honourable Sir James Grigg: I can certainly give the Leader of the Opposition an assurance that the occupier's share of the tax is deducted in arriving at the annual value. I will go further in order to make it certain that there will be no slip up in individual cases,—I will see that fresh instructions are issued to make that abundantly clear.

Mr. Sham Lal: Sir, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. K. Santhanam: I beg to move:

"That in part (ii) of sub-clause (a) of clause 9 of the Bill, in the proposed clause (iv), after the word 'acquired', occurring in the ninth line, the word and comma 'constructed,' be inserted."

I am only rectifying a slip which I think has occurred in this. Where the property has been acquired, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital is allowed. I am asking also that where property is constructed for the first time it should be allowed. Sir, I move.

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

"That in part (ii) of sub-clause (a) of clause 9 of the Bill, in the proposed clause (iv), after the word 'acquired', occurring in the ninth line, the word and comma 'constructed,' be inserted."

Mr. J. F. Sheehy: Government have no objection to this amendment.

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

"That in part (ii) of sub-clause (a) of clause 9 of the Bill, in the proposed clause (iv), after the word 'acquired', occurring in the ninth line, the word and comma 'constructed,' be inserted."

The motion was adopted.

Qazi Muhammad Ahmad Kazmi: Sir, I move:

"That in part (ii) of sub-clause (a) of clause 9 of the Bill, in the proviso to the proposed clause (iv), for the words 'without British India' the words 'to a person not resident in British India' be substituted."

The object of the proviso is that any interest that is paid to a person who is not residing in British India will not be allowed to be deducted from the income unless tax has been paid or deducted under section 18. But the words are "any payment of interest without British India". The person to whom the tax must be paid must be outside British India and not the mere fact that the tax is to be paid without British India. This provision can easily be evaded. I may just give an example. A person who is living adjacent to an Indian State near Agra advances a loan to a person living in Agra and makes a provision that he will personally take the interest from the debtor at Agra, and he comes to Agra and takes away the interest.

According to the present provision, you will have to allow him that interest, because the interest is payable within British India, though it is paid to a person who is residing outside British India from whom you cannot charge tax. It is for this reason that I have proposed this amendment.

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

"That in part (ii) of sub-clause (a) of clause 9 of the Bill, in the proviso to the proposed clause (iv), for the words 'without British India' the words 'to a person not resident in British India' be substituted."

Mr. S. P. Chambers: I oppose this amendment, although I feel that my Honourable friend and I are in the same position. We want the same results. The difference between us is only a matter of drafting but the words already in the section have this effect, that where the contract is made within British India then tax must be deducted under the provisions of section 18. Now, we want to provide that where tax cannot be deducted then no allowance should be made in arriving at the assessment on the property. A similar provision occurs in sections 10 and 12 as well. If we substitute the words 'to a person not resident in British India' we arrive at very different results. The result at present is that if the contract is made abroad, then the person paying the interest cannot deduct tax, because it will be a good answer in a court of law in the country where the contract was made that the full interest must be paid and that no deduction is allowable in respect of the tax imposed by a foreign country, that is to say, India, and therefore, we say that where the terms of the contract are such or have been arranged to be such that tax cannot be deducted and paid over to Government by the payer in India, then we shall refuse the deduction. The proposed words of the amendment would not have that effect and where the contract was made abroad and the interest, whether it was payable abroad or in British India, was sought to be deducted, we could not refuse that deduction under the amendment proposed. That is why I oppose the amendment.

Qari Muhammad Ahmad Kazmi: Sir, I beg leave of the House to withdraw the amendment.

The amendment was, by leave of the Assembly, withdrawn.

Babu Baijnath Bajoria: Sir, I move:

"That in part (ii) of sub-clause (a) of clause 9 of the Bill, in the proviso to the proposed clause (iv), after the words 'deducted under section 18' the words 'or there is an agent for the payee in British India who may be assessed under section 43' be inserted."

This is on the principle that the payer of interest to a non-resident in British India should be allowed the interest paid to the non-resident if that non-resident has got an agent from whom the interest is charged or any sum accrued to the non-resident is charged. The point I am concerned about is that the person who pays the interest may have this amount disallowed and the agent may also be asked to pay under section 43. Then it will be double payment. If I am under a misapprehension I am prepared to withdraw the amendment, but if I am correct I would ask the House to accept my amendment.

