

7th April 1938

THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume III, 1938

(24th March to 12th April, 1938)

SEVENTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



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Legislative Assembly.

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CONTENTS.

VOLUME III.—24th March to 12th April, 1938.

| | PAGES. | | PAGES. |
|---|-----------|---|-----------|
| THURSDAY, 24TH MARCH, 1938— | | MONDAY, 28TH MARCH, 1938—<i>contd.</i> | |
| Member Sworn | 2093 | Election of a Member to the Governing Body of the Indian Research Fund Association | 2278 |
| Starred Questions and Answers | 2093—2120 | The Prevention of Cruelty to Animals (Amendment) Bill—Introduced | 2278 |
| Messages from the Council of State | 2121 | Demands for Supplementary Grants | 2278—94 |
| The Motor Vehicles Bill—Referred to Select Committee | 2121—68 | The Sugar Industry Protection (Temporary Extension) Bill—Passed | 2294—2312 |
| FRIDAY, 25TH MARCH, 1938— | | The Workmen's Compensation (Amendment) Bill—Amendments made by Council of State agreed to | 2312—13 |
| Starred Questions and Answers | 2169—89 | The Sind Salt Law Amendment Bill—Passed | 2313—16 |
| The Sugar Industry Protection (Temporary Extension) Bill—Introduced | 2189 | The Indian Coffee Cess (Amendment) Bill—Passed | 2316—22 |
| Resolution <i>re</i> Draft Convention and Recommendations of the International Labour Conference <i>re</i> Safety in the Building Industry—Adopted as amended | 2189—2215 | Statement of Business | 2322 |
| Demands for Supplementary Grants | 2215—41 | WEDNESDAY, 30TH MARCH, 1938— | |
| Statement of Business | 2241 | Starred Questions and Answers | 2323—38 |
| MONDAY, 28TH MARCH, 1938— | | Declaration by the Governor General in Council | 2338 |
| Starred Questions and Answers | 2243—61 | Report on the Progress of the Schemes financed from the Grants for Rural Development | 2338—84 |
| Short Notice Question and Answer | 2261 | Election of Members to the Standing Advisory Committee for the Indian Posts and Telegraphs Department | 2385 |
| Unstarred Questions and Answers | 2261—70 | The Delhi Joint Water Board (Amendment) Bill—Introduced | 2385 |
| Statements laid on the Table | 2270—72 | The Indian Tariff (Amendment) Bill—Introduced | 2385 |
| Election of Members to the Standing Finance Committee for Railways | 2273 | | |
| Statement laid on the Table <i>re</i> cases in which the lowest Tenders have not been accepted by the High Commissioner for India | 2273—77 | | |

| | PAGES. |
|--|-----------|
| WEDNESDAY, 30TH MARCH, 1938—<i>contd.</i> | |
| The Child Marriage Restraint (Amendment) Bill—Discussion on the consideration of clauses not concluded . . . | 2386—2435 |
| Statement of Business . . . | 2435 |
| THURSDAY, 31ST MARCH, 1938— | |
| Starred Questions and Answers . . . | 2437—49 |
| Election of Members to the Central Advisory Council for railways . . . | 2450 |
| Election of a Member to the Governing Body of the Indian Research Fund Association . . . | 2450 |
| The Code of Criminal Procedure (Amendment) Bill (Amendment of Section 167)—Circulated . . . | 2450—53 |
| The Durgah Khawaja Saheb (Amendment) Bill—Amendments made by the Council of State agreed to . . . | 2453 |
| The Cutchi Memons Bill—Passed . . . | 2454—58 |
| The Control of Coastal Traffic of India Bill—Re-circulated . . . | 2458—63 |
| The Child Marriage Restraint (Amendment) Bill—Passed . . . | 2463—2506 |
| FRIDAY, 1ST APRIL, 1938— | |
| Starred Questions and Answers . . . | 2507—15 |
| Unstarred Questions and Answers . . . | 2516 |
| Statements laid on the Table . . . | 2516—24 |
| Resolution re— | |
| Establishment of a University at Peshawar—Adopted . . . | 2524—35 |
| Consulting the Legislative Assembly on Trade Agreements—Adopted . . . | 2535—64 |

| | PAGES. |
|---|----------------------|
| FRIDAY, 1ST APRIL, 1938—<i>contd.</i> | |
| Resolution re— <i>contd.</i> | |
| Declaration of Birthdays of Guru Nanak and Guru Govind Singh as Public holidays—Negatived . . . | 2564—68 |
| MONDAY, 4TH APRIL, 1938— | |
| Members Sworn . . . | 2569 |
| Starred Questions and Answers . . . | 2569—83 |
| Unstarred Questions and Answers . . . | 2583—84 |
| Messages from the Council of State . . . | 2584—85 |
| The Indian Income-tax (Amendment) Bill—Introduced . . . | 2585 |
| The Indian Tariff (Amendment) Bill—Passed . . . | 2585—2602 |
| The Delhi Joint Water Board (Amendment) Bill—Motion to consider not moved . . . | 2602 |
| The Prevention of Cruelty to Animals (Amendment) Bill—Circulated . . . | 2603—07, 2608—22. |
| Statement of Business . . . | 2607—08 |
| WEDNESDAY, 6TH APRIL, 1938— | |
| Starred Questions and Answers . . . | 2623—72 |
| Unstarred Questions and Answers . . . | 2672—77 |
| Election of Members to the Standing Advisory Committee for the Indian Posts and Telegraphs Department . . . | 2678 |
| The Trade Disputes (Amendment) Bill—Amendments made by the Council of State agreed to and further amendments made . . . | 2678—84 |
| The Delhi Joint Water Board (Amendment) Bill—Passed as amended . . . | 2684—2704 |

| | PAGES. | | PAGES. |
|---|-----------|--|-----------|
| THURSDAY, 7TH APRIL, 1938— | | MONDAY, 11TH APRIL, 1938—<i>contd.</i> | |
| Member Sworn | 2705 | Draft Conventions and Recommendations adopted by the Twenty-third Session of the International Labour Conference (June 1937) laid on the table | 2897—2930 |
| Starred Questions and Answers | 2705—20 | Motions for Adjournment re— | |
| Short Notice Questions and Answers | 2721—23 | Government of India's Indifference towards renewal of the Salt Import Duties Act—Ruled out of Order | 2930 |
| Unstarred Question and Answer | 2723 | Failure of the Government of India to take proper action on the Report of the cause of the Bihta Railway Accident—Withdrawn | 2930—31 |
| Message from His Excellency the Viceroy and Governor General—Extension of the life of the Legislative Assembly | 2723 | Messages from the Council of State | 2932 |
| The Indian Income-tax (Amendment) Bill—Discussion on the motion to refer to Select Committee and to circulate not concluded | 2724—70 | The Motor Vehicles Bill—Appointment of certain Members to the Select Committee | 2932—33 |
| FRIDAY, 8TH APRIL, 1938— | | The Indian Income-tax (Amendment) Bill—Discussion on the motion to refer to Select Committee not concluded | 2933—76 |
| Starred Questions and Answers | 2771—2800 | TUESDAY, 12TH APRIL, 1938— | |
| Unstarred Questions and Answers | 2805—19 | Starred Questions and Answers | 2977—91 |
| Statements laid on the Table | 2819—29 | Short Notice Questions and Answers | 2991—95 |
| Message from the Council of State | 2829 | Unstarred Questions and Answers | 2995—3000 |
| Resolution re— | | Statements laid on the Table | 3000—30 |
| Appointment of a Retrenchment Committee—Adopted | 2830—67 | The Indian Income-tax (Amendment) Bill—Referred to Select Committee | 3330—79 |
| Appointment of an Enquiry Committee for the Broadcasting Department—Discussion not concluded | 2868—72 | | |
| MONDAY, 11TH APRIL, 1938— | | | |
| Member Sworn | 2873 | | |
| Starred Questions and Answers | 2873—95 | | |
| Unstarred Questions and Answers | 2895—97 | | |

LEGISLATIVE ASSEMBLY.

Thursday, 7th April, 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.

MEMBER SWORN.

Mr. Stanley Paul Chambers, M.L.A. (Government of India: Nominated Official).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

CENTRALISATION OF THE ADMINISTRATION OF CENTRAL EXCISE WORK.

1235. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Finance Member state:

- (a) in pursuance of his answers to starred question No. 862 of this Session, whether the financial effect of the centralisation of the administration of central revenues has been calculated;
- (b) what will be the additional cost of the scheme and what additional income Government expect to get from the reorganisation; and
- (c) what the object of the reorganisation has been?

Mr. A. H. Lloyd: (a) Yes, an approximate estimate of the additional expenditure involved is now available.

(b) The approximate additional cost will be Rs. 1,50,000 in the year 1938-39. It is not possible to form any estimate of the additional revenue that will result from the reorganisation.

(c) The attention of the Honourable Member is invited to the reply given by me to part (f) of Seth Govind Das's question No. 258 on the 15th February, 1938.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government are satisfied that they will get at least the sum spent as expenditure as extra income?

Mr. A. H. Lloyd: We are satisfied that it is necessary to undertake this measure of improving the control over the collection of revenue, and, although no figures are, of course, in the nature of things possible, we believe firmly that we shall more than recover the amount of extra expenditure either by collection of additional revenue or by the prevention or forestalling of the loss of revenue.

Mr. T. S. Avinashilingam Othettiar: May I know if in either way they expect to get an income which will cover the expenditure?

Mr. A. H. Lloyd: That is what I intended to convey in my last reply.

Mr. K. Santhanam: With reference to clause (b), may I know what will be the ultimate cost of this reorganisation?

Mr. A. H. Lloyd: I take it the Honourable Member means on the average cost basis. The scheme is pretty well complete and the cost will go up as salaries rise on the time-scale basis, if that is what the Honourable Member wants.

Mr. K. Santhanam: Yes, that is what I want.

Mr. A. H. Lloyd: Then, if the Honourable Member will kindly give me notice I will give him a reply.

Mr. K. Santhanam: May I know if they have not calculated the ultimate cost before they launched on the scheme?

Mr. A. H. Lloyd: We took into account the fact that the ultimate cost would be certainly greater than the immediate cost.

MOLESTATION OF CIVIL POPULATION BY BRITISH TROOPS.

1286. ***Mr. T. S. Avinashilingam Othettiar:** Will the Defence Secretary state:

- (a) how many cases of molesting by British troops of civil population have come to his knowledge in the course of (i) this financial year and (ii) the last two financial years;
- (b) what steps are taken to keep the British troops within strict discipline; and
- (c) how the miscreants are dealt with when the matters are not tried and punished by courts of law?

Mr. C. M. G. Ogilvie:

| | |
|-------------|----|
| (a) 1934-35 | 51 |
| 1935-36 | 37 |
| 1936-37 | 31 |

(b) Strict discipline is invariably maintained; special measures are adopted from time to time to meet exceptional circumstances—for example, the placing of certain areas out of bounds.

(c) By court-martial or by summary award of Commanding Officer.

Mr. T. S. Avinashilingam Othettiar: May I know whether they get periodical reports of cases of indiscipline from them automatically?

Mr. C. M. G. Ogilvie: Yes, Sir.

Mr. Lalchand Navalrai: With reference to clause (c), were any of them sent up to court to be tried?

Mr. C. M. G. Ogilvie: Yes, certainly.

Mr. Lalchand Navalrai: How many, and with what result?

Mr. C. M. G. Ogilvie: I cannot say off-hand.

Mr. President (The Honourable Sir Abdur Rahim): The question relates to cases which have not been sent to courts.

Mr. T. S. Avinashilingam Chettiar: May I know if these cases have occurred among any particular classes of troops or in particular stations?

Mr. C. M. G. Ogilvie: No, Sir; there is no particular station.

Mr. T. S. Avinashilingam Chettiar: May I know if these cases are confined mainly to British troops or extend to Indian troops also?

Mr. C. M. G. Ogilvie: The question relates only to British troops.

Mr. K. Santhanam: May I know if Government consider that these numbers are normal and inevitable?

Mr. C. M. G. Ogilvie: Government consider that these numbers show that the troops concerned are the best behaved army the world has ever seen.

Mr. Badri Dutt Pande: Has the Muttra case been decided?

Mr. C. M. G. Ogilvie: I cannot say.

Mr. T. S. Avinashilingam Chettiar: When the Honourable Member said that these are the best behaved troops in the world, has he compiled the figures of these cases all over the world?

Mr. C. M. G. Ogilvie: It is a reasonable deduction from the fact that the total number of such cases in which troops are concerned amount to less than 1/15th of 1 per cent of their numbers.

Mr. Lalchand Navalrai: What punishment was awarded to the people who were tried by courts-martial?

Mr. C. M. G. Ogilvie: The punishments varied according to the type of the offence.

Mr. Lalchand Navalrai: Were any acquitted also?

Mr. C. M. G. Ogilvie: Yes, I imagine so.

Mr. Lalchand Navalrai: How many?

Mr. C. M. G. Ogilvie: I cannot say.

REPRESENTATIONS FROM THE INDIAN ARMY SERVICE CORPS CIVILIAN ASSOCIATION.

1287. ***Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh): (a) With reference to the answer given to starred question No. 41 part (b), asked on the 26th January, 1932, by Bhai Parma Nand, will the Defence Secretary be pleased to state how many persons have retired from

R. I. A. S. C. clerical cadre since that reply was given and how many reached the maximum scale of pay fixed for the cadre?

(b) Is it a fact that representations have been made by R. I. A. S. C. Civilian Association to the Government of India on the question of the maximum scale being a bogus one?

(c) What was the result of such representations?

(d) In case no decision has been reached, will Government be pleased to state when they propose to settle the question finally?

(e) Is it a fact that the R. I. A. S. C. Civilian Association, Rawalpindi, submitted one memorial addressed to the Secretary of State for India through the Director, Supply and Transport, Army Headquarters, Simla? If so, when was it received in the office?

(f) Was the same forwarded? If not, what were the reasons for withholding the same?

(g) Was any reply given to the Association? If so, on which date?

Mr. C. M. G. Ogilvie: (a) I am collecting the information and will lay it on the table in due course.

(b) Yes, on two occasions. It is not admitted that the scale of pay laid down for upper division clerks is, as alleged, a bogus one. In this connection, I refer the Honourable Member to the reply to part (b) (i) of starred question No. 41 asked by Bhai Parma Nand on the 26th January, 1932.

(c) One was rejected and the other received recently is still under consideration.

(d) I hope fairly soon.

(e) Yes. It was received at Army Headquarters on the 7th September, 1935.

(f) No, on the grounds that it advanced claims of an unsubstantial character.

(g) Yes, on the 20th January, 1937.

Mr. Lalchand Navalrai: Were any replies given to those representations?

Mr. C. M. G. Ogilvie: Yes, Sir.

Mr. T. S. Avinashilingam Chettiar: May I know when the representations were received?

Mr. C. M. G. Ogilvie: I have already answered that.

Mr. T. S. Avinashilingam Chettiar: Has the date been given?

Mr. C. M. G. Ogilvie: Yes, Sir.

SMOKING IN THE OFFICES IN THE IMPERIAL SECRETARIAT.

1238. ***Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh): Will the Honourable the Home Member please state if any rule exists which prevents smoking in the offices in the Imperial Secretariat? If so, will he lay a copy of that rule on the table of the House? If not, does the Honourable Member know that smoking is becoming a nuisance in such offices and is he prepared to take steps to provide separate smoking rooms for the smokers and thus prevent smoking?

The Honourable Mr. R. M. Maxwell: There is no rule against smoking in the offices. I see no necessity to provide separate smoking rooms.

Mr. Lalchand Navalrai: May I know if in practice they do smoke in offices?

The Honourable Mr. R. M. Maxwell: They do.

Mr. Lalchand Navalrai: Are Government going to take any action or tell them not to do it?

The Honourable Mr. R. M. Maxwell: I understand that it is a very long-standing practice and that no one has hitherto taken any objection to it.

Mr. Lalchand Navalrai: Is there no risk from it?

The Honourable Mr. R. M. Maxwell: I made inquiries on that point also and I found that no fire in the Secretariat has been traced to this cause.

Mr. Lalchand Navalrai: Is the Honourable Member waiting for one?

(No reply was given.)

RECRUITMENT OF A SIKH FOR THE INDIAN CIVIL SERVICE.

1239. ***Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh): (a) Will the Honourable the Home Member be pleased to state if Government intend to take a Sikh in the Indian Civil Service this year?

(b) Is it a fact that no Sikh was taken in the Indian Civil Service last year, in spite of numerous representations made to Government on this point?

(c) Will the Honourable the Home Member be pleased to state the reasons for depriving Sikhs of their rights? Is it a fact that three Christians and one Parsi were taken in the London Indian Civil Service competition this year?

(d) Does the Honourable Member propose to nominate one Sikh this year?

The Honourable Mr. R. M. Maxwell: (a) and (d). Presumably the Honourable Member wishes to know whether the Government of India intend to recommend to the Secretary of State the nomination of a Sikh to the Indian Civil Service this year. The answer is in the negative.

(b) It is a fact that no Sikh was taken into the Indian Civil Service last year. No Sikh was successful in the competitive examinations at Delhi and London and though representations were made that a Sikh should be nominated, Government did not consider that this would be justified.

(c) The Honourable Member is not correct in thinking that the Sikhs have been deprived of any rights. The policy of the Government of India is to limit the nomination of candidates from the minority communities other than Muslims to the figure necessary to secure a recruitment of $8\frac{1}{3}$ per cent. from members of those communities. One Parsi and three Indian Christians succeeded at the last London examination. As this has given the minority communities, other than Muslims, a proportion of vacancies in excess of $8\frac{1}{3}$ per cent., the Government of India would not feel justified in recommending this year to the Secretary of State the nomination of

more candidates belonging to these communities. I may add that the Sikh community has already secured, taking the service as a whole, a larger representation than it can claim on a population basis.

PROPOSAL TO INCREASE THE HOUSE TAX BY THE LAHORE CANTONMENT BOARD.

1240. ***Sardar Mangal Singh:** Will the Defence Secretary please state:

- (a) whether it is a fact that the Lahore Cantonment Board has recently decided by an official majority of only one vote to increase the house tax from six per cent. to nine per cent.;
- (b) whether it is a fact that out of 15 members of the Board present, all the eight nominated members voted for the proposal to increase the house tax and all the seven elected members voted against it;
- (c) whether the joint note presented by all the elected members of the Board has been brought to the notice of the Government of India;
- (d) whether Government are aware that a largely attended public meeting of the tax-payers of the Lahore Cantonment has strongly protested against the increase of the tax;
- (e) whether the attention of Government has been drawn to the assurance given by the Defence Secretary in the matter of levy or increase of tax on the civilian population in the course of his speech on the debate on the Cantonment Amendment Act; and
- (f) whether in view of strong public agitation against the increase of the house tax, Government are prepared to drop the proposal?

Mr. C. M. G. Ogilvie: (a) and (b). Yes. The decision however was to abolish the house scavenging tax of seven per cent. on the annual value of buildings and increase the house tax from six per cent. to nine per cent. Taxes on the annual value of buildings have thus been decreased from 13 per cent. to 9 per cent. resulting in a loss of about Rs. 18,000 per annum to the Board.

(c) Yes.

(d) Government are aware that a meeting was held.

(e) Yes. The incidence of taxation has been lowered in this case.

(f) No.

Mr. Mohan Lal Saksena: How does the tax compare with the house tax in Lahore?

Mr. C. M. G. Ogilvie: I must have notice of that question.

RE-ALLOCATION OF THE LAND INCOME TO THE LAHORE CANTONMENT BOARD.

1241. ***Sardar Mangal Singh:** Will the Defence Secretary please state:

- (a) whether it is a fact that land income has gradually been taken away from the Lahore Cantonment Board;
- (b) the figures of land income from 1925 to 1937;
- (c) whether Government propose to re-allocate this income to the Cantonment Board?

Mr. O. M. G. Ogilvie: (a) Lands outside the bazar area that were under the management of the Cantonment Board have been withdrawn from their management.

(b) A statement of the income from such lands is laid on the table.

(c) The attention of the Honourable Member is invited to the reply given to part (d) of question No. 288 on the 15th February, 1938.

Statement showing the income derived from the lands withdrawn from the management of the Cantonment Board Lahore, for the years 1925—1937.

| Period. | Rent. | Premia. | Other receipts i.e., Licence fee, Grazing, etc. |
|-------------------|--------|---------|---|
| | Rs. | Rs. | Rs. |
| 1925-26 | 41,696 | .. | 475 |
| 1926-27 | 42,139 | .. | 522 |
| 1927-28 | 36,475 | .. | 457 |
| 1928-29 | 35,808 | .. | 707 |
| 1929-30 | 40,457 | 12,448 | 753 |
| 1930-31 | 42,155 | .. | 618 |
| 1931-32 | 38,300 | .. | 987 |
| 1932-33 | 33,636 | 400 | 717 |
| 1933-34 | 36,147 | .. | 702 |
| 1934-35 | 25,475 | .. | 621 |
| 1935-36 | 5,203 | .. | 559 |
| 1936-37 | 5,246 | .. | 572 |

NOTE.—A quarter share of the income under rent and Premia due to Government under rule has been paid.

TAKING AWAY AGRICULTURAL LAND FROM AND DESIRABILITY OF HELP FOR MAINTENANCE OF ROADS TRANSFERRED TO THE LAHORE CANTONMENT BOARD.

1242. ***Sardar Mangal Singh:** Will the Defence Secretary please state:

- whether it is a fact that the Lahore Cantonment Board spent a large amount of money in improving the water supply of the agricultural land in the Cantonment and that the same has been taken away from it without compensation;
- whether it is a fact that the roads maintained from the imperial fund were transferred to the Cantonment after 1925; and,
- whether any help has been given from the imperial fund, or any other fund, for the maintenance of these roads to the Cantonment Board?

Mr. O. M. G. Ogilvie: (a) Yes.

(b) Yes, certain lengths of nine roads.

(c) No.

EXPLOITATION OF THE FORESTS IN THE ANDAMANS.

†1243. ***Mr. Manu Subedar:** (a) Will the Honourable the Home Member please state the method of exploitation of the forests in the Andamans? Is it done by contract system, or by departmental work?

(b) Has there been any change in the system during the last ten years?

†For answer to this question, see answer to question No. 1215 in Debates of the 6th April, 1938.

(c) Was any proposal received by the Chief Commissioner, Andamans, or by Government, to hand over the Government forests to a company for a large number of years?

(d) If the reply to part (c) be in the affirmative, which was this company, what were the terms offered, and what was the result of the negotiation?

LEVY OF INCOME-TAX IN INDIAN STATES.

1244. ***Mr. Manu Subedar:** (a) Will the Honourable the Finance Member state in how many States income-tax is levied and in which cases it is at rates different from those prevailing in British India?

(b) What concession or consideration does an assessee in British India receive in respect of his income in the States, and *vice versa* what concession does an assessee in the States receive in respect of his income in British India?

Mr. A. H. Lloyd: (a) A statement is laid on the table.

(b) The Government of India have entered into double income-tax relief arrangements with a number of Indian States under which an assessee who has paid British Indian income-tax as well as State income-tax on the same part of his income is entitled to a refund of British Indian income-tax on that part of his income at a rate equal to half the State rate of tax provided it does not exceed one-half of the British Indian rate of tax: the other half of the State tax being refunded to the assessee by the State concerned. Income from agriculture arising or accruing in a State in India from land for which any annual payment in money or in kind is made to the State is also exempt when received in British India.

Indian States which have an income-tax.

| | | |
|--|-----------|--|
| 1. Mysore | | Approximating to or actually the same rates as British Indian rates. |
| 2. Patiala | | Ditto ditto. |
| 3. Bahawalpur | | Ditto ditto. |
| 4. Cochin | | Rates different from those prevailing in British India. |
| 5. Kashmir | | Approximating to or actually the same rates as British Indian rates. |
| 6. Baroda | | Rates different from those prevailing in British India. |
| 7. Travancore | | Ditto ditto. |
| 8. Kolhapur | | Ditto ditto. |
| 9. Jind | | Approximating to or actually the same rates as British Indian rates. |
| 10. Kapurthala | | Ditto ditto. |
| 11. Benares | | Ditto ditto. |
| 12. Bastar | | Rates different from those prevailing in British India. |
| 13. Mandi | | Ditto ditto. |
| 14. Chhota Udepur | | Ditto ditto. |
| 15. Sangli | | Ditto ditto. |
| 16. Makrai (Central India) | | Ditto ditto. |
| 17. Sachin (Bombay) | | Ditto ditto. |
| 18. Akalkot (Bombay) | | Ditto ditto. |
| 19. Phaltan (Bombay) | | Ditto ditto. |
| 20. Ramdurg Bombay | | Ditto ditto. |
| 21. Kanker (Eastern States) | | Ditto ditto. |
| 22. Raigarh (Eastern States) | | Approximating to or actually the same rates as British Indian rates. |

| | | | |
|---------------------|---|---|--|
| 23. Jashpur | . | . | Rates different from those prevailing in British India. |
| 24. Sarangarh | . | . | Ditto ditto. |
| 25. Kawardha | . | . | Ditto ditto. |
| 26. Khairagarh | . | . | Approximating to or actually the same rates as British Indian rates. |
| 27. Korea | . | . | Ditto ditto. |
| 28. Nandgaon | . | . | Ditto ditto. |
| 29. Chhuikhadan | . | . | Approximating to or actually the same rates as British Indian rates. |
| 30. Mayurbhanj | . | . | Rates different from those prevailing in British India. |
| 31. Patna | . | . | Approximating to or actually the same rates as British Indian rates. |
| 32. Sonapur | . | . | Rates different from those prevailing in British India. |
| 33. Kalahandi | . | . | Ditto ditto. |
| 34. Rairakhol | . | . | Ditto ditto. |
| 35. Baudh | . | . | Ditto ditto. |
| 36. Baghat (Punjab) | . | . | Approximating to or actually the same rates as British Indian rates. |
| 37. Sakti | . | . | Rates different from those prevailing in British India. |
| 38. Kalsia | . | . | Ditto ditto. |
| 39. Mudhol | . | . | Ditto ditto. |
| 40. Faridkot | . | . | Approximating to or actually the same rates as British Indian rates. |
| 41. Bhopal | . | . | Rates different from those prevailing in British India. |
| 42. Bikaner | . | . | Ditto ditto. |
| 43. Maler Kotla | . | . | Ditto ditto. |
| 44. Loharu | . | . | Ditto ditto. |
| 45. Manipur | . | . | Ditto ditto. |
| 46. Seraikela | . | . | Approximating to or actually the same rates as British Indian rates. |
| 47. Talcher | . | . | Ditto ditto. |
| 48. Gangpur | . | . | Ditto ditto. |
| 49. Jamkhundi | . | . | Rates different from those prevailing in British India. |

Mr. T. S. Avinashilingam Chettiar: May I know what are the States with which Government have come to an agreement over this question?

Mr. A. H. Lloyd: A large number of States. A list of these will be found in the Income-tax Manual, a copy of which is in the Library of the House.

Mr. Sami Venkatachalam Chetty: Have Government entered into similar arrangements with Burma?

Mr. A. H. Lloyd: Yes, Sir.

Mr. Sami Venkatachalam Chetty: May I take it, Sir, that income from agricultural banks in Burma will be exempt from income-tax?

Mr. A. H. Lloyd: I submit, Sir, that this does not arise out of the question, which relates to Indian States.

PROPOSAL TO INCREASE THE POLICE FORCE IN DELHI.

1245. ***Mr. M. Asaf Ali:** (a) Will the Honourable the Home Member please state whether it is a fact that the existing strength of the Police

Force in Delhi is proposed to be increased from 1,200 to 1,600, with an additional Superintendent of Police and some more Police officers?

(b) If the reply to part (a) be in the affirmative, will the Honourable Member state the reasons for this increase and additional financial burden?

The Honourable Mr. R. M. Maxwell: (a) and (b). There is no proposal before the Government of India for increasing the strength of the Delhi Police but a proposal for the creation of a post of Additional Superintendent of Police for Delhi on the ground that the existing staff of superior officers is inadequate to cope with the work is under consideration.

Mr. M. Asaf Ali: What is the present strength of the staff?

The Honourable Mr. R. M. Maxwell: Four.

Mr. M. Asaf Ali: What did it use to be five years ago?

The Honourable Mr. R. M. Maxwell: I must ask for notice of that.

Qazi Muhammad Ahmad Kazmi: Was there any recent increase in the lower staff of the police in Delhi?

The Honourable Mr. R. M. Maxwell: Does the Honourable Member mean police constables?

Qazi Muhammad Ahmad Kazmi: Police constables and head constables?

The Honourable Mr. R. M. Maxwell: None, as far as I am aware.

Qazi Muhammad Ahmad Kazmi: Since when has the police force continued to be the same?

The Honourable Mr. R. M. Maxwell: I cannot inform the Honourable gentleman without notice when the last increase of staff was made.

Qazi Muhammad Ahmad Kazmi: What are the special circumstances on account of which this additional post is considered necessary?

The Honourable Mr. R. M. Maxwell: Since 1930 experience has shown that the superior staff has not been adequate for the supervision of the inferior staff.

Mr. M. Asaf Ali: May I know if the additional appointment has been proposed because the Princes will be gathering in Delhi in large numbers.

ORDERS RE RECRUITMENTS TO THE CUSTOMS DEPARTMENT.

1246. ***Mr. T. S. Avinashilingam Chettiar:** (a) Will the Honourable the Finance Member please state if it is a fact that the Government of India have passed orders that 66·6 per cent. of the appointments in the Customs Department will be filled up by Anglo-Indians and Europeans, and that the remaining 33·3 per cent. by Indians, Armenians, Jews, Indian Christians, etc.?

(b) When was the above order passed?

(c) Do Government propose to revise the order? If so, when?

(d) Does the above order affect all the appointments in the Customs Department, or only a certain branch of it?

(e) What were the circumstances under which the above order was passed?

Mr. A. H. Lloyd: (a) The reply is in the negative.

(b), (c), (d) and (e). Do not arise.

Mr. T. S. Avinashilingam Chettiar: May I know whether they have passed any order—it may not be in the same proportion—reserving a proportion for any community in the Department?

Mr. A. H. Lloyd: Orders have been passed under which a proportion of appointments in certain branches of the Customs Service has been reserved for certain communities.

Mr. T. S. Avinashilingam Chettiar: May I know whether in any branch of the Customs Department an order like this has been passed reserving any percentage for any community? I want a more definite reply.

Mr. A. H. Lloyd: An order comparable with this has been passed in regard to the Preventive Service.

Mr. T. S. Avinashilingam Chettiar: May I know the reason why such a reservation for a particular community has been made?

Mr. A. H. Lloyd: May I refer the Honourable Member to the Resolution of the Government of India, dated the 4th July, 1934, which governs the whole question of communal appointments.

Mr. Manu Subedar: Will he place on the table a copy of the orders passed for the information of the House.

Mr. N. M. Joshi: May I ask what is the proportion fixed for Europeans and Anglo-Indians in the Customs Department.

Mr. A. H. Lloyd: I do not carry the information in my head. I want notice.

Mr. M. S. Aney: What was the reason for such a heavy proportion?

Mr. A. H. Lloyd: I believe, Sir, the information has either been laid on the table or otherwise made available to the Members of the House.

Mr. T. S. Avinashilingam Chettiar: Is it on population basis or on any other?

Mr. A. H. Lloyd: If the Honourable Member will refer to the order I have quoted—it was issued by the Government of India in 1934—he will see the answer to his question.

Mr. T. S. Avinashilingam Chettiar: I want to know whether they consider any particular community as particularly qualified for any branch of the service.

Mr. A. H. Lloyd: The Honourable Member is asking for an expression of an opinion.

AGREEMENTS BETWEEN THE DIRECTOR OF CONTRACTS AND THE GHEE AGENTS.

1247. ***Mr. Badri Dutt Pande:** Will the Defence Secretary be pleased to place on the table the original agreements made between the Director of Contracts and the *ghee* agents from the beginning of the agency to 1938 and state the terms and conditions?

Mr. C. M. G. Ogilvie: I am prepared to place on the table copies of the four agreements made between the Director of Contracts and the *ghee* agents from 1928 to the present time. These documents are, however, so voluminous that with the Honourable the President's permission, I suggest that they be placed in the Library of the House where they will be accessible to any Member who may be interested.

Mr. Manu Subedar: Is there any proposal to revise these contracts in view of the complaints that have been heard recently in the Press and elsewhere.

Mr. C. M. G. Ogilvie: No, Sir.

Mr. Badri Dutt Pande: May I know why tenders have not been invited since 1932?

Mr. C. M. G. Ogilvie: Because there has been no occasion: the contract is for an indefinite number of years and will be in force, subject to notice on either side, as long as satisfaction continues to be given.

Mr. T. S. Avinashilingam Chettiar: As these contracts are for an indefinite number of years do Government review them from time to time?

Mr. C. M. G. Ogilvie: They are reviewed every year.

Mr. T. S. Avinashilingam Chettiar: When were they last reviewed?

Mr. C. M. G. Ogilvie: This year.

RELATIONS BETWEEN GOVERNMENT AND THE GHEE AGENTS.

1248. ***Mr. Badri Dutt Pande:** (a) Will the Defence Secretary please state whether the relations between Government and the *ghee* agents are those of a principal and an agent and that the agency is on a commission basis and the agents are bound to account for all the money realised by them from the dealers in the markets and to render the true account of the actual payments made by them in respect of purchases, *mandi*, expenses, establishment and contingencies and financing charges, etc.?

(b) If the agents are not entitled to make any other profits for themselves except commission, have the authorities examined their original account books kept at Gwalior and not the account books kept in Delhi on interchangeable leaf system and compared the actual payments made by them with the actual amounts paid by Government to them? If not, have the authorities any objection to scrutinise the accounts and get those books from the custody of the agents at once?

(c) Are the authorities aware of the fact that the original accounts of the Agents are kept in Hindi character at Gwalior and that the same are produced in the courts of law and that the books which are kept in English at the Delhi office are for the military authorities?

Mr. O. M. G. Ogilvie: (a) The relations between Government and the *ghee* agents are those subsisting between a principal and an agent on a commission basis, subject to certain limitations imposed on the agents' capacity to act on behalf of Government. The agents are not bound to account for all recoveries made by them from the dealers under the terms of their agreements with them. These recoveries consist of:—

- (1) Differences due to excess prices found to have been paid by the dealers. These recoveries are credited to Government.
- (2) Penalties levied by the agents for any irregularity or breach of agreement on the part of the dealer. These recoveries are not credited to Government but to the agents themselves.

The agents are bound to render a true account of the actual payments made by them in respect of purchases of *ghee* and tins. *Mandi* expenses, establishment and contingencies and financing charges are paid for at a flat rate as will be seen from the agreement.

(b) The accounts kept by the agents at their branch office in Gwalior have not been examined by Government. The accounts of the agency business as a whole are maintained by the agents in English at their head office in Delhi and these are examined by the Military Accounts authorities.

Government see no necessity for scrutinising the books kept in Hindi at Gwalior.

(c) Government are aware that accounts are kept in Hindi by the agents at their Gwalior office but have no knowledge of their production in any Court of law. The books maintained by the agents at their head office in Delhi cover the agency business as a whole and include that portion of the branch accounts of the Gwalior and Agra offices which concerns Government.

Mr. Manu Subedar: In view of the allegations which have been made that Government have been overcharged, have Government held any departmental inquiry into this subject?

Mr. O. M. G. Ogilvie: These allegations are by no means new: they have been going on for years. None of the charges ever made have been found to be substantiated in the slightest particular. Government are receiving from this firm *ghee* of a quality which gives the utmost satisfaction at a price less than that quoted in the markets for second-class *ghee*.

Mr. Badri Dutt Pande: Is it a fact that the *mandi* charges are only up to six annas whereas Government have to pay 13 annas?

Mr. O. M. G. Ogilvie: Government are satisfied that the flat rate which it pays is a fair one: it amounts—*mandi* and financing charges taken together—as far as I remember to Rs. 1-1-0 per 100 lbs. on accepted *ghee*.

Mr. Manu Subedar: In view of the fact that the charges paid by the military, as seen in some publications, were indicated to be higher than

the charges which the public pay, may I ask the Honourable Member whether he proposes to hold a departmental inquiry into this subject in order to satisfy himself that everything is all right?

Mr. O. M. G. Ogilvie: An inquiry is held every year into this flat rate which has slightly decreased as the years have gone on. I think anybody knowing the agency business will realise that it is possible for these rates to be decreased if the agent holds the contract for some time.

Mr. Manu Subedar: Is the army paying more for the *ghee* than the public?

Mr. O. M. G. Ogilvie: The army is paying considerably less than the public and receiving far better *ghee* which the Honourable Member himself may find if he visits Agra, where he will be given a free sample.

Qasi Muhammad Ahmad Kasmi: What is the rate at which the Government pay?

Mr. O. M. G. Ogilvie: It works out now at rather under Rs. 41 a maund for the finest *ghee*.

RESIGNATION OF ELECTED MEMBERS OF THE NASIRABAD CANTONMENT BOARD.

1249. ***Mr. Badri Dutt Pande:** (a) Will the Defence Secretary be pleased to state the circumstances under which all the four elected members of the Nasirabad Cantonment Board submitted their resignations?

(b) Have the resignations been accepted?

Mr. O. M. G. Ogilvie: (a) and (b). I am collecting the information and will lay it on the table in due course.

PROPOSED CREATION OF A SEPARATE POST OF SUPERINTENDENT OF CUSTOMS AT PESHAWAR.