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

"That in part (ii) of sub-clause (a) of clause 9 of the Bill, in the proviso, to the proposed clause (iv), after the words 'deducted under section 18' the words 'or there is an agent for the payee in British India who may be assessed under section 43' be inserted."

Mr. J. F. Sheehy: Government raise no objection to this.

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

"That in part (ii) of sub-clause (a) of clause 9 of the Bill, in the proviso to the proposed clause (iv), after the words 'deducted under section 18' the words 'or there is an agent for the payee in British India who may be assessed under section 43' be inserted."

The motion was adopted.

Dr. P. N. Banerjee: Sir, there is a misprint in my amendment No. 246.—for the word "particularly" there should be substituted the word "partly". Sir, I move:

"That in part (iii) of sub-clause (a) of clause 9 of the Bill, in the proposed clause (vi), after the words 'the property is wholly' the words 'or where the property is let out in parts, partly' be inserted."

There is very little to be said on this matter. The Bill says that an allowance will be granted only when the property is wholly vacant, but that is not fair. The property may be divided into many parts. A house in Calcutta is very often divided into a number of rooms and these rooms are let out separately, and if any part of the house is vacant, then there should be a proportional deduction from the computation of the annual value. That is all I want.

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

"That in part (iii) of sub-clause (a) of clause 9 of the Bill, in the proposed clause (vi), after the words 'the property is wholly' the words 'or where the property is let out in parts, partly' be inserted."

Mr. Manu Subedar (Indian Merchants' Chamber and Bureau: Indian Commerce): Sir, I beg to support this amendment. I did not press one standing in my name because we consider that this amendment is more comprehensive. With regard to the point that the property may be vacant for a period of time, such vacancy is at present under the present income-tax administration recognized, but the wording which was in the original Bill was somewhat misleading so far as property which is let out in sections was concerned. In large urban cities like Bombay there is hardly ever one occupier. The case where the whole property is occupied is the more infrequent case: the general phenomenon is that there is more than one tenant, and it often happens that while one part of the property is being kept continuously occupied, another part may be vacant either for a short period or for a long period. Those of us who have had to deal with income-tax authorities in these matters must confess that we have had considerable difficulty, occasionally with both municipal as well as income-tax authorities, and in order that there may be no doubt so far as such property is concerned, I consider that this amendment is necessary. With regard to the wording, the word "wholly" which we are modifying here was

capable of being applied only to the period of time or it was capable of being applied only to the structure as a whole. What we are now providing specifically is that if the property is vacant for a few months or, in the alternative some portion of the property is vacant, allowance will be made accordingly and for each different section as the case may be.

Sir Muhammad Yamin Khan: Sir, when this amendment was made in Select Committee, exactly this was the idea which has been explained by my Honourable friend, Mr. Manu Subedar. This has been explained, and I do not think that the wording of the section goes against this idea, because the words which are used here are "wholly unoccupied". This does not mean that the whole property is unoccupied, but it means that the property is not in any manner occupied, and whether it is a portion of the property or not, if the property is let out in parts, even that part must not remain in the occupation of the owner,—for instance, he may be going for something like a few weeks leaving his luggage here, and he may then say that this property has been unoccupied. Or he may say, "I have gone out for a week-end and this week-end may be deducted as a vacancy". That was why the word "wholly" was used, but now it appears that the word "wholly" has been greatly misunderstood and I think there may even be difficulty in some cases. For the purpose, then, of making the law in such a manner that it may be properly understood by the income-tax officer, this amendment must be supported and this amendment must remain, and that makes the same point clear which was the real object of the Select Committee.

Mr. Bhulabhai J. Desai: Sir, one is not generally allowed disclosure of what happened in a Select Committee, but as my Honourable friend himself has waived the point, this gift is entirely due to my Honourable friend. The real difficulty is this. Property in the ordinary sense of the term may consist either of one tenement or more than one tenement, and what my Honourable friend probably wanted was that in case any of the tenements is vacant, that is what he wanted to provide for. He wanted to say that if the property is wholly unoccupied, so long as one tenement is occupied, he has got exactly the reverse of what he wants. But I quite agree that in so far as the language of the present amendment is concerned, the words "in parts" is equally unhappy. Supposing a servants' room is unoccupied, what is to happen? What is really intended is where the property is wholly unoccupied by more than one tenement, any such tenement is unoccupied, and that is intended and we will try to do something which really expresses our meaning.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 1st December, 1938.