1250. ***Mr. Abdul Qaiyum:** Will the Honourable the Finance Member please state:

- (a) whether the Superintendent of Excise, North-West Frontier Province, has so far been acting as Superintendent of Customs as well, on behalf of the Government of India;
- (b) whether it is now proposed to have a separate Superintendent of Customs at Peshawar;
- (c) what was the annual cost to the Central Government under the old arrangement, and what is likely to be the annual expenditure after separation; and
- (d) whether Government are satisfied that this additional expenditure is desirable or justified?

Mr. A. H. Lloyd: (a) Yes.

(b) No. The Personal Assistant to Revenue and Divisional Commissioner will now perform the duties of the Superintendent of Customs in addition to his other duties.

(c) The Superintendent of Excise was given a duty allowance of Rs. 80 per mensem and the Personal Assistant to the Revenue and Divisional Commissioner will be given a special pay of Rs. 100 per mensem.

(d) Yes. Owing to the increase in the work of the Superintendent of Customs due to the imposition of the Land Customs Line the Provincial Government did not consider that the Superintendent of Excise could carry on the work in addition to his own duties, which also were expected to increase in the near future.

SUSPENSION OF GOLD AND FOREIGN EXCHANGE DEALINGS BY THE BANK OF MEXICO.

1251. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Finance Member state:

- (a) whether the Bank of Mexico has suspended gold and foreign exchange dealings;
- (b) whether it will prejudicially affect Indian exporters to Mexico; and
- (c) if so, to what extent?

The Honourable Sir James Grigg: Government have received no information on the subject.

Mr. T. S. Avinashilingam Chettiar: Have the Government seen anything in the Press about this?

The Honourable Sir James Grigg: I personally have not seen any information in the Press about that particular activity of the Mexican Government, but I do not read all the papers.

Mr. T. S. Avinashilingam Chettiar: Did the Government call for any information and did they not get any?

The Honourable Sir James Grigg: No.

Dr. Sir Ziauddin Ahmad: Did the Government expect that this Bank would formally write to the Government of India that they are not paying?

The Honourable Sir James Grigg: No. I would not expect that the Mexican Government would tell the Government of India.

Mr. Manu Subedar: Are Government watching the silver situation in Mexico in order to see how matters are going on?

The Honourable Sir James Grigg: The Government of India are watching a good many situations, but I am bound to confess that I have been watching the Mexican Government less than many other matters.

Mr. Manu Subedar: Are Government watching the silver situation generally in the world in order to see what the effect will be on India?

The Honourable Sir James Grigg: That does not arise out of this.

BUSINESS BEFORE THE FEDERAL COURT AND EXTENSION OF ITS JURISDICTION.

1252. ***Qazi Muhammad Ahmad Kazmi:** (a) Will the Honourable the Home Member be pleased to state the number of cases instituted in the Federal Court since its establishment in October last?

(b) If there were any cases, how many of them have been disposed of and how many of them are still pending?

(c) Have Government considered the advisability of legislating for granting jurisdiction to the Federal Court for hearing civil appeals, as contemplated by the Government of India Act, and in view of the state of business before the Federal Court?

(d) If the answer to part (c) be in the affirmative, at what stage are Government in that matter?

The Honourable Mr. R. M. Maxwell: (a) and (b). No cases have yet been instituted in the Federal Court.

(c) and (d). Section 206 of the Government of India Act, 1935, under which the Federal Legislature will have power to enlarge the appellate jurisdiction of the Federal Court has not yet been brought into force. A fresh Order of His Majesty in Council would be required for that purpose. The question of bringing the section into force has been considered but the view hitherto taken is that the section should not be applied during the transitional period or, at any rate, until further experience has been gained of the working of the Federal Court.

Qazi Muhammad Ahmad Kazmi: How do the Government expect that they will have any experience of the Federal Court in the present circumstances when they are getting no cases to decide? Are there any proceedings likely to come before this Court?

The Honourable Mr. R. M. Maxwell: I cannot prophesy.

Mr. Mohan Lal Saxena: Is it because that there is no work before this Court that one of the judges has been appointed as acting chairman of the Delhi Improvement Trust?

The Honourable Mr. R. M. Maxwell: I am not aware of any such appointment.

Mr. Lalchand Navarai: May I know why should not these judges in the meantime be placed on certain committees which the Government of India constitute from time to time for various kinds of legislation?

The Honourable Mr. R. M. Maxwell: The Judges of the Federal Court have certain duties to perform under the Act and they cannot be used for any other purpose which happens to be convenient.

Mr. N. M. Joshi: Is it not a fact that if the Congress Ministries will act more boldly there will be enough work for the Federal Court to do?

(No answer.)

Mr. Badri Dutt Pande: Can they not be appointed as acting Governors of Provinces?

(No answer.)

SHORT NOTICE QUESTIONS AND ANSWERS.

INTER-DEPARTMENTAL DISCUSSIONS BETWEEN THE WAR OFFICE AND THE GOVERNMENT OF INDIA.

Mr. Abdul Qayyum: Will the Defence Secretary please state:

- (a) whether inter-departmental discussions between the War Office and the Government of India are shortly going to be held in London;
- (b) when these discussions are likely to start;
- (c) what the subject or subjects likely to be discussed are;
- (d) whether an Indian, or Indians, is likely to be associated with these discussions; if not, the reasons for such a step; and
- (e) whether these talks aim at greater Indianisation of the Army and the decrease in the number of British troops in India?

Mr. C. M. G. Ogilvie: (a) No. Inter-departmental discussions are to be held in London between the War Office and the India Office.

(b) During the current month.

(c) The Prime Minister has authorised the opening of discussions between the Secretary of State for India and the Secretary of State for War on certain aspects of Indian defence in relation to the problem of Imperial defence as a whole, and the Government of India propose to take advantage of these discussions to place their views on all aspects of the question before His Majesty's Government. It is not in the public interest to give any further details of the scope of these discussions.

(d) No. Expert advisers from the Defence Services only are to assist in the discussions, which will be of a technical nature.

(e) I can give the Honourable Member no more information than that I have already given in answer to part (c) of this question.

Mr. M. Asaf Ali: May I take it that in placing their views the Government of India will also place the views of this House before those who are concerned with the discussions that are likely to go on?

Mr. C. M. G. Ogilvie: That will undoubtedly be taken into account.

Mr. M. Asaf Ali: When I say that, I want a specific answer to the question, whether the views of this House with regard to the expenditure incurred by us on Imperial troops or troops maintained by us for Imperial purposes will be placed before those who are concerned with the discussions?

Mr. C. M. G. Ogilvie: Undoubtedly.

Mr. Abdul Qayyum: With reference to part (c) of the question, may I know what aspects of the Indian defence or the Imperial defence are likely to be discussed?

Mr. C. M. G. Ogilvie: I cannot give the Honourable Member, as I have stated, in answer to the question, any further or more detailed information on that subject.

Mr. Abdul Qaiyum: May I know the reason why no Indian expert is available?

Mr. C. M. G. Ogilvie: Because no Indian expert is at present available.

Mr. Abdul Qaiyum: Is it not due to the fact that the Government have deliberately not given opportunities for training to Indians?

Mr. C. M. G. Ogilvie: No.

Mr. Manu Subedar: May I enquire of the Honourable Member whether it is proposed to take the leaders of the people of India of all parties into the confidence of the Government in connection with these negotiations even if, according to Government view, these negotiations are and must remain confidential with regard to the general public?

Mr. C. M. G. Ogilvie: I cannot say anything at present. These negotiations are strictly confidential at the moment.

MILITARY AND AVIATION TRAINING FOR UNIVERSITY STUDENTS.

Pandit Krishna Kant Malaviya: Will the Defence Secretary be pleased to state—

- (a) whether the Government of India received any representation from the Principal of the Presidency College, Madras, requesting the Army Department to make provisions for the extension of military training and training in aviation;
- (b) if so, when and with what effect;
- (c) whether his attention has been drawn to the statement alleged to have been made by Mr. Papworth, Principal of the Presidency College, Madras, at a meeting of the Senate of the University, as published in the *Hindustan Times*, dated the 28th March, 1938, to the effect "That the University had made repeated requests to the Army Department with regard to the extension of military training with no effect;" and
- (d) what progress has been made by the Calcutta University in giving military training and training in aviation to the students of the University?

Mr. C. M. G. Ogilvie: (a) No.

(b) Does not arise.

(c) Government have seen the press report.

(d) Calcutta University has a battalion of the University Training Corps which is reported to be almost up to strength, and which has been favourably reported on. Government have no information on the subject of whether the University is making any arrangements for training in aviation.

Pandit Krishna Kant Malaviya: May I know whether the Annamalai University of Madras did make any representation to the Army Department?

Mr. C. M. G. Ogilvie: I must have notice of that.

Pandit Krishna Kant Malaviya: Mr. Papworth, the Principal of the Presidency College, Madras, is a member of the Senate of the Madras University as well as of the Annamalai University. Am I to understand that the Senate of the Annamalai University did not make any representations to the Army Department?

Mr. C. M. G. Ogilvie: I must have notice of that. I have not considered the Annamalai University.

Pandit Krishna Kant Malaviya: Am I to understand that a responsible officer of a Madras University College made a statement in the Senate which was not correct?

Mr. C. M. G. Ogilvie: I cannot possibly say whether his statement was correct or not. All I can say is that we have not received the representations stated.

Pandit Krishna Kant Malaviya: Will the Honourable Member kindly make enquiries and find out how the Principal made such a statement in the Senate of the University?

Mr. C. M. G. Ogilvie: I cannot guarantee to do that.

UNSTARRED QUESTION AND ANSWER.

CLERKS IN THE OFFICES OF THE CHIEF COMMISSIONER AND DEPUTY COMMISSIONER, DELHI.

143. **Sardar Sant Singh:** Will the Honourable the Home Member be pleased to state the total strength of clerks in the following offices at Delhi and the number of Sikhs employed therein:

- (i) Chief Commissioner's Office: and
- (ii) Deputy Commissioner's Office?

The Honourable Mr. R. M. Maxwell: (i) *Chief Commissioner's Office, Delhi* (permanent and temporary)—33.

Number of Sikhs—Nil.

(ii) *Deputy Commissioner's Office, Delhi.* Total number (permanent and temporary)—158.

Number of Sikhs—1.

MESSAGE FROM HIS EXCELLENCY THE VICEROY AND GOVERNOR GENERAL.

EXTENSION OF THE LIFE OF THE LEGISLATIVE ASSEMBLY.

Mr. President (The Honourable Sir Abdur Rahim): I have received a Message from His Excellency the Viceroy and Governor General. The following is the Message:

"Gentlemen of the Assembly,

I think it right to take an early opportunity of informing you that I have decided to extend the life of your Chamber for a further period of one year from the 1st October, 1938, when the extension which I have already effected will expire.

(Sd.) LINLITHGOW,
Viceroy and Governor General."

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

The Honourable Sir James Grigg (Finance Member): Sir, I move:

"That the Bill further to amend the Indian Income-tax Act, 1922, be referred to a Select Committee consisting of Mr. Bhulabhai J. Desai, Mr. S. Satyamurthi, Qazi Muhammad Ahmad Kazmi, Mr. B. B. Varma, Mr. S. P. Chambers, Mr. J. F. Sheehy, Mr. N. M. Joshi, Sir Cowasji Jehangir, Mr. H. A. Sathar H. Essak Sait, Mr. A. Aikman, Sir Muhammad Yamin Khan, Pandit Krishna Kant Malaviya, and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, Honourable Members have the full text of this Bill before them and they will notice that we have attached to it a full explanation clause by clause. I have already circulated to the House the observations of commercial bodies on the report of the Expert Committee on the Income-tax, and Honourable Members will observe that there are 500 closely printed pages of opinions. The Bill is, of course, based on this report, and how closely it follows it I will show or attempt to show in another connection later on. Of course, a large number of the recommendations of the Committee of Enquiry do not involve legislation and these are in the main being put into operation by administrative action. There is one which is not yet operative, which I must mention specifically. Honourable Members will find no specific mention in the Bill of the question of taxation of leave pay and salaries drawn abroad. These are at present exempt by reason of a notification which has been issued under section 60 of the present Act. I wish to say here and now in advance of the further description of the Bill, that it is the intention of the Government of India to cancel the notification exempting leave pay and salaries paid abroad, provided that this Bill is passed in substantially its present form, and that that cancellation will take effect as from the date from which the Bill becomes operative. I may add perhaps that the Bill does amend the existing Act so as to make it clear that if the exemption goes the income to which it relates can be made effectively liable to tax.

There is another important recommendation of the Committee of Enquiry which Honourable Members will not find in the Bill, the position in regard to which should be explained, and that is the scale of rates of tax. This, of course, does involve legislation and Honourable Members will find here and there in the Bill clauses which proceed on the assumption that the slab system will be introduced, but the scale of actual rates of tax applicable to different slabs of income is left over to be dealt with in the Annual Finance Bill. I had considered whether it would not be more convenient to provide, at any rate, for the first scale to be in this Bill as a permanent measure, but I rejected that proposal although it was obviously one of greater administrative convenience. It has been the principle ever since there has been any system of parliamentary government in this country that the income-tax rates shall be prescribed annually, and although on occasion that is extremely inconvenient to the executive the rule has been followed rigidly throughout. Moreover, Sir, the House has on occasions shown a considerable degree of resentment at the withdrawal of even imaginary privileges, so that I do not want to present them with a cause of real resentment by the withdrawal of real privileges.

Another thing which I might mention here, which Honourable Members will not find in the Bill, is the question of taking into account agricultural income for purposes of assessing the rate of tax on non-agricultural income. That is not in the Bill, though certain Honourable Members who have spoken to me in the lobby about it seemed to think that it was. The reasons for its non-inclusion in the Bill and its postponement till a more convenient season are as follows. Some of the provinces have already introduced legislation taxing agricultural income. Some of them have schemes for such taxation in contemplation. Those which have come to my notice are definitely on different lines from our income-tax, and, therefore, I am not sure that the situation is sufficiently clear to enable us to embody in our income-tax law a provision taking into account agricultural income for the purposes of our income-tax. Of course, the ultimate ideal is one uniform and unified income-tax covering all income, the total income being assessed and collected in collaboration and distributed in accordance with definitely clear and clearly laid down principles, but it is quite obvious from the opinions of Provincial Governments on this subject and from the steps which have been taken by some of them that we are nowhere near this ideal and we have no alternative but to postpone this question until the situation becomes clearer.

Up to now, I have been saying a good deal of what is not in the Bill and I expect Honourable Members will begin to think that it is about time I came to what is in it. I will deal first with the question of the foreign income of residents. The Committee of Enquiry recommended the assessment of all foreign income of residents in British India on the basis of the amount actually arising and their recommendation made no distinction between persons domiciled in British India and those not so domiciled. The proposals in the present Bill are not quite on those lines. Where the assessee is not domiciled in British India, the assessment will to the extent that the income is from business controlled in British India be on the full income arising whether remitted to India or not and to the extent that the income is from other sources the assessment will be on the basis of the amount remitted to British India. In the case of persons who are domiciled in India the basis will be, of course, on that of the whole income arising. What is now proposed follows very closely the system in force in the United Kingdom, the difference being that the income of a domiciled resident from sources other than a business controlled in British India or from securities, stocks, shares or rents is to be assessed in British India on the amount of income arising, whereas in the United Kingdom the basis of this residue of income is the amount actually brought into the country. Our proposals, therefore, are somewhat stiffer than the United Kingdom law and they have been framed in the light of the difficulties which are known to exist there.

Sir, I come to the provisions in the Bill which I regard as the most important, namely, those which relate to the legal avoidance of tax. These provisions are designed to prevent persons who are liable to tax and more particularly the very wealthy taxpayers from reducing their liability by tax dodging devices under which the law is evaded but not broken. A good illustration of what we are out to stop is afforded by the method employed in a recent case in which super-tax amounting to 2½ crores was lost to the exchequer. Several companies which were substantially owned by one family capitalised their accumulations of

[Sir James Grigg.]

profits and issued to the shareholders debentures which were redeemable at three months' notice and were in fact redeemed about 12 months after they were issued and the shareholders thus received cash in redemption of debentures instead of receiving the same cash as dividends. The remedy which we are providing for this is to define "dividend" so as to cover all profits distributed by a company, whatever form the distribution takes. A simpler and older device for the avoidance of super-tax is by a company not distributing its profits at all. Section 28-A of the existing Income-tax Act was designed to deal with these cases but it has proved practically a dead letter owing to the almost unworkable provisions which require the Income-tax Officer to determine the reasonable needs, existing and contingent, of a company. In place of the present provisions, we are substituting a simple rule that where less than 60 per cent. of the company's profits have been distributed, the whole of those profits shall be deemed to have been distributed and super-tax will therefore be payable by the shareholders. This rule also is to operate if less than 100 per cent. of the profits have been distributed where the accumulated undistributed profits of past years exceed the paid up capital of the company. As with the existing section 28-A, the new provision does not apply to companies in which the public are substantially interested. In other words, it applies to the private company which is virtually controlled by one or two persons. Another device of legal avoidance which is open only to the very wealthy is to float a company abroad, to transfer investments to it and to receive monies from it in the form of loans which are not repayable. As the company does not pay dividends no super-tax can be levied upon the principal shareholder who of course being the virtual proprietor has complete control of the company. Further the company is non-resident and, therefore, it cannot be dealt with under the non-distribution section and as the loans are not income, no super-tax can be charged even though the assessee may be receiving in this form exactly the same amount of money as he did when such receipts were in the form of dividends and were taxed accordingly. Our counter to this is to treat the income of the company as the income of the person who would have been entitled to it, if these artificial transactions had not been entered into. Although the remedy sounds simple, a complicated form of words is necessary in order to ensure that as far as is humanly possible no loopholes are left unstopped, but at the same time to leave outside the net genuine transfers which have nothing to do with tax dodging.

- Finally, Sir, there is the more widespread practice of nominally transferring income or assets from which income is derived to a person who is not liable to income tax, and this is to be checked by deeming the income to be the income of the transferor except in genuine cases where the assets are irrevocably transferred and the income goes to somebody other than the wife or minor child.

Now, Sir, I do not pretend to have described the provisions of the Bill at all fully. I am only at this stage directing attention to its main features. No doubt many questions will be asked as to other provisions but I do not think it possible to anticipate the questions which will be asked, nor in view of the very full notes on clauses do I think it neces-

sary to do so. I might however direct the special attention of the House to one or two of the machinery provisions. There is the provision for separating the appellate and inspecting functions of the Assistant Commissioners of Income-tax—a change which has been very widely advocated for some years past. There is the provision for enlarging the scope of cases which are appealable, and there are the enhancement of penalties and the provision for a longer time in which to keep assessments and claims for refunds open. Sir, if questions are raised on these provisions in the Bill, I propose with the permission of the House to deal with these in my winding up speech; and I would like now to come to some of the wider considerations raised by the Bill.

Naturally, as there is no actual scale of rates laid down in the Bill, I cannot give a firm estimate of the amount which will be gained by these provisions (*An Honourable Member*: “Approximately”?). I will come to that. On the assumption that the scale recommended in the Report of the Committee of Enquiry is adopted, I am confident that we shall get at least a crore from the legal changes alone; that is, entirely apart from administration, and I am pretty certain that that extra crore will accrue almost immediately, and that in time we should hope to get as much again, as the machinery of the anti-tax-dodging clauses becomes effective. This particularly is not the time to make prophecies, because the question which was referred to in this House the other day as to whether the world is entering upon a slump or not has not yet been finally determined. That being so, it is difficult to work out the effect of the various factors which govern the application of the Niemeyer formula. But so far as I can see at present, the effect of this extra crore will be that until the year 1942-43 virtually the whole of it will go to the Provinces. After that, the position is very complicated arithmetically owing to the fact that the Niemeyer Award was given five years for it to become fully operative. But the House might be willing to take it from me that the ultimate position will be that the Provinces will get one-half of this extra money but that their share of the increase will only decrease to one-half at the end of the second five years of the Award, and that in the meantime their share of the main corpus will be gradually increasing. Perhaps it will be clearer if I try to put it into figures. They are for the time being purely illustrative. Let us assume for the purposes of this Bill that the Provinces will be getting for the first five-year period two crores a year from the existing yield of income tax, and that the present Bill adds one crore to the total yield. Up to and including the year 1941-42, the Provinces will get three crores instead of two. From the year 1942-43 they will work up from three crores to seven instead of working up from two crores to six and a half. In other words during the first three years the Provinces will get one crore a year extra, for the next five years after that, they will get on an average 70 lakhs a year extra, and thereafter, 50 lakhs a year extra. This is from the Bill alone. As I said just now, this is apart from improved administration and apart from any possibility of the normally expanding yield of the income tax. Sir, I wish to stress this point of the immediate and ultimate destination of the increase of revenue, because it is perhaps the main reason to be urged in support of the Bill, that it will help the Provincial Governments in their work of reconstruction.

[Sir James Grigg.]

Sir, this is a convenient point at which I might digress in order to deal with the recent speech of the President of the Federation of Indian Chambers of Commerce and Industry, the Honourable Sir Rahimtoola Chinoy, of which we shall no doubt hear echoes in this debate,—he said, firstly, that the Bill will hinder the development of Indian industries, and, secondly—and on the second one I wish to lay particular stress—that much larger sums could be got for the provinces in much better ways even through the channel of the income-tax. To take the first point, Sir Rahimtoola Chinoy said:

“I have no manner of doubt that if the Central Government are allowed a free hand in revising the Income-tax Law, it will result in giving a permanent set-back to the development of indigenous industries. It will also check the proverbially shy Indian capital from coming into the market.”

But surely the exact reverse is the case: and the Bill would so far from giving a set-back to the development of industry in India, actually encourage such development. It is perhaps not necessary to go over the argument used by my predecessor in connection with a somewhat similar proposal in which he essayed to show that, so long as income-tax presses more heavily upon the home income of the tax-payer than upon his foreign income, there is a distinct discouragement of investment here, and that the law is virtually subsidising the export of capital. The proposal for the taxation of the foreign income of persons resident in India upon the full amount arising, instead of on that brought into British India, is a proposal which quite clearly will encourage the investment of money in India rather than abroad. Incidentally, this argument of Sir Rahimtoola Chinoy is the exact opposite to the argument which I have heard advanced—and which I fancy some Honourable Members have heard advanced recently—*viz.*, that this Bill is designed to injure the expansion of Indian enterprise abroad. Well, in so far as that enterprise does not contribute to the upkeep of India, why not? Really, you cannot have it both ways in this matter: you cannot simultaneously urge that we are stifling home investment and stifling enterprise abroad at the same time,—that is, unless the real contention is that no business-man should ever pay any income-tax at all. That is the only way in which you can resolve that dilemma. The second point in Sir Rahimtoola Chinoy's speech to which I have been referring is to the effect—and this is where the argument attempts to meet my contention that this Bill is required in the interest of the provinces—that by abolishing the notifications under section 60 and also double income-tax relief for companies registered outside India, a further three crores of revenue could be obtained. Of course to start with, that three crores is a ridiculous estimate. The notifications to which the speech refers are those relating to pensions paid abroad and to leave pay and allowances paid abroad. The total amount of tax lost by the exemption of pensions paid abroad including those which are protected by the Government of India Act is, as I have attempted to show in this House on, more than one occasion, of the order of some ten lakhs a year. The exemption of leave salaries and allowances paid abroad costs about 16 lakhs a year, and I have already explained to the House what I am prepared to do in this matter. As regards double taxation relief, the total relief is probably about a crore and a half a year. I think the President of the Federation suggested that 90 per cent. of that went to British companies.

That is again a ridiculously high proportion. Moreover, there are provisions in the Bill for tightening up the conditions on which double income-tax relief is to be given. But apart from that, surely it would

12 Noon. be a gross injustice to attempt to withdraw the relief from those companies and traders whose business has been established in India for many years on the assumption that the double income-tax relief would continue to be given. Such a course of action would lead to the export of capital from India about which in another connection he seemed to be so anxious as leading to the permanent discouragement of any fresh capital. I cannot understand how such a proposal could come from one who appears to be so anxious about the development of industries in India. To me, it seems evident that the adoption of such a proposal would be disastrous and it would itself be a fresh addition to the obstacles to the trade and industry of the country and ultimately have grave repercussions upon the welfare of millions of India's agriculturists. Such a proposal though it is put forward as a means of getting extra revenue and as a counter to the proposals in this Bill is nothing more than an attempt to secure a form of additional protection for certain financial interests regardless of the reactions on the rest of the community. And I wonder what these particular financial interests would say if Burma and Aden decided to adopt a similar principle in regard to their taxation.

I have said that apart from the provision of money for the provinces, there are other reasons which make this Bill desirable in itself and of those, I might mention, the necessity for making the income-tax machine at once more efficient and more equitable. There must in future be no suggestion that the administration is harsh to the small taxpayers and far too lenient on the rich. Then, again, Sir, our intention or our desire is to make the incidence of taxation fairer as between class and class, to relieve the lower middle classes and to ask the rich to pay more. On the assumption which I have already proceeded for the purpose of exposition of the Bill that the scale recommended in the Income-tax Enquiry Report is ultimately put into operation in next year's Finance Bill, I would ask the House to realise that two-thirds in number of the tax-payers who now are subject to income tax will under that scale pay less than they do at present, and the remaining one-third will pay more than they do at present; most of them a little more and some of them a great deal more. This is to me a staggering fact and I do not think some of my Congress friends have yet realised that fact that this Bill relieves two-third in number of the present income-tax payers.

Perhaps I may leave for a moment the merits of the Bill and come to some of the steps which have led up to it. First of all we had a Committee of Enquiry, a committee which travelled round India for six months and then spent a further six months drafting their recommendations. If you look at pages 93 and 94 of the report, you will see the list of commercial bodies from whom they received representations and with a great many of whom they had personal discussions. The Committee issued their report in January, 1937, and on the report opinions have been obtained from all the notable commercial bodies in India. I have laid those opinions before the Assembly already and I remind the House that there are very nearly 500 closely printed pages of them. Now, Sir, I am beginning to get telegrams from some of these very commercial bodies saying that they had no time for consideration and that

[Sir James Grigg.]

the Bill must be circulated. Let me read a typical example of the telegram from the Indian Merchants Chamber.

"The Committee of the Indian Merchants Chamber understand from press reports that Government propose introducing the Income-tax Bill shortly."

Just notice the naive way in which they put it, as if this is the first time they have ever heard of this Bill and that too from press reports:

"The Committee consider that the Income-tax Bill is going to be an extremely important piece of legislation,"—

—another supremely complicated discovery,—

"Which will affect the commercial and industrial interests specially and strongly protest, if it is the intention of Government to rush it through without any adequate opportunity being given to commercial and industrial community for consideration of the measure in all its details. They therefore suggest that after introduction, the Bill should be circulated for commercial opinion and the further progress of the Bill should be proceeded with only after adequate time for receiving such opinion."

One would have imagined, Sir, that the Indian Merchants Chamber had never given evidence and had never submitted a representation to the Committee of Enquiry and also one would imagine that they were completely unrepresented in this printed volume of opinion which I have laid before the House.

Now, Sir, may I compare with this, the document which appeared in the newspapers on January 31, 1937, and the House will bear with me when I read a few extracts:

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

There is another short extract which I hope will be appreciated.

"There will be those, who will accuse the Finance Department of increasing taxation on the plea of reform, but I think most of the measures would commend themselves to persons like me, who desire to see the income-tax occupy a more important place amongst the sources of India's tax revenue. The collective effect of these and other reforms would, in my opinion, lead to an improvement of income-tax receipts by two to three crores of rupees, some of which it is satisfactory to note would come from those who are at present managing to escape."

I will read another short extract from the same interview:

"There will be criticisms on details and on some recommendations affecting business. But on the whole, the changes recommended will secure a marked improvement on the present position. Because of this as well as the fact that many of these changes would bring to Government the extra two crores, which are needed this year and which Sir Otto Niemeyer expected would arise from increased yield under existing heads of taxes of the Central Government, I hope necessary legislation for giving effect to the recommendations will be introduced as early as possible."

Now, Sir, let me for the purpose of completing this quotation and of indulging in the rare experience of being given a medal or a compliment from unexpected sources read the last sentence:

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

Sir, the author of that interview is Mr. Manu Subedar who, I understand, represents the Indian Merchants Chamber in this Assembly.

Sir, there was a debate, if I remember aright, raised by the European Group in this Assembly over a year ago in which Sir Leslie Hudson asked me what was the projected time table in regard to this Income-tax Bill; and to the best of my belief I set forth the suggested time table which has up to now been exactly followed in every particular. Sir, on that declaration of time table there was not a word of complaint and not a word of protest until the last fortnight, except that the Federation of Indian Chambers of Commerce suggested that before the Bill was actually introduced I should hold a round table conference; and they pointed out the analogy of the Insurance Bill and, I think, the Motor Vehicles Bill. Well, Sir, the analogy of the Insurance Bill is of course imperfect. With the Insurance Bill it was possible for the Law Member to gather together representatives of all the interests concerned; and therefore there was likely to emerge from his round table conference the greatest common measure of agreement. In matters of taxation there is no agreement possible if you confine your representation to those who pay tax, except on the basis that no tax should be payable at all. And, therefore, this suggestion of a round table conference did not commend itself to me as a really practicable solution. Sir, I said that we had no protest about my projected time table until the last fortnight. In the last fortnight I have had certainly a number of messages similar to those sent by the Indian Merchants' Chamber. I am bound to say that there is a startling unanimity about them, unanimity almost to the very commas. But all told I have only had about 20 of these representations and, as I said, mostly in a stereotyped form, and they are all from commercial bodies. All but two or three of these commercial bodies have definitely either given evidence to the Committee of Experts or have submitted opinions which are included in the 500 pages of written opinions which I have already referred to twice; and most of them have done both. Now, Sir, we had from these commercial bodies, whose opinion it is so much desired to ascertain, protests from about 20 of them arising in the last fortnight, whereas, I remind the House, the time table has been prescribed or laid down for 18 months; and, as I said, there are about 20 of these as compared with the 70 or 80 commercial bodies who made representations to the committee and nearly 80 who have submitted written representations on the report.

Now, Sir, let me go back to the point which I made earlier and show how closely the Bill conforms to the Report of the Committee. At the risk of vain repetition I will remind the House what I previously said that a considerable number of the recommendations of the Committee have already been put into effect administratively; a further number can be put into effect without legislative action; and I instanced the abolition of the exemption regarding leave pay. All the recommendations which deal with the actual rates of tax to be prescribed are left over to be dealt with in the Annual Finance Bill, and the House has in no way whatever lost control of that. Of the remaining recommendations I will give a brief analysis in order that the House may judge for themselves the extent to which we have conformed to the original report. Some 48 recommendations other than those dealt with or to which I have already referred have been embodied in the Bill without alterations. Nine more have been embodied in the Bill subject to modification, but in only one of these is the modification appreciable and in all cases the modified provision is less drastic than the original proposal. And in arriving at all of these modifications we have had before us the 500 pages of opinions

[Sir James Grigg.]

which I have now referred to three times. Four proposals have been left over for further consideration, one of these being the inclusion of agricultural income for the purpose of determining the rate of tax on non-agricultural income, and I have already explained the position in regard to that. And finally, six recommendations, and six only, have been rejected outright. In other words, the Bill is in essence the Report and the Report has been before the country for over a year, and I have laid before the Assembly nearly 500 closely printed pages of opinions by commercial bodies on this Report. Sir, I have no doubt that all the necessary new commercial opinion can be obtained on the Bill if we agree to Select Committee now and if I undertake to circulate the Bill by executive order over a comparatively short time as a preliminary to the sittings of the Committee. But, Sir, commercial opinion is not the only form of opinion which it is desirable to obtain and some forms of opinion it is quite impossible to organise. First of all, there is the opinion of the masses of the poor cultivators who are not interested in the amount of tax they have got to pay but are interested in the extent to which Provincial Governments can provide them with desirable social services. And if Honourable Members are rather inclined to be sarcastic about the amount that this Bill will be able to do in relation to the vastness of the problem, let me refer to one of themselves. We had a debate the other day about a sum of Rs. 90,000 which Prof. Ranga described as "this huge sum of Rs. 90,000". Thus said Prof. Ranga:

"Sir, we find that our various Provincial Governments are finding it hard to devote even a few thousands of rupees for the sinking of wells, construction of a small hospital or establishing a small primary school or providing some other local benefit to the local public."

And at a later stage he worked himself up to a crescendo of eloquence and said:

"I do not know why he did not try to devote all this money" (i.e., Rs. 90,000) "for distribution amongst the provinces which are dying for funds."

Well, Sir, the only way to get the opinions of these people that I can think of is to ask the Provincial Governments to speak for them. Perhaps the House will bear with me while I read some extracts from the various budget speeches of the provinces which will give some idea of the views of the Provincial Governments. First of all, I will read two quotations from the Prime Minister of Madras, and he was dealing in his first budget speech with the intense competition for grants for various social services:

"Most of these schemes are admirable in themselves and, if we could only afford them, they would be well worthy of acceptance. But as we have to live within our means, many a good scheme we had to shelve away for better times."

And again,—

"When we think of the pressing needs of the Province in the matter of the supply of clean drinking water for every village, adequate drainage arrangements for all towns and better and more widespread measures for the prevention of disease and the distribution of medical relief, centres of healthy entertainment and culture in all large villages and the establishment of suitable cottage industries throughout the land, we realise how difficult is the problem of making our limited resources go as far as possible and ensuring that every rupee is spent wisely and to the best advantage."

Now I will take the Finance Minister, Bombay:

"With finances which are mostly inelastic and inexpansive, with very limited scope in new taxation, how do we propose to find the resources for all the work we have in view?"

And then again:

"Although taxation in this province is very high, it is clear to us that most of this taxation is being borne by the poorer people in the Province. The land tax, the excise tax, the stamps and court fees, the taxes on public conveyance, the tax on country grown tobacco—all these are being mostly paid by the poorer classes. The income-tax is the only tax paid by the rich, and that at present is beyond the reach of the Provincial Government."

Again, Sir, I will take the Prime Minister of United Provinces.

"The result of all this is reflected in the fact that the Province has been able to do so little in the way of constructive activities which contribute towards social, material and intellectual uplift and the amelioration of the condition of the people."

Another extract:

"Our main sources of revenue are not only rigid, but are likely to dwindle, and in some cases even to disappear completely."

Another:

"The history of provincial finances for the last 80 years or so goes to show the reluctance with which the Centre has relinquished control, financial and otherwise, to Provincial Governments, the even greater reluctance with which sources of revenue have been transferred, and the niggardly nature of the latest financial settlement with this province, and this at a time when the demand for generously expanded provincial revenues is imperative to enable the Government to make even a modicum of progress with the stupendous task which lies before them, namely, to lift the masses from the depths of misery, poverty and ignorance to which they have sunk."

I will come to the Finance Minister of the Punjab:

"Reforms have forced pointed attention to the rigidity of our revenues and the narrowness of our finances, for reforms mean increased expenditure, and our provinces have not even now the means of making proper or adequate provision for beneficent or nation building activities."

Another witness, Mr. Anugrah Narayan Sinha, the Finance Minister of Bihar:

"These are some of the problems which we have to tackle. Admittedly a proper solution of all of them requires a large sum of money. The mere wish to have all the reforms and improvements made is not enough, although that is a great deal. I can assure the House that we will spare no pains to take measures to effect the necessary improvements as early as possible and to the fullest extent of our resources. But the question is where and how to find the additional sums that will be required. It is well-known that Bihar has been the victim of an inequitable and unjust financial allocation and adjustment. When the province was separated, it received no more than what was being spent on it, and this was certainly very low compared even to other parts of the same Province of which it then formed a part. Later financial adjustments have not brought about any appreciable improvement in the situation, and even today the standard of our expenditure on all nation building departments and works of welfare for the people is practically the lowest in the country. The sources of revenue that have been allotted to us are mostly inelastic. The only somewhat elastic sources are excise and stamps. That means that the Province can flourish and that also to a limited extent only by fostering intoxication and litigation."

The Finance Minister of the Central Provinces:

"Coming to the much more difficult and indeed baffling problem of ameliorating the condition of our people, on the solution of which depends not only their own happiness, but also the stability of the whole of our financial structure, I must confess I find myself, as it were, against a stone wall."

I will give one or two extracts from the more recent budget speeches for 1938-39. Mr. Latthe, the Finance Minister of Bombay:

"We cannot mint new rupees or print new currency notes. All the money we can get is by readjustments and by such taxation as may only touch the pockets of those who can afford to pay. With these necessarily limited resources, we have to strive to help our helpless masses. Every one of our efforts is directed to the purpose of increasing our capacity to take full advantage of the one great wealth which we

[Sir James Grigg.]

possess, the man-power in our country. Our proposals, I, fully realise, strain our financial resources to the farthest limits possible. Their natural and anticipated results in the next few years will be a still greater strain on our crippled financial capacities."

The Finance Minister of the Punjab:

"Provincial Governments in India do not enjoy much elbow room because of the narrow range of finance rigidly confined within the strictest bounds. All provincial activity has to be carried on checked at every stage by this constraining factor. Even moderate projects to push forward along essential lines of progress have to be discontinued. Increased liability for recurring expenditure can be assumed only with a degree of caution that must damp the spirit of any reformer, no bold and large scale improvements, howsoever urgent, and matters of necessity can be entertained."

Again, the Finance Minister of Bihar:

"I am afraid the budget cannot be called very satisfactory unless the fact that it is a balanced one gives some cause to feel gratified. I need not, however, make an apology for it, for within the narrow range of our financial resources nothing better was possible."

The Prime Minister of Assam:

"On account of this state of provincial finances the Ministry in spite of their best efforts could not get the funds for any heavy list of new schemes From the statement of the finances of the Province Honourable Members must have realised that the provincial resources must be augmented if any large scale development in the nation building departments are to be initiated and carried into execution."

And now finally there is one from Mr. Bhanju Ram Gandhi, the Finance Minister of the North-West Frontier Province:

"Provincial Government has, therefore, had to restrict its activities to the bare minimum within the limits of its inelastic revenue and fixed subvention."

Well, Sir, the sums involved in this Bill are hundreds of times the huge sum of Rs. 90,000 for which Prof. Ranga's tongue was hanging out the other day, and from the extracts I have read I do not think we can entertain very much doubt as to what the Governments of the provinces in their capacity as trustees for the poor will have to say about this Bill.

Secondly, Sir, there is another body of opinion which it is desirable to take into account, and these are the literally hundreds of thousands of smaller tax-payers who will get relief from this Bill. I am unable to think at the moment of any means of eliciting their collective opinion, but surely it is a very important body of opinion, and I have very little hesitation in saying that if that opinion could be collected, it would be unanimously in favour of the Bill.

Sir, is it not clear that the plan, which is embodied in some of the amendments which I see on the paper, of circulating the Bill before agreeing to its being referred to the Select Committee is a snare, which looks to me very much like the technique which big business and the rich would adopt if they wanted to delay or kill the Bill without frontally opposing it. It looks very plausible to ask what will be lost by circulation, but is it not a perfectly good reply to it: what is the point in a circulation motion if it is not proposed to delay the Bill? If the notice is only to elicit public opinion, why not agree to a Select Committee now, and I will undertake to circulate the Bill by an administrative order in the meantime. As I have already said two or three times in the course of my remarks, the changes from the Report are very few, and there will not be very much to express new opinions about. You can get all the opinions necessary, and still start our Select Committee in time to ensure that the Bill becomes law by 31st March next so as to be operative from the 1st April. Surely, Sir, it is plain to the ordinary man that circulation

is only the wooden horse which it is hoped will cause the fall of Troy. For my part I have no doubt whatever that if the House agrees to no more than circulation now, the operation of this Bill will be postponed for a year at least. Indeed, I go further and say that it will be postponed for much longer than a year. There are doubtless some who intend to do their utmost to kill the Bill. They may succeed. I hope that they will not. I personally think—and I have not the slightest doubt that the overwhelming body of opinion in this House would agree with me that it would be a crime to postpone avoidably provision through the Provinces of further social services. But even if those who desire to kill the Bill succeed this time they will not succeed for all time; and I for my part should expect and hope that the ultimate reckoning would be the heavier for any ephemeral success which they may achieve now. Sir, I move.

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

"That the Bill further to amend the Indian Income-tax Act, 1922, be referred to a Select Committee consisting of Mr. Bhulabhai J. Desai, Mr. S. Satyamurthi, Qazi Muhammad Ahmad Kazmi, Mr. B. B. Varma, Mr. S. P. Chambers, Mr. J. F. Sheehy, Mr. N. M. Joshi, Sir Cowasji Jehangir, Mr. H. A. Sathar H. Essak Sait, Mr. A. Aikman, Sir Muhammad Yamin Khan, Pandit Krishna Kant Malaviya, and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions: Non-Muhammadian Rural): Sir, I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th September, 1938."

I may tell you, Sir, that it has been arranged that amendment No. 2 only will be moved.

At the outset I cannot help drawing the attention of the House to the threat that has been held out by the Honourable Member in charge of the Bill. If he will excuse me, that has become usual with him. The other day we had another Bill—the Stamp Unification Bill. There are two parts of the Bill; one was supported by the Members on this side of the House and the other part was not acceptable to us. The view taken by him on that occasion was "Either accept the whole of it or I shall withdraw the Bill", and he has withdrawn the Bill. Today again we are asked at the point of the bayonet to accept this Bill; otherwise, a certain notification that had already been issued will be withdrawn

The Honourable Sir James Grigg: Does the Honourable Member purport to quote me in regard to the Stamps Bill? I would be glad if he will refer me to any remarks of mine which he is quoting.

Mr. Akhil Chandra Datta: I have never quoted. I said that was the attitude of the Honourable Member. I never said that anything was said on the floor of the House

The Honourable Sir James Grigg: I say it is a product of the imagination, not quotation.

Mr. Akhil Chandra Datta: Are you prepared to contradict me?

The Honourable Sir James Grigg: The Bill is still before the House; it is not withdrawn.

Mr. Akhil Chandra Datta: Now, Sir, before discussing the issue before us, apart from the merits or demerits of the Bill, which there will be ample time to examine and consider, the immediate issue before the House, just at the present moment, is whether there should be circulation or there should be reference to Select Committee. Before we address ourselves to that issue, let us have some idea about the nature of the Bill and the effect of the Bill.

On the 14th February, 1935, the Honourable Sir James Grigg said this—he was considering the points raised by the Honourable Dr. Ziauddin Ahmad. Dr. Ziauddin had said that the income-tax was too heavy, and in reply the Honourable the Finance Member says:

"As a general proposition one can accept this as true and almost as self-evident"; and then he proceeds to say that certainly income-tax ought to be reduced. That was his pronouncement in 1935. What is the effect of the Bill now before us? He said that the increase of revenue as the proceeds of this tax will be about a crore of rupees. I must confess, Sir, that I am accepting this statement with a grain of salt. The honest opinion in some well-informed quarters is that the increase will be at least five crores of rupees

The Honourable Sir James Grigg: So much the better!

Mr. Akhil Chandra Datta: There again I do not know if the Honourable Member has calculated and whether he is in a position to say that it will be only one crore and not be five crores. However, that is the sort of Bill before us. This Bill is described to be an amending Bill. May I ask if it is really an amending Bill or it is, in substance, a consolidating Bill? Sir James Grigg, speaking of the Inquiry Committee, said in Bombay that the motive for the appointment of that Committee was merely administrative overhaul. May I ask if the report and the Bill deal only with administrative overhaul or with the entire system of income-tax in India in all its bearings, relating not only to the procedure and administration, but also to the vital principles of the system of income-tax. We have been told that the Committee made an extensive tour throughout India and then made their report and, therefore, the whole question has been considered sufficiently and should be accepted without further circulation for opinion. Now, speaking of this Committee, it was appointed in October, 1936. I find from the report that the members of the Committee signed the report in December, 1936: that is, they must have taken not more than about two months' time to study the whole question and to formulate their conclusions and put it in the shape of a report. I wonder if that can be described as a serious attempt at all into the investigation of this very intricate problem of Income-tax law in India. Then again, who were the members of the Committee? Was there one non-official Indian on this Committee? Was there one businessman on this Committee? Was there one man who was acquainted with the law of the land, on that Committee? After all, the law of income-tax is not an isolated law and cannot be treated separately from all other branches of the law. It is inseparably connected with the other branches of the law. Was there any man on this Committee who knew the law of the land, the economic and social conditions of the people of this country, the habits of the people generally, the habits of the people as to conduct of business and so on? There are important provisions in the Bill and in the report of the Committee as regards the Hindu joint family, as regards the position of Muhammadans

with regard to the property of their wives and children, was there any man on this Committee, I ask, who knew the Hindu system, and for the matter of that, the Muhammadan system? Then, these gentlemen within about two months

The Honourable Sir James Grigg: The Honourable Member is repeating a mis-statement. May I remind him of the fact that the Committee was in India for over a year, and not for two months? It was appointed a year earlier than the date he has given.

Mr. Akhil Chandra Datta: I do not know that.

The Honourable Sir James Grigg: You do not know that evidently!

Mr. Akhil Chandra Datta: I know this much that the Committee in their report say that they were appointed in October, 1936.

The Honourable Sir James Grigg: 1935.

Mr. Akhil Chandra Datta: I hope I shall not be interrupted. I find that they put their signature in the report in the third week of December.

The Honourable Sir James Grigg: There is the report (showing the report) October, 1935.

Mr. Akhil Chandra Datta: If my Honourable friend is so persistent, may I remind him of a similar committee appointed in England known as the Income-tax Codification of England Committee, how long it took to study this question and to prepare their report? May I tell him that they took eight years and a half to study and to report, and even after that period, when they submitted their report they said that they could not study the whole thing very satisfactorily. And although the report was in the shape of a Bill, still that has not yet been submitted to the Parliament. Here we are asked to accept without any further examination the report of a small body of people who are absolutely incompetent to frame a Bill or to consider the intricate questions involved therein.

The issue being one of circulation *vs.* Select Committee, what is the position? Let us try to understand as to whether there should be circulation or reference to a Select Committee. It is not a matter of arbitrary decision whether there should be circulation or reference to a Select Committee. We must go on a certain principle and that principle is this. If there is any doubt about the principle of the Bill, if the principle is not acceptable to the House, we cannot possibly go to a Select Committee, there must be circulation. The difference between circulation and reference to Select Committee is this. In one case the House commits itself to the principle of the Bill; in the other it does not. Therefore, the question arises, are the several vital principles of the Bill such as are immediately and at the present moment acceptable to us? If it is not, then there are only two courses open to us. One is circulation and the other is throwing out the Bill just now. There is no third course or alternative open to us. Although reference to Select Committee precludes circulation, circulation does not preclude reference to a Select Committee. The Select Committee will come in as a matter of course automatically after circulation. We are now asked to go to a Select Committee.

[Mr. Akhil Chandra Datta.]

Having regard to the nature of the problems that have got to be tackled, how can the members of the Select Committee proceed unless they get the opinions of the country? The Bill deals with very serious problems affecting the trade, commerce and industry of this country, it affects all classes of people, and it is only fair that all the interests concerned should be given an opportunity to express their opinions. What is the principle of the Bill? May I ask one question: has the Committee or has the Honourable Member in charge ever tried to apply his mind to this vital subject, namely, the taxable capacity of India? Before you enact a legislation like this increasing the tax to such an extent, have you cared to give one moment's thought to the question as to the taxable capacity of India, whether that has been exceeded or not? Has the Committee applied its mind to the question as to how its recommendations are likely to affect the industry and trade of the country? It appears that one supreme consideration with the Committee and with the author of this Bill is the consideration of revenue and not to hold the balance even between the revenue and the interests of the people. In that view of the matter, if there is any Bill of which circulation is necessary, it is this Bill.

I shall not take up the time of the House by examining the detailed provisions of this Bill. I shall only deal with a few points only. There is one question about agriculture. It has been said that the agricultural income has not been touched. It is true that the agricultural income in British India has not been touched, but at the same time the agricultural income arising in Indian states has been taxed. There was an important proviso in section 4 of the Act under which the agricultural income arising in Indian states and received in British India was exempted. That proviso was not there originally in the Act, but because it resulted in double taxation, in 1933 there was an amendment and it was passed with the concurrence of the Government. What has happened to that proviso? The recommendation of the Committee was that that proviso should be deleted, but there was no argument given in support of that position. That recommendation has been accepted in this Bill with the result that agricultural income arising in Indian states can now be taxed in British India if the income comes here. I am speaking particularly with reference to the tea industry, the tea industry of the Indian states. The intention of the amendment in 1933 was that so far as agricultural income was concerned of a man resident in British India there should be no difference between the agricultural income arising in an Indian state and the agricultural income arising in British India. But that is sought to be nullified now. Although the recommendation of the Committee with regard to agricultural income in British India was not accepted in the Bill, that has been accepted with regard to agricultural income arising in Indian States. I am now speaking particularly of the tea industry. The tea industry will pay their revenue once in the State and then when the manufactured tea is brought to India it will be taxed again. It is precisely to stop this double taxation that an amendment of the Act was made in 1933. With regard to this matter, I am in a position to speak from personal knowledge, with regard particularly to the tea industry of Tripura. There we have to pay revenue for the land and in addition to it we have to pay what is called royalty at an exorbitant rate, viz., 2½ per cent. on gross sale proceeds. Therefore, it is not really a case of double taxation. It is triple taxation. There is something more

still. Recently they have added another cess. So, I do not know whether there is any justification for accepting this particular recommendation of the Committee and inflicting this four-fold taxation on the tea industry of the Indian States.

With regard to the old complaint of the Joint Hindu family, no relief has been given. The whole system of taxation of the joint Hindu family is based on quite a fiction. A family may consist of 2 or 3 or 4 or 7 members. The whole of them are treated as one individual and on that fiction the tax is levied upon the total income of the family. There is no allowance given for wife or for children and that on a very extraordinary ground. They say, "Oh, the normal condition of things here is marriage" and therefore it is not feasible to give any allowance for wife and children. The wife's income is now being amalgamated with the husband's income for the purpose of income-tax even though the income may be derived from her father or from some other source. That is amalgamated with the income of the husband and the total income is assessed at the rate applicable to the aggregate income. Even the children's income is not spared even if they have got sources of income other than the father. All that is proposed to be amalgamated with the income of the father and the total income is assessed.

I shall now say a few words as to how it affects trade and industry. Representations have been made for a long time past for abolishing the super tax of companies but no relief has been given under this head either. It is said that in the case of companies it is really not income tax but corporation tax. If it is a corporation tax, why do you put it in this Income-tax Bill? If it be a corporation tax, why do you assess the tax on the basis of the income and not on the basis of the privileges which they enjoy as a corporation. Either it is a corporation tax or it is not. If it is a corporation tax, is it not fair and proper that the profits of the company should be deducted in computing the profits for the purpose of income-tax. Then again, if one company receives dividend from another company and that company is super-taxed, if it is a corporation tax, is it proper that the receiving company should also pay super-tax. The position is this, that so far as companies' super-tax is concerned all the advantages of the corporation tax have been denied but all the disabilities and disadvantages of the corporation tax have been inflicted upon the company. The result is that trade and industry are very seriously affected. It is a suicidal policy. That is not a wise policy, because if industry prospers and expands, then only it can be a source of revenue. You can kill the goose but you will never get the eggs in future. Therefore, it is not a wise policy either.

I must confess that the time available for the study of this Bill has been utterly inadequate. We are not all intellectual giants. We have been asked to study a comprehensive and intricate Bill like this in the course of three days. It is impossible in this short time to examine the full implications of this Bill, and to find out how it will affect the different classes and so on. Therefore, I shall not take the responsibility of going into minute details of the provisions of this Bill, but this I do say that if I have been unable to understand the Bill there must be many others who are equally unable to understand the full nature of the Bill in such a short time. May I say this to the Honourable Sir James Grigg: "Strike but hear". You may strike us by the provisions of this Bill but you must listen to us before you strike. You have flung on us a volume of 500 pages. I wonder who are the people who can read and digest this voluminous book within such

[Mr. Akhil Chandra Datta.]

incredibly short time. We got it on the night of the 4th. The 5th was a holiday for us. That was the only day on which we could have studied it. Even if one goes on the whole day reading the book without even taking his meal, even then it would be physically impossible to go through this volume. It is no use saying that you have got all these voluminous opinions and that circulation will only kill the Bill. I want the attention of the

Finance Member for a moment. If I am convinced that by the 1 P. M. circulation of the Bill for eliciting public opinion thereon by the 15th of September the Bill will be killed, then I shall withdraw my amendment immediately, subject of course, to the leave of the House. But what troubles me is that I fail to understand how the mere circulation of the Bill till the 15th of September can kill the Bill, or, for the matter of that, how that can prevent the Bill from being placed on the Statute-book before the year is out. That is my difficulty. I agree that there should be no avoidable delay in the matter. On this point I understand that the Leader of the Opposition will make a statement as to what is the real idea, i.e., as to when it can be taken up in Select Committee, and when it can be brought up before the House. But I repeat that it is not a fact and there is no substance in that argument that to circulate the Bill would be tantamount to killing the Bill. And is it a kind of Bill that should be rushed through? If the principle of circulation is ever to be adopted. I cannot imagine that there is a fitter or more appropriate case for circulation than the present Bill. Sir, I move.

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th September, 1938."

The discussion will now proceed on the two motions.

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadan Urban): Sir, in supporting this motion I desire to make it clear that I am not opposed to the Bill as a whole. There are some parts of the Bill which I welcome; for instance, those relating to the giving of relief to the poorer taxpayers. I am also in entire agreement with the Honourable the Finance Member in regard to his attempt to close all illegitimate loopholes through which evasion of taxation takes place. But the closing of its illegitimate loopholes stands on a different footing from the legitimate exemptions granted in respect of taxation. There are many provisions of this Bill which require very careful examination, and, therefore, I think that this Bill should be circulated for eliciting opinion thereon.

There are three important reasons which impel me to support this motion. In the first place, we expect at the time of referring a Bill to a Select Committee to discuss the principles of the Bill. Now, are we competent at the present moment to discuss threadbare the principles involved in this Bill? He would be the bold man who could say that he knows what is contained in the Bill and what is not contained. We have been given only three days' time to consider this Bill, and it has not been possible for us to compare carefully the present Bill with the original Act. I wonder why an amending Bill has been brought forward instead of a consolidating Bill. A consolidating Bill would have been very much preferable, because it would have been better understood. It is impossible to go through the perplexing maze of amendments to the Act. Sir, this Bill is a very long

Bill; it consists of no less than 75 clauses and it amends most of the important sections of the existing Act. It omits some of the sections and it substitutes some others. It adds several new sections. This Bill is in fact a larger measure than the original Act, which consists of a smaller number of sections, 68 in all. Why, then, has the Finance Member thought it proper to bring forward an amending Bill and not a consolidating Bill? We are perplexed at the innumerable amendments which have to be read along with the original sections, sub-sections and clauses of the existing Act. The preamble of this Bill, moreover, is a short one, consisting of only four or five lines and does not give us any idea of the scope of the Bill.

Not only is this Bill large in size but it is of an extremely complex character. The complexity of this Bill is such that any one who knows anything about income-tax will find it extremely difficult to grasp its essentials, and as regards the ordinary man—the ordinary taxpayer—he will be entirely lost in bewilderment. Sir, it deals with matters of the utmost importance and it is not possible for us, without giving sufficient thought to these questions, to grasp the significance of the provisions and their implications. Sir, as regards these principles and important details, I shall refer to a few of them. As the question is whether the Bill is to be referred to a Select Committee or is to be sent out for circulation, I will not deal with the principles to any great extent but I will only refer to some of them.

The first point, there is the question of the step system *versus* the slab system. The slab system exists in the United Kingdom, and personally I am in favour of that system but how many people are there even in this House who understand the difference between the step system and the slab system—not to speak of people outside the House? This is a very very intricate matter. Then there are the provisions relating to the grouping together of the incomes of husband and wife. This may or may not be right, but evidently there would be a considerable difference of opinion on this point. Thirdly, there is a distinction drawn between public trusts and private trusts. Here again, Sir, I am personally of the opinion that only public charitable trusts should be exempted and not private trusts. But those who are affected by this Bill should be given an opportunity of having their say in the matter. Then, again, Sir, there is a distinction drawn between income from property belonging to trusts and income from business. What is the basis of this distinction? Is this a question of principle? I fail to understand what principle is involved in this distinction? If you allow exemptions in the case of property, why should you not allow exemptions in the case of investments? Fourthly, I do not foresee what the effect of the provisions relating to the personal incomes of joint Hindu families will be. It is held in many quarters that this will help to break up the joint Hindu family system in India. I do not desire to express any opinion at the present moment, but it is likely that that effect would be produced. I do not know whether it is right or wrong.

Mr. N. M. Joshi (Nominated Non-Official): It is wrong.

Dr. P. N. Banerjee: My Honourable friend, Mr. Joshi, says it is wrong. On the point whether it is right or wrong, I do not wish to express any opinion; but before the existing social structure of the country is broken up, people should be allowed to have their say.

Fifthly, I come to compulsory returns. It can be easily understood that these compulsory returns would involve a great deal of hardship to the poorer people and particularly to illiterates.

Mr. N. M. Joshi: No, no.

Dr. P. N. Banerjea: Of course, my Honourable friend, Mr. Joshi, does not know that only ten per cent. of the people of India are literates and that illiterate persons also pay income tax.

Mr. N. M. Joshi: Very few.

Dr. P. N. Banerjea: My Honourable friend will excuse me if I say that he is wrong. I have before me the opinion of the Government of the Central Provinces which says:

"There is a body of opinion opposed to the proposal that the assessee should be bound to make returns *suo motu* and should be penalised for failing to make one or for making an incorrect return. It is apprehended that the provision will cause hardship in this country with its low incidence of literacy."

I hope my Honourable friend, Mr. Joshi, will mark these and the following words:

"In view of the complexity of business of making a proper income tax return, fear is also expressed that the power of imposing heavy penalties in this connection would be a dangerous weapon in the hands of subordinate officers."

Well, Sir, this is not the opinion of an agitator. It is not the opinion of the present Congress Government in the Central Provinces, but it is the opinion of the loyalist *interim* Ministry in May, 1937.

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

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

Dr. P. N. Banerjea: Sir, at the time the House adjourned for lunch I was dealing with the first of the three reasons which had impelled me to support the motion for circulation. I pointed out that the Members of this House were not at the present moment able to discuss the principles of the Bill with the thoroughness that the importance of the subject demanded owing to the short time that they had been given to go through this Bill, in view of the large size of the Bill, in view of the intricacy and complexity of the measure and in view of the many fundamental principles involved in it. Sir, I referred in passing to six of the main provisions contained in the Bill; now I will deal with a few more of those provisions. The seventh important point that is contained in the Bill is the setting up of new authorities. This will involve considerable additional expenditure. Unfortunately while the administrative machinery is being expanded there is no provision made here for an independent tribunal of appeal. In this connection I will quote to you the opinion of the Chief Justice of the Central Provinces. The Government of the Central Provinces say:

"The Honourable the Chief Justice would prefer an independent tribunal to the existing system which is, in his opinion, unnecessarily cumbrous and time wasting in the matter of the duty laid on the Commissioner to state a case."

Sir, the eighth point to which I would refer is the question of depreciation. The provision relating to this matter is such that it is difficult for us to say whether the industries will be adversely affected or not. Ninthly, the provision relating to accumulated profits is also a difficult problem to solve. Tenthly, the Honourable the Finance Member said that agricultural

income had not been included in this Bill for determining the rate at which the income-tax was to be levied. But, as was pointed out by you, Sir, this was included with reference to the States. The acceptance of a principle like this may prove very dangerous. Eleventhly, the penalty has been doubled. Undoubtedly this will cause great hardship, particularly to the poorer people and will furnish room for harassment. Lastly, the provisions relating to double taxation relief are not satisfactory and ought to have gone further. These are some of the principles to which I have referred but there may be others which are equally important.

I come now to the second reason for supporting the motion for circulation. The provisions of the Bill will affect different classes of society in different ways and they should be given full opportunities to express their opinions. The Honourable the Finance Member said that the opinions of the commercial community were included in this big volume. That is true, but he admitted that all the recommendations of the Committee have not been accepted in the Bill. A few principles have been left out, but even these few are important. Then again, Sir, the commercial community is not the only category of persons affected by the Bill. There are others who wish to have their say on it. There are individual persons who have to pay income tax, there are persons interested in trusts, there are members of joint families,—all these want to express their opinion. We may or may not accept their views, but opportunity should be given them to express them.

Sir, this is a measure of fresh taxation. The Honourable the Finance Member made it clear that he would get about two crores of rupees if the Bill be passed in its present form. Perhaps he may get more. I am not one of those who regard taxation as a necessary evil; on the other hand, I am one of those who consider that in proper conditions and in proper circumstances taxation may be made a necessary good. But do these conditions exist in our country at the present moment? That is a question which I will leave to the Honourable the Finance Member to answer. He said that one-half of the proceeds of the new measure of taxation will go to the provinces. So far so good. I am very happy that the provinces will have at their disposal larger amounts of money to spend on their nation-building departments. The provinces are in need, particularly the Congress provinces. The Congress provinces have given great promise of development and they should be fully supported by us. I wish he had expressed the view that the whole of the proceeds would go to the provinces; I would have entirely supported him on that point. But because the money will go to the provinces and because the provinces are in need, we should not enact any unjust measure. Income tax, Sir, is regarded as one of the best methods of taxation, because we are able through it to secure justice in taxation. Let that be our watchword. Let us see to it that no injustice is done to any class of people.

My third reason for supporting the motion for circulation of the present Bill is that it is defective in many respects. One of these defects is that no allowance is made in this Bill for children. Another is that no distinction has been made between earned income and unearned income. But the most important omission is that the present Bill does not subject to Indian income tax the interest on sterling loans and the pensions paid in England out of Indian revenues. Sir, this is a grave injustice to the Indian Exchequer and has been a standing grievance of the Indian public for a long time past. The other day the Council of State discussed a Resolution

[Dr. P. N. Banerjee.]

relating to this subject, and the Honourable the Finance Secretary stated that there were certain sections in the Government of India Act which stood in the way. Now, Sir, my point is this: if Government gets time they will be able to approach the Home authorities with a view to these sections of the Government of India Act being amended. Sir, the injustice of these provisions of the Act has not been denied by any person, and indeed he would be a bold man who would deny the injustice. Therefore, I would ask them to take time so that they may approach the Home authorities, so that these sections of the Government of India Act may be amended, and proper provisions introduced in the Income tax Amendment Bill. Sir, for a long time past, indeed since the commencement of British rule in India, a tribute has been exacted from this country in one shape or another, and these provisions of the Government of India Act secure to the British Government this tribute. The time has come when this tribute should cease. The Honourable the Finance Member said that the amount of this tribute was not very large. Well, even if it were Rs. 20 to 50 lakhs, for a poor country like India this amount is very considerable. I hope and trust that this House will definitely demand that in the Income-tax Amendment Bill a provision should be inserted for taxing the pensions as well as the interest on sterling loans which are paid out of Indian revenues.

Sir, the Honourable the Finance Member said that any delay in accepting his motion would indefinitely postpone its enactment. I do not see why it should be. If we circulate the Bill now and appoint a Select Committee in the Simla Session of the Assembly, the Select Committee may meet in October, and a special Session of the Assembly may be held in November, so that the whole Bill with all its provisions may be ready to come into operation on the 1st April, 1939. Now that it has been decided to extend the life of this Assembly by one year, there ought not to be any further difficulties in the matter. If this had not been done it might have been said that if the Select Committee of this Assembly reported, this report would not be binding on the new Assembly, and so a fresh Select Committee would have to be appointed, thus causing indefinite delay and postponement. Now, there is no ground for the Finance Member not to accept the motion for circulation. If he does accept this motion he will be able to rid this Bill of its evil features, he will be able to insert provisions which are important, and he will be able to do justice to the different classes of society in the country who wish to express their opinions.

Mr. Manu Subedar (Indian Merchants' Chamber and Bureau: Indian Commerce): Sir, the British Treasury, perhaps anxious to see that the British interests in India are safeguarded and also extended, has sent to this country two Finance Ministers—one was Sir Basil Blackett who, in spite of his faults, was really great, and the other is Sir James Grigg who thinks he is great.

The Honourable Sir James Grigg: On the contrary I was quoting you, not myself.

Mr. Manu Subedar: I do not wish to anticipate the judgment of history as to whether he will be able to impress the posterity with his claim for greatness, but I will say that this particular Bill will certainly not entitle him to the distinction of being a great Finance Minister of this country. As I heard the Finance Minister today, I was looking for

his lifting this debate into the higher regions and to give us some genuine justification for the great measure which he is bringing, justifying it on the definite canons of taxation, indicating how the different classes were affected and the relative position of India with reference to other countries in regard to relative incomes, but, Sir, I failed to find all that. I then remembered the compliment paid to him by the *London Times* just before the grants were thrown out that Sir James has a great political flair. Now, I find an attempt in his speech to sow division, suspicion, suspense and generally to create a murky atmosphere in which everybody is looking at everybody else to know what is the position. I find, Sir, an attempt on his part to convince this House and through his speech to convince the country that he had greater love for our provinces than we had ourselves! Sir, I will retort to him that I love my country and serve my country, and I accuse him that even in his place here, he is serving his own country. I shall show, Sir, in the latter part of my remarks in what way even in this Bill he is serving his country more than he is serving my country.

Now, Sir, coming to his speech I will refer to the personal remarks which the Honourable the Finance Member made. It is very flattering to me that he should quote me as an authority, which reminds me of the Biblical saying about the devil quoting the scriptures! I am very glad that the Finance Member accepts me as an authority, and I trust that he will in future follow what I have been trying to say in this country for the last 25 years, formulating economic opinion; and if he does follow that he will certainly go down to history as a great Finance Member. I will not take away from him the one compliment which I have paid to him and which he could not restrain from informing this House about and that was that he comes to this country with a great reputation as being an expert in income tax matters. I maintain that he is a great income tax expert, but I complain that he has used his expertness not in the service of this country or in the advancement of the interests of this country, but in the service and advancement of British interests in India, as I will demonstrate.

Taking the subject matter before us, I would say this: the Honourable the Finance Member will remember that commercial opinion and indeed general opinion throughout the country wanted an income-tax inquiry committee with non-official Indians thereon, so that their case may be heard, not in 500 pages books but directly by assessors who are sitting on the committee. You, Sir, in your speech this morning have made it clear that that was essential; but that essential was passed over. The Finance Member expressed a desire to reform Income-tax law as soon as he came to this country and he has taken all these years; even after January, 1937 (when I made those remarks which he has quoted), fifteen months have passed and now, when it is suggested by my chamber that this Bill should not be rushed into law, that means that we should be given reasonable opportunity to examine these things; he has pointed out that whereas I wanted an immediate change in the law, my chamber is now wanting to examine the actual wording of the very complicated Bill, as all Honourable Members must have found out by this time. He is complaining. Sir, this flippancy and these cheap sneers at commercial bodies is not going to help the Finance Member. There has been a practice in this country that in important committees of this kind, when they make their report, Government should submit to the country their views in the form of a Resolution. This has not been done on this occasion. The

[Mr. Manu Subedar.]

opinions on the Committee's report—the 500 pages which the Honourable Member threw in the face of Members in this House—were opinions on the Committee's report. I ask him, and I ask every Member of this House to ask himself, why have these opinions been withheld from Members of this House and this Assembly until the last moment—why have they been given to us at a moment when it was not possible physically to get through them before we have to make our remarks on this Bill? We had the example of the Railway Authority, the Communications Member, in connection with the Wedgwood Committee Report, who published the recommendations with their comments. The Committee makes a large number of recommendations. We are not told which have been accepted and which have not been adopted and why. The Honourable the Finance Member spoke this morning of some recommendations—he gave various figures—and what this House would have very much liked, and what I suggest is still possible is a seriatim mention of the recommendations of the Committee with the reasons as to why certain recommendations have been adopted, certain have been postponed, certain of them modified and, if so, in what direction the modification is. I want to know why in some cases the recommendations have been exceeded; why for example, the recommendation in particular with regard to those pensions which are not safeguarded by the Government of India Act—section 272—pensions earned in India but made payable abroad are not going to be taxed and why the Finance Member has gone beyond that recommendation of his own Committee—a committee of officials, one of whom was then not an official but is sitting with us now and one who was an official—why the recommendation even of that Committee has been set aside; the Honourable the Finance Member has not told us until now in the morning's speech. Sir, I still hold to the views in general which I expressed at that time as an Indian economist; but the word "Indian" as well as the word "economist" is anathema to the Finance Member . . .

The Honourable Sir James Grigg: Not at all.

Mr. Manu Subedar: I still hold that I am glad that provision is being made in order to get tax dodgers to pay fully and that loopholes for wrongful evasion whether in law or outside the law are being stopped. But that is not what this Bill does. This Bill unfortunately goes very much further. This Bill takes away allowances; it alters the basis of calculation; it alters the very structure on which taxes are to be collected; it alters substantially the extent to which taxes will be collected; and as I will show, in various directions it has very far-reaching effects in addition to stopping evasions. You stop evasions, by all means; but when you make fundamental and structural modifications, it is only fair that you should tell this House what the full effect of those modifications will be.

I regret very much once more that I have to point out that the Finance Member has not treated this House with consideration. In giving us the estimates of the extra yield from the various measures which are coming on, he did not tell us whether the extra yield would be the effect of the actual changes which he has embodied in this law or whether there is not some still further extra yield by the changes which he has already adopted by way of administrative practice and through administrative orders, also on the recommendations of the Committee. Lastly he has

not told us with regard to the rates what he is going to do beyond the one general statement that he will take the sample slab rates as put down by the Committee in the appendix. Sir, the rates will determine whether the volume of taxation collected will be very much greater or not. He has not told us—though he has been talking so much about the poor man and so on—whether he is going to take the limit of exemption to Rs. 1,000.

All I want the House to consider in this matter is not whether any individual section is all right, but whether the cumulative effect of everything which is provided in this Bill will be an equitable measure—a measure which will not fundamentally disturb the structure of trade and industry in this country and disturb it so much that we may ourselves have to retrace our steps in order to put things right.

Sir, I want to speak a few words with regard to the point which he made, namely, that only the rich people are concerned with this Bill. I hold no brief for individual rich men; you can tax them as much as you like. I do hold a brief, however, for the trade and industry in this country

Mr. M. S. Aney (Berar: Non-Muhammadan): For the rich as a class!

Mr. Manu Subedar: You can take from them whatever you like; but that has nothing to do with the extra money you take out from trade and industry, of which you must not disturb the structure. I want to point out in a few directions how the Bill also affects the poor. After the provision that the wife's income must be calculated in making up the total, a good many people who were not assesseees have become assesseees, and in future not only these assesseees but the near-assesseees, those who are very near the limit, will have to declare whether called upon or not, what their income is. This obligation is going to be very difficult for some of them. Then there is something which will interest my friend, Prof. Ranga. If a workman has got an accident and if he gets a lump sum or if he dies and his wife gets a lump benefit, this was hitherto exempt. But this Bill seeks to take away the exemption and this money in the hands of the wife will be taxed

The Honourable Sir James Grigg: It is still exempted. The Honourable Member is wrong.

Mr. Manu Subedar: I am very glad that I am wrong. I wish that on the various other points on which I may express apprehensions the Honourable the Finance Member will with equal readiness give
 3 P. M. us an assurance. I am here to take these assurances. I am not here to be right, I do not mind. Then, Sir, I want another assurance, that the poor man's insurance money whenever he receives it will also not be taxed.

The Honourable Sir James Grigg: He can have that assurance too.

Mr. Manu Subedar: I am very glad that these doubts are getting over. If he removes all the doubts I shall be the first to say that this is a very excellent thing.

An Honourable Member: Go on asking.

Mr. Manu Subedar: Take the position of the poor man as a shareholder. Various poor men, those who are not assesseees have a few shares of some kind or other. His position also is affected. If the company is taxed more the company will not be able to give dividends and to that extent the shareholder will be affected. But what is more, the tax was deducted at the source at a very heavy rate and the poor taxpayer hitherto had the benefit of a refund. This benefit of a refund is taken away by clause 51.

The Honourable Sir James Grigg: He still gets the benefit of the refund.

Mr. Manu Subedar: He gets the benefit of the refund, not at the differential rates.

The Honourable Sir James Grigg: Yes, he does.

Mr. Manu Subedar: I am very glad that the Honourable the Finance Member is ready with assurances. I will presently ask him a couple of questions on which I want an assurance. Everything is being taxed, industry and activity of any kind. Taxation generally goes by way of expenses and it has invariably the effect of increasing the cost of the articles which the particular company is producing. All utility companies and all other businesses producing anything in this country, in fact, the whole range of enterprise in which the poor are interested as consumers, a point which the Honourable the Finance Member has made,—all these companies are going to be affected by measures which are forecasted in several other sections here, and I say that this is a Bill which in its ultimate effects is not going to leave any class of people altogether free from its indirect burdens, even if the number of assesseees concerned is very small.

Then there are portions of the Bill which affect the structure of business in this country. I wish to refer to only one point with regard to partnership. Every one knows in this country, at least my observation and experience is that in the matter of partnership there are a good many firms in which there are men who do not contribute much or any of the capital but who are still given the designation of partners and are given a certain amount of salary, whether the firm makes a profit or not, and whose interest in the results of the firm's working is stimulated by an assurance that they will get a share of the profit. According to my reading of section 10 (4) (b), the firm will not be allowed to deduct from its total income anything paid to the partner not merely by way of salary but by way of interest, commission or remuneration. This means that the structure of many partnership firms, many of them quite small, is going to be seriously affected. It may have to be seriously altered and this is going to cause considerable hardship to a very large section of the people.

The Honourable Sir James Grigg: The Honourable Member is wrong again. The new method of assessing will make no difference whatever.

Mr. Manu Subedar: I am very glad that it is all going down in the records. Then the owners of property are also going to be affected. Joint

property which was hitherto assessed separately is now going to be assessed in the names of two people, and with regard to insurance which the owner of the property has to incur as a matter of course,—insurance is as necessary as repair, insurance in these days of the house and other property which one possesses is an absolute essential and necessity. Still I find in section 9 (c) that the insurance amount which will be paid by the owner of the property will not be deducted when counting up the total income.

The Honourable Sir James Grigg: The Honourable Member is wrong again.

Mr. Manu Subedar: I am very glad. Then there is the question of trusts and settlements. The matter was referred to by Dr. Banerjea and in these trusts and settlements there are certain practices, social and economic, in this country which are going on. But it is suggested that in future the transferor or the settlor will have to add to his income the entire income of any such trust or settlement which he may make for social and other purposes.

There are good points in the Bill and there are others, and I will now refer to one good point, namely, that the demand of the commercial community that losses should be carried forward has been at last conceded, though in a somewhat niggardly manner, but it has been conceded and it is a good point. I am personally very glad that certain incomes which were escaping on the ground of being religious and charitable are being roped in, though I should have liked to see the Honourable the Finance Member going further in this direction. Then we find that municipal activities outside their jurisdiction are also going to be taxed in future. With regard to clause 38, we find that the appellate Assistant Commissioner will be working directly under the Central Board of Revenue. This is an improvement over the present position, but unfortunately clause 38 omits section 33A which provides facilities for reference to a Board of Referees consisting of half business-men and half judicial men and appeal to such Board of Referees has been abolished. With regard to the claim for refund, in future Government will be generous enough to entertain this claim for six years instead of closing it at the end of one year as at present. But the Government are going to claim the right to reopen a case up to six years in the past. This, I submit, is going to create great hardship with regard to all classes of assesses, whose affairs may have been displaced on account of death, departure from this country, separation of partnership, or addition of new partners, liquidation, modification, transformation, amalgamation and many other circumstances. It is going to create an extreme hardship. The Honourable the Finance Member claims that he is trying to approximate the income-tax of this country as near to the system in the United Kingdom as possible. I say if he is trying to do so, why is it that he has not brought in a distinction between earned and unearned increment which forms the entire basis of the system in the United Kingdom?

I want to secure the attention of this House for a moment to one very major point and on this I shall be very glad if the Honourable the Finance Member will give me an assurance also. That is whether the collective effect of several sections does or does not amount to a capital

[Mr. Manu Subedar]

levy. A capital levy is a war measure and could only be justified when a country is in very serious danger. But when a country is in normal times and when it is not on the brink of a depression as the Honourable the Finance Member himself said the other day, it is very surprising that there should be provisions, which even with the defective reading which I might make of those provisions in the course of one and a half days which I have got over this,—it should be very surprising that they should have directly or indirectly the effect of a capital levy. Now, Sir, the clauses which I refer to are clause 2—definition of dividend, and clause 10 in which we have got the changes in connection with the depreciation from the original value, not to, replacement value which would be in my opinion a very much fairer basis, but to the written down value. That is not enough but the carry-forward of this depreciation which has been allowed hitherto and which has been a very useful thing for joint stock companies, that carry forward is also being interfered with. Then, Sir, with regard to the renovation, with regard to the disposals and sale of plant, there are various restrictions which I shall not weary the House with.

The Honourable Sir James Grigg: The Honourable Member is wrong about obsolescence. The provisions in the Bill are much more generous than the old ones.

Mr. Manu Subedar: That is a matter of opinion. It is no use reading a section of the Bill by itself. You have to read it in the light thrown on it by other sections and you have to see the cumulative effect. No one would be more glad than myself if I was told and felt that trade and industry will not be interfered with and that the flow of capital will not be curtailed and checked and that really the tax-gatherer's hammer is not going to fall heavily on trade and industry. I repeat I am not here to fight the rich man's battle. I am here to fight the battle of trade and industry. The provisions about bad and doubtful debts which have existed hitherto are also being circumscribed. Then there is a distinction between the portion of a building which is used for business and the portion which is not used. Here also it seems to me that a large class of assesses of the middle class for whom great sympathy is professed are going to be affected. And lastly we have the provision that the cess and other taxes paid by business will not be allowed by way of expense when they vary with gains. Even under the existing system of tax, the scales are heavily weighted against joint stock enterprise and I will illustrate this. If an individual trading himself makes Rs. 10,000 a year, he is paying one anna in the rupee, that is to say 12 pies, but if the same individual were induced to turn himself into a joint stock company and if there was a small joint stock company, then this company will have to pay a tax even under the existing system of 26 pies. In other words, joint stock company enterprise is already at a disadvantage and I submit that in this Bill there are various parts, in which deliberate attempts appear to have been made to discourage a form of activity in regard to which every Government in the world including the Government of the United Kingdom have taken numerous helpful steps.

Now, Sir, I want to refer for one moment to the discriminatory clauses in sections 4 and 5. These are discriminatory clauses through definitions.

An Indian having his income abroad will have to declare his income and he will be taxed, but an English resident is given a different treatment. Similarly an English Company is given a different treatment, because the control and management is without India. This differential treatment is obviously dictated in the interests of the United Kingdom companies and is unfortunately going to cost this country heavily, because of the leakage through the establishment in Indian States of the head offices of many businesses carried on in British India. But, Sir, the general principle of double taxation which is provided in clause 53 is one to which I would invite the attention of the Government. The Honourable the Finance Member had much to say in his speech on this subject and I also may be forgiven, if I say a word or two from the point of view of my country, as indeed the Honourable the Finance Member spoke from the point of view of his country. Now, Sir, I will recall to this House the opinion of Mahatma Gandhi, in the matter of all reciprocal agreements with the United Kingdom. The Mahatma gave the parable of the giant and the dwarf. Every time you have a reciprocal agreement with the United Kingdom, you find that you are giving much and you are receiving something which, to use the word which Sir James Grigg is very fond of, is all imaginary. This House will recall that there was a time when English shipping companies paid no tax. They were not assessable to income-tax at all. This has been an old tradition and I find it almost as deep as the tradition built up from the days of the East India Company and this tradition unfortunately still continues and I am sorry that the Honourable the Finance Member has not taken up the cudgels on behalf of India. Sir, inquiries were made of the Government of India as to what was the cost to India of this double tax relief and the Honourable the Finance Member himself has quoted this morning the cost of the reciprocal relief. The so-called reciprocal relief to those taxed in the United Kingdom is one crore and 48 lakhs a year, which is a very considerable sum as we all realise, considering the 12 provinces which would be very glad to have this money. We made inquiries from the Government over and over again as to what was the corresponding relief which Indians secured in the United Kingdom. The Government of India claim that they did not know. I say it is very wrong for the Government not to know what we get in return for something which we give. If a guess was to be made, and again I speak subject to correction, and I should be glad to be corrected on this occasion, I do not think that Indian assesseees in the United Kingdom get more than two or three lakhs against a crore and 48 lakhs relief which you are giving away to them. Now, Sir, the principle which I would advocate in connection with double relief is that the nationals of each country should get relief from the Treasury of that country. The nationals of a country should go to their Government and say "Give us this relief as we have to pay taxation in two countries". That is not done here. Here the other thing is done. If an Indian national makes money in Japan, he has to declare his full income, pay the full income-tax in Japan and he has to pay full income-tax a second time in this country and he cannot even approach the Government of his country for some relief, but an Englishman in this country or an English company or firm which makes money in the United Kingdom or money here and who has paid taxes in the United Kingdom, can come to the Government of this country and say "I have been already taxed there. Therefore you must give me relief". Relief is not to be given to the children of the Home. The relief is to be given to the United Kingdom, because if we do not

[Mr. Manu Subedar.]

do so, the Finance Member says that capital will fly away from this country! I see there are very drastic provisions against joint-stock enterprise in this country embodied in this Bill, and I should be very glad if my European friends will give us their views on this subject, because these provisions affect equally Indian and European capital. Now, if that capital which is equally penalized by the provisions of this Bill is roped in, we should be glad to have the views of our European friends. They came here for opportunities which they thought would continue, but the penal provisions of this Bill almost amount to a capital levy in some cases; and if these provisions will not frighten away British capital from India, I certainly do not think that the taking away of the relief of double taxation will frighten them.

Sir, the Finance Member in his remarks during the Budget debate, which we did not hear in this House, said that he was not sure whether the depression had or had not come to this country; he felt, however, to be inclined to feel that the depression was creeping around the corner. If that is so, then my submission would be that at least with regard to those provisions of this Bill which affect the structure of business, which is going to shake up and metamorphose so many things in the business life of this country, at least with regard to those provisions, let us have the views of the public and let us modify them if we feel that we should do so without any harm. Sir, the issue between the tax-gatherer and the tax-payer has been the same all over the world. If Sir James Grigg thinks that because he is mentioning the needs of the provinces, the taxpayers are all going to fall on his neck with two arms, he is very much mistaken. Sir, the system of tax including the burden thereof can be justified by the needs and the strict needs only of the State. The principle which we believe in is that money in the pockets of the people fructifies and goes into a productive channel; money in the pockets of the State is something which is apt to be diverted to unproductive extravagance. Sir, this justification has not been given by the Finance Member on financial grounds and I should be looking with interest for this justification in his closing remarks.

In the meanwhile let us take up the question of circulation or otherwise. Sir, I wish here and now on behalf of my Chamber to declare—and I think I can do so on behalf of the whole Opposition and of the Congress Party—to declare that not one of us wants this measure to be dealt with in such a way that it cannot come into operation as from the 1st April, 1939. There is no such desire and I say it is extremely wrong of the Finance Member to make out that because we do not agree to everyone of his requests, letter for letter and comma for comma, that therefore we are suspect, that we are trying to do this, that and the other and that in other words we are trying to destroy his Bill. Sir, I would not withhold from him the credit of piloting this Bill in this House before the 1st of April, 1939, but why the time-table which he fixes must be imposed on everybody on this side I do not see. Sir, I do not see why the legitimate request of the trade, who he said have sent in 20 telegrams, should be brushed aside. Sir, my Honourable friend has shown himself to be the implacable enemy of the opinion of organized commerce in this country, except of course the organized commerce of my white friends. (*An Honourable Member*: "You ask them.") I say that it is a perfectly

reasonable request of everyone concerned, who is going to be affected by this Bill, to say, "if we are going to be so much burdened, we want to study how the burden will fall, where it will fall, how much it will be, whether it will not be unreasonable, whether it will not be extremely high, etc., etc.". Sir, what is wrong, in the circumstances, in a motion for circulation? My Honourable friend says, "you have got five hundred pages of evidence and five hundred pages also of provincial and other opinions". Sir, if my Honourable friend has kept his patience with regard to this change in the Income-tax law for the last three and a half years that he has been here, why cannot he hold his soul in patience for the next six months and then carry this Bill through, as the Professor said, at any suitable time that he likes? I repeat that that is an absolutely uncalled for accusation that my friend has brought forward that anybody on this side generally and in particular the business associations who have sent him telegraphic requests have any desire to destroy this Bill. He has not got one vestige of proof for his allegation. I say it is not right to rush us in this manner and we should be allowed to consider this matter on its own merits. We should be allowed to be able to prepare and put our case before the Select Committee. The Honourable the Finance Member has repeatedly told me that some of my apprehensions are not well based. I am very glad if that is so, but if we find that some of the other apprehensions are well based, we should be allowed to represent these to the proper authorities, to this House and to the Select Committee. Sir, I support the motion for circulation.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): Sir, I do not propose to venture to examine the various clauses of this Bill on this occasion. It is a very complicated Bill and therefore I do not think that it is necessary for me on this occasion to deal with its provisions. I understand that it was said by some Honourable Member that there is the principle of the Bill to be considered when you are referring the Bill to a Select Committee. Well, I do not understand that argument at all as far as this Bill is concerned. This is an amending Bill, and the principle of the original Act is whether you should tax incomes or not,—and as I have said, this is only an amending Bill. If I was against that system of taxing incomes, then I can understand the point and I could say that I was opposed to it, that I am opposed to the substantive Act and I am opposed to the amending Bill, and in that case I shall certainly vote against the motion for reference of the Bill to a Select Committee and I shall say that I do not want to look at it. Sir, this Bill, to put it very shortly, is composed of certain clauses. Certain provisions are intended to tighten up the machinery, and certain provisions are intended to devise ways and means and methods of preventing evasion. There are certain matters which are entirely new and which are intended to tap new sources upon which the tax could be imposed, such as a person who is domiciled in India and is resident in India with regard to his foreign income. He has got to disclose that. Under the present law that is not necessary. It is not taxable unless it is received in this country. So, it may be that I am opposed strongly to some of the clauses. When the Bill comes from the Select Committee, I may therefore try my best and persuade Honourable Members of the House that particular clauses should be rejected because they are not acceptable to us. I would like those clauses to be deleted from the Bill. It is open to me to move an amendment to modify it or to alter any particular clause. But that stage will arise only after the Select Committee stage is over.

[Mr. M. A. Jinnah.]

Now, today we have got a motion moved by the Honourable Member in charge of the Bill that this Bill be referred to a Select Committee. I am not committing myself in the slightest degree to any one of these clauses of the Bill. As against that we have a motion that the Bill be circulated for eliciting public opinion on or before 15th September. Then there are other amendments giving 1st September and so on. Now, the question is this. I am glad that my Honourable friend, Mr. Manu Subedar, has made it clear that this side of the House has no intention—no section of the House has any intention—of killing this Bill. (Hear, hear.) We may be opposed to certain clauses, we may strenuously fight for the modification and alteration of certain clauses of the Bill, but it is not the intention of any section of this House to kill this Bill by dilatory methods or by obstructive methods. That was the allegation or the charge or the insinuation levelled against some section of this House. On the other hand the charge levelled against the Government is this: that the Honourable the Finance Member is determined, irrespective of the wishes of any section of this House, to proceed according to his time table and his time table is this: July, Select Committee. His argument for the meeting of the Select Committee is this. Surely there is nothing new in this. For the past two years we have been thinking of this income-tax revision. You have got here a huge big volume of so many hundreds of pages where all commercial interests have expressed their opinion. But let me remind the Honourable the Finance Member that surely it is one thing to carry on an enquiry, it is one thing to get opinions for the purpose of enquiry, it is one thing to get the opinions when the recommendations are made, but it is a totally different thing when the Bill is introduced in the Legislature. (Hear, hear.) Remember, Sir, every clause of the Bill has got to be examined as to how it will work, what effect it will have. This is no more than 500 pages document and this Bill is only 75 clauses. But all these 75 clauses will have the operation of law and the neck of every man who possesses any money will be in the hands of the Income-tax Commissioner. He will say section so and so has been contravened and the head of the assessee will be demanded as punishment. Surely, Sir, this is a very different situation altogether. This Bill is of vital importance which affects not only the commercial community and the rich for whom I have very little sympathy—the more you have the less you want to pay—but it affects a very large body of people who have got a very limited income. Further there are many provisions here and the income-tax machinery is very often, I do not say always, made the engine of oppression. (Hear, hear.) It is very often the machinery and channel of harassment to various people. Now the point is this: this machinery which you say you are tightening up, these new provisions which you are introducing, these additional taxes which you are imposing—surely all these clauses require some consideration by those upon whom this hammer of the tax collector will fall. You cannot expect a Bill of this character to be passed at once. Here you are introducing the Bill at the far end of the Session and you say that the Select Committee must begin in July. The charge against the Government is that they are trying to rush the Bill through. What I want the Honourable Member to state frankly and straightforwardly, just as we have stated, that he has no intention of rushing this Bill through. We say we have no intention of killing the Bill. Then, let us be friends. I say that it is not going to be your time table. Well, then, let us find out as businessmen and as sensible men—let us on both sides agree upon

—a time table having regard to the utmost consideration and respect for each other's convenience and each other's wishes.

Now, if that is so, then it is perfectly futile to suggest that this motion to refer the Bill to Select Committee should be made in Simla. Why in Simla? Why not now? Provided of course that it is not going to be the time table of the Finance Member. The public must have adequate and sufficient and reasonable time to express their opinion, and having regard to the business of everybody concerned, let us fix a time table. Supposing you say that the Bill be circulated for eliciting public opinion. Then the Bill comes back. You will then make a motion for reference to the Select Committee. I ask the Honourable Member "Do you think that in any circumstances of the case, this Bill could be refused to be referred to a Select Committee"? Then, we agree that it must be referred to a Select Committee. Very well, It is not that we are afraid to refer the Bill to a Select Committee. By all means do it. It is your Select Committee. But mind you, the Select Committee is not going to function till a particular date which will be sufficient to give all the interests concerned, a reasonable time to give their opinions.

Now, Sir, we have been weighing the pros and cons. I have no particular object in seeking to have a particular date. Every Member of my Party has been considering this, we spent a good deal of time over it. There were several factors which we had to consider. We assumed so many things. In fact one factor which I assumed till now has now disappeared beyond doubts. I understand that the term of the Assembly has been extended by one year more. Until this morning I was not sure of that. If the term of the Assembly had not been extended, I think in spite of his determination, the Honourable the Finance Member would not have been able to leave to posterity this great measure. I do not think he would have succeeded in his attempt. Now we have got to face the issue today because the Assembly is extended and, therefore, the Finance Member is the only hand that can pilot it and we have got to face him now. Then if the Assembly Session in Simla is going to take place about the end of August, let the Bill be circulated for eliciting opinion which should be received by the 15th August. That will give four months to the public, and you can get your opinions even from Great Britain if you want. But I think without going to Great Britain some of us do possess an adequate library to give an opinion as to how some of these clauses have worked. Anyhow it may be more satisfactory to get an opinion from Great Britain as to some of the clauses and how they have worked and as to the exact effect of those clauses which follow the English Law. After the opinions have come in by the 15th August, you can call your Select Committee and, on the assumption that the Session begins in the last week of August, the Select Committee will have one week or perhaps more to consider the Bill. Then on odd days during the Session the Select Committee can proceed with their work. I expect the Select Committee will not be able to finish their labours there and the Session must be terminated by the end of September as the Puja holidays begin early. Thereafter I believe the majesty of the Government of India will have to come down to earth from Simla and it will require a great deal of packing and unpacking and Sir James Grigg will surely be very busy and he must have some time to settle down in Delhi. I do not know when the Gods of the Simla hills settle down here, but I hope that for the convenience of everybody, on this occasion at any rate, they will settle down by the middle of October. Then the Select Committee can

[Mr. M. A. Jinnah.]

proceed with their work further and I should say that by the end of October they will be able to finish their work because they will get a fortnight or 15 days. Then you can have the Session either in the first week of November or in the middle of November at the latest; and from our experience of two previous Bills and making all allowances for the number of amendments, etc., I should think that in four weeks we should be able to finish this Bill one way or the other, i.e., by the middle of December. I have taken into account the fact that just before Christmas, according to practice, His Excellency the Viceroy has to go to Calcutta. I do not know the date. . . .

The Honourable Sir Nripendra Sircar (Law Member): It just occurred to me that probably my Honourable friend is assuming that the Executive Council meetings are held at Calcutta in December. They used to be held towards the end of December and sometimes in the first week of January, but that was not done last year.

Mr. M. A. Jinnah: No, but His Excellency the Viceroy. . . .

The Honourable Sir Nripendra Sircar: He went down about the 12th December.

Mr. M. A. Jinnah: That is exactly what I am saying. I am trying to meet any objection that may be raised that His Excellency the Viceroy is also the Governor General and that if he has to go to Calcutta by the 12th December the Session must end before that, because questions may be raised which may require the attention of the Governor-General and my Honourable friend there may have to see the Governor General.

The Honourable Sir Nripendra Sircar: There is the telephone.

Mr. M. A. Jinnah: Yes, certainly. But I am only saying that in order to avoid all that you can finish your Select Committee meetings by the end of October and you can fix the Session at any time you like. Therefore, Sir, my definite suggestion is that the Finance Member should give an undertaking that the Bill will be circulated by executive order for eliciting opinion by the 15th August, that the Select Committee should finish their labours by the *end of October* and the special Session should be held in November on such date as may be convenient to all concerned. If that undertaking is given, my Party feel that no useful purpose will be served by allowing Government to make another motion for Select Committee in Simla. We do not gain anything by adopting the course—as the Bill must be referred to Select Committee in any case. If there were even a remote possibility of rejecting this Bill straightaway or rejecting the motion to refer it to Select Committee and throwing it out, I could understand it; but that is not possible and nobody suggests such a course, so it has to be referred to Select Committee. Therefore, why waste time. We should get on with the business and tackle this Bill on its merits both in the Select Committee and also in the special Session, and deal with each clause on its merits. Therefore, I do not see any particular object in asking for circulation by the 15th September and saying that the Finance Member should then make a motion for reference to Select Committee during the Simla Sessions. Let us have a Select Committee ready;

let us accept this motion and agree to this time table and let us get on with the work. And then I hope both the parties will be acquitted, one of rushing the Bill through and the other of trying to kill it. And as far as I know and have been able to understand, the public only want time and reasonable time to express their opinion. I think they are justified in asking for it and are entitled to have a reasonable time—they ought to have at least four months. Sir, I have nothing more to say and I am prepared to support the motion for the Select Committee on the express understanding and undertaking being given on behalf of Government on the floor of this House as outlined by me as to the time table and circulation of the Bill for eliciting public opinion.

The Honourable Sir James Grigg: After the speech to which we have just listened, it would be for the convenience of the House if I responded to the invitation of the Honourable Member and defined my attitude rather more precisely than I did in my opening speech. Mr. Jinnah said that his Party would be able to support the motion for the Select Committee if I gave an undertaking that by an executive order the Bill would be circulated and the general public would be given time until the 15th August to express their opinion. To that request I can certainly respond. I can certainly give him the undertaking that I will circulate the Bill by an executive order and that the public would be given until the 15th August to express their opinion. As regards his detailed time table I do not want to commit myself to it in detail. His estimate is a little optimistic, and I do not think he wanted me to commit myself in detail. As regards the operative part of the undertaking he wanted, I will certainly give it now.

Babu Baijnath Bajoria (Marwari Association: Indian Commerce): I rise to support the motion for circulation, that the Bill be circulated for the purpose of eliciting opinion thereon by the 15th September, 1938.

At the outset I must say, Sir, that I have no intention of employing any dilatory methods or obstructive tactics against this Bill, nor do I want that this Bill should be killed, but I am obliged to place the views of the commercial community to which I have the honour to belong. After all what do we want? We want that the Bill should be circulated and we should have definite opinions on this Bill as distinct from the opinions of the associations, to which my friend the Honourable the Finance Member referred, on the Income-tax Committee's report. As my Honourable friend, Mr. Jinnah, pointed out quite clearly and in his inimitable way, opinions on the recommendations of the Committee are altogether a different thing from the opinions on the Bill which will apply to us. So, I think no harm will be done if the Bill is circulated for public opinion. The Honourable the Finance Member is following the procedure which was followed in the case of Insurance and Companies Bills—referring to the Select Committee and circulating for public opinion in the meantime. But, Sir, this Bill does not stand on the same footing; also what was done in those cases prior to the reference to the Select Committee has not been done in this case. I say no informal conference was called of the various interests concerned to discuss the recommendations of the Inquiry Committee, to get the basis for this Bill. The Honourable the Finance Member said in his opening speech that it would not have been possible for him to call such a conference because everybody would be opposed to a Bill of this nature and he would not get any definite views so as to formulate his Bill. Every one of us here will be affected to a certain extent by this Bill, and what does he

[Babu Baijnath Bajoria.]

mean by saying that we would not have been of help to him if such a conference had been called? He should have taken us—I mean by “us” the commercial community in particular and the other interests, which are also affected, in general—into his confidence, and then he would have been justified in making the motion which he has made today. He says he has already got the opinions which are printed in these 500 pages and which were circulated at the eleventh or rather the twelfth hour to us—we got it only day before yesterday, if I remember right. How has he treated these opinions in this Bill? I would quote his own words. He reminded us that of all the recommendations made in the report, 48 recommendations have been embodied *in toto* in this Bill, nine recommendations have been embodied with slight modifications: that makes 57. Four have been left over for further consideration by Government and only six have been rejected outright. I would like to know from the Finance Member, is this the consensus of opinion in all the representations he has received: I doubt very much. I think, Sir, the opinions which have been circulated to us are not in the same way as the clauses which are embodied in this Bill. As regards the time table suggested by Mr. Jinnah I presume that the Simla Session of the Legislative Assembly will be held earlier this year as the Durga Puja starts at the end of September, and then we have to pass the Motor Vehicles Bill which is a long and contentious measure. So, the time table which has been suggested by Mr. Jinnah does not appear to me to be suitable. I would request that this Bill should be circulated for public opinion, and at the beginning of the next Session the motion for the Select Committee should be made, so that we, the Members of this House, shall have the opinions of the commercial community and of the other communities and the people in general before us, to form our opinions and place them before the House so that they may be considered by the Select Committee. This is what I want to say about the time table.

Now that the Bill may go to the Select Committee I want to discuss one or two points on the merits of this Bill. I frankly confess that I have not been able to go through this Bill which is of a complicated nature, and perhaps I shall have to engage a tutor to coach me on this Bill. But I may speak about one or two matters which attract my attention on their very face. First and foremost I refer to compulsory returns. It has been provided in this Bill that returns will have to be furnished by a person without being called upon to do so by the Income-tax Officer which is the practice obtaining today. In the Notes on Clauses it is stated that this change in law follows the law of the United Kingdom, and as in the United Kingdom it is intended that the Income-tax Officer should, as he does now, issue notice to each person whom he believes to have an assessable income, and he puts the onus of sending the return on the assessee. The circumstances and conditions prevailing in the United Kingdom are quite different from those which obtain here. First and foremost, the number of educated persons in this country are very few as compared with those in England, and probably a notification may be issued by the Income-tax authorities that the returns must be filed by a particular date. I do not think that the Finance Member expects the village *baniya* or the village merchants to read those notifications. Moreover, he will not be able to get those notifications, and then he would not be able to read or understand them. I think that the present practice which is in force at the present moment should obtain and that it is very unfair in this land where education is so backward that income tax returns should be made compulsory.

The next thing I wish to refer to is this. I gathered from the Honourable the Finance Member's speech today that though the rates are not mentioned in the body of the Bill he has got an intention to embody *in toto* the rates recommended by the Income-tax Enquiry Committee. If we refer to Appendix III at pages 96 and 97 of the report, we find that assesses whose income does not exceed Rs. 5,000 get a slight relief, I mean they will have to pay slightly less than what they are paying today. But in the comparison it is also mentioned that the rates which are given there include surcharges which we have to pay,—that is, one-twelfth of the rate of income-tax. These surcharges were levied as an emergency measure, but if these rates are embodied, those surcharges will be made permanent for all time to come.

An Honourable Member: Why not?

Babu Baijnath Bajoria: To that I take objection. Again, what we find is this. Even an assessee whose income is Rs. 10,000—his rate will go up by ten per cent. whereas for higher incomes the rates will be still higher, and for an assessee for Rs. 80,000 the tax will be more by 25 per cent. Of course, the rates are not mentioned in the Bill and I do not think it is time now to oppose those rates. I was just referring to what was passing in the mind of the Honourable the Finance Member.

The next thing is about the Hindu joint family system to which I also belong. I feel that the Hindus living in joint family are very badly treated by the present Income-tax law, and no provision has been made to give any relief in the proposed Bill. In my opinion, the income of a Hindu joint family should be divided into the number of adult members in the joint family.

Mr. N. M. Joshi: Why?

Babu Baijnath Bajoria: I am coming to that, listen. The income of a Hindu joint family should be divided into the number of adult members in the family and then the tax should be levied at the rate not on the whole income but at the rate applicable to the income of each adult member.

An Honourable Member: Males as well as females?

Babu Baijnath Bajoria: Female members have got no right; only adult male members. I am saying only for adult male members, and I am giving the reason why I am saying that the division should be made only according to the number of adult male members, because if those members had separated and were doing their business separately, each of them would only have been liable to pay the amount of tax assessed on his own personal income. I want that the Hindu joint family system should not be disrupted, but the present Income-tax laws have tended to disrupt the Hindu joint family system and to make them become a registered firm or registered partners. I think that this is not fair, for there are very many good benefits or conveniences by living in a joint family. I do not want to dilate on those points now.

Another matter is that the Bill provides that the income of the husband and the wife should be joined together and the husband and wife will be assessed on their joint income, and only an exemption of Rs. 500 is allowed for the income of the wife if she earns it by her own exertions. Last year

[Babu Baijnath Bajoria.]

we passed a Bill which gave sufficient powers to the Government to assess the income of wife and minor children along with the income of the male member if there is any improper transfer or some such thing. But supposing the wife has got any property from her mother or from some other source to which the husband does not contribute, even then under the proposed Bill she will be assessed together with her husband and the rate will become higher. This, in my opinion, is very unfair.

The next point is about the restrictions which have been imposed in this Bill for giving exemption to charitable and religious institutions. I am connected with several religious and charitable institutions in Calcutta and at the present moment we have been getting exemptions from income-tax on the income of these religious institutions. If I have read the Bill correctly, I feel that these exemptions will be restricted. Then the good work which these institutions, whether they are Hindu institutions or whether they are Muhammadan institutions, are doing will suffer. I feel, and my Muhammadan friends also will agree with me, that we should not restrict the good activities of these religious and charitable institutions like free schools, charitable hospitals and other endowments. (Interruption.) They are not taxed at present. We get exemptions at the present moment, but in the Bill it is provided that these exemptions will be restricted.

I am very glad that at long last the principle of 'carrying forward of losses' has been accepted. This is a move in the right direction. It will solve the question of bad debt which had always been a perplexing question and was the cause of irritation between the assessee and the Income-tax Department. I will refer to these matters later on when the Bill comes again in this House for discussion.

Only a few days ago a Resolution was moved by the Honourable Mr. G. S. Motilal in the Council of State to the effect that income-tax should be levied on interest on sterling loans and salaries and pensions paid out of the revenues of the Central and Provincial Government of India. This Resolution had such a support, even in such a conservative House as the Council of State, that it was defeated only by 18 votes to 21. The nominated Members also voted for the Resolution. The objection raised by the Honourable Mr. Nixon, the Finance Secretary, was that it would require an amendment of certain sections of the Government of India Act, namely, sections 272, 273, 178 and 315. But if the Government has the will, they can easily get these sections amended by His Majesty's Government. This should be a profitable source of income to the Government of India and I do not understand why this source should be left untapped. As I have already said, I have not studied the whole Bill thoroughly. I made my observations on a few points and with these words, I support the motion for circulation.

Mr. Abdul Qayum (North-West Frontier Province: General): It must have become obvious to the Treasury Benches after the very eloquent speech of the Honourable the Leader of the Independent Party that the majority opinion among the elected Members of this House is certainly in favour of circulation for the purpose of eliciting public opinion. There is no doubt—as the Honourable the Finance Member has remarked, that about 500 pages of opinions have been printed and distributed to the various Members of this Honourable House. It is also clear that the printed

opinions were distributed at such a late stage when it was physically impossible for anybody to carefully go through those opinions and to draw conclusions from them. This particular Bill is a very important measure, and it is likely to have far-reaching effects on the incomes of the various people who contribute to the general taxes of this country. It is but meet that this important measure should be circulated for the purpose of eliciting opinions, so that by the time the Select Committee is set up we may be in a position to know how those people who are going to be very closely affected by this measure feel about it. Much can be said in favour of what Sir James Grigg said, that it is not safe to consult those people only who are likely to pay more taxes under this particular Bill. At the same time it would be inequitable and unjust to deny them an opportunity to ventilate their opinions on a matter which is going to affect them vitally.

There is one important thing which I would like to bring to the notice of the Treasury Benches, and it is this. During the Simla Session we are going to have a very important measure, namely, the Motor Vehicles Bill, for consideration. It is a measure which runs into more than 100 clauses. It is a measure which aims at co-ordinating various transport services in this country, and it is likely to claim our undivided attention for quite a long time. It is not in the fitness of things that another and even more important measure like the Income-tax Bill should also be rushed through during the same Session. After all it must have become clear to the Honourable the Finance Member that there is no desire in this part of the House to kill this measure or even to delay it. We are anxious to have it brought on the Statute-book, and we are also anxious that by all legitimate means we should increase the income which accrues to the public treasury for having more money to spend on beneficial activities. At the same time it is also proper that it should not be rushed through in such indecent haste that the Treasury Benches have to come up again and again with amendments which will result in waste of our valuable time and of public money. There is much in the speech of the Honourable the Finance Member with which I heartily agree, though I do not agree with one of his remarks, namely, that we on this side were out to kill what he termed a very useful measure. I assure him that there is no such desire. Once he tries to induce himself to get rid of this idea he will realise that there is much in this Bill that can be called good, and that there are many people who are likely to agree with many of the proposals set out therein. There is one thing, however, in which the Honourable the Finance Member has not gone far enough. There is no doubt that he has tried to tax the income which the Indians individuals and companies, derive from their investments from abroad, but at the same time has been very lenient towards persons who are described as residents in this country. After all, if the principle of reciprocity is to be worked out to its full, there is no reason why people who are described tenderly as residents and who for all practical purposes are just as good citizens in this country as any of us; people who have to spend all their lives in this country, why should they receive a differential treatment at the expense of the general Indian tax-payer! Some amendments will have to be made in the Bill with a view to subject the income derived by these so-called residents to the same measure of income-tax as the income of other assesses in this country. There is no doubt that the objection to an increase in the income-tax or in any other tax is very largely due to another factor to which attention has not been paid to the extent to which it deserves. The reason why objection is made to any

[Mr. Abdul Qaiyum.]

increase in any kind of taxes is that the present Government is an irresponsible Government. They come to us, they induce us, and sometimes force us, to pile up more taxes on the unfortunate people of this country and then we find that once they get hold of the money we have absolutely no control as to how they spend it, and on what particular objects. This is the reason why people on this side of the House object very much to any increase in income-tax. Once the Government in this country becomes a responsible and popular Government, a Government which is really our own, I think there will be many people who would not even object to a capital levy. There are occasions in the life of a nation when it becomes imperative to part with a large slice of one's capital for the sake of the national good.

Now, Sir, there are certain provisions in this Bill to which I would like to draw the attention of this Honourable House. I think the definition of dividend as laid down in clause 2 is eminently satisfactory, and it is bound to result in more income by a more efficient administering of the Income-tax law of this country. There is no doubt that the very rich people in this country, owing to the expert legal advice to which they have access, have been able successfully to dodge the Income-tax laws of this country, without violating those laws, and without actually running the risk of imprisonment or even fine. Coming to clause 4 we find this. And here I must admit that the Notes on Clauses are very exhaustive and very illuminating. It is stated here:

"The Bill enlarges the scope of the section by including the whole of the foreign income of a person resident and domiciled in British India whether brought into British India or not."

This of course is a new principle which is being incorporated. Then it is stated:

"(2) the whole of the foreign income from business, profession or vocation of a person resident but not domiciled in British India whether brought into British India or not. The other foreign income of such a person remains liable only if brought into British India."

Now, we have been told time and again, that this Act is modelled on the United Kingdom Act, but when we find that any principle which is embodied in the United Kingdom Act is likely to hit British enterprise and British income in this country, the Government does not hesitate to discard it at once in favour of the Indian practice, however objectionable that may be. If the Government is at all consistent, it should have followed the United Kingdom practice in this particular respect and it is really a pity that it has not done so. Then we find another very useful item which has been included, regarding the income of local authorities. Here the exemption has been narrowed down and it is sought to be laid down that when such an authority makes profits from supplying a commodity or service outside its jurisdiction exemption should not be extended to such profits. A suitable amendment has been incorporated in this Bill. Now, these are very useful provisions and I do not think any reasonable person is likely to object to them.

Coming to clause 16, we find that there an important provision has been inserted. This aims at preventing the avoidance of tax "by the simple device of settling the income upon another person whose rate of tax is lower than that of the settlor, or the transfer of assets, so that the income therefrom arises to such other person. This amendment provides that the income in such a case is to be treated as the income of

the settlor or transferor". There is no doubt that this particular practice has been in existence, and as I have stated rich people who can afford to pay and have access to expert lawyers have always been able to dodge the income-tax law by resorting to this doubtful practice, and as a result the public treasury has been a great loser. Of course, a very wholesome provision has been inserted viz., "where, however, the assets are irrevocably transferred to another person, other than in the circumstances dealt with in sub-section 3 (b) or in clause 48, the income therefrom is not to be deemed to be income of the transferor". This means that the law in future will insist on a genuine transfer and that bogus transfers will not be countenanced or tolerated any more.

Now, another principle is sought to be brought in and this is also on the analogy of the United Kingdom law which is laid down in section 22, sub-section (1), which, as amended, prescribes compulsory returns and section 22 (2) in consequence makes optional the issue by the Income-tax Officer of the notice, now compulsory, calling for a return of income. This change in the law follows the United Kingdom law and it is intended as in the United Kingdom that the Income-tax Officer should (as he now does) issue notice to each person whom he believes to have an assessable income. Now, I think this is a principle which should not have been introduced at this particular stage in this country as it is likely to lead to many complications, and unnecessary interference on the part of the income-tax authorities and subordinate officials. It is also likely to result in a considerable harassment of the unfortunate people who are just on the border-line. Sir, the conditions in the United Kingdom are absolutely different from those obtaining in this country, and I think this attempt to follow the U. K. practice in this particular respect is likely to lead to many complications and no end of trouble. But we find again that there is the same amount of tenderness for the agent of the foreigner. Why should there be any distinction between the ordinary assessee in India and the agent, of the foreigner? It is stated that the object of the provision prescribing compulsory returns is to enable the income-tax authorities to deal with defaulters who conceal the fact that they have taxable incomes. I fail to see why there should be this discrimination in favour of the foreigner, and why the foreigner should get off so lightly.

In clause 32 we find that the penal clause has been made much more stringent and the penalty has been considerably increased. I have some knowledge of the way in which these various Income-tax Officers work, being myself unfortunately an assessee. I have noticed that whenever I have taken my accounts to these people, and though I always felt morally convinced that my accounts were absolutely true, these gentlemen have always believed the contrary, and they have felt that I was somehow or other concealing something. I subsequently discovered that they had probably assessed me to double the income-tax to which they were rightly entitled. Sir, I have found that practice whereby people are forced to cheat the income-tax authorities is due to this very frame of mind on the part of the Income-tax Officers. As the Honourable the Finance Member suspected us of dilatory tactics in connection with this measure, similarly the income-tax people, his subordinates, assuming as they do that all people who bring in returns are dishonest, exact more taxes from them than are rightly due, with the result that, to meet this danger, many an honest man has been forced to show that he has made less in a particular year than he actually has made. It is because of the actions of dishonest men that honest people are not able to get the right amount

[Mr. Abdul Qaiyum.]

of income-tax assessed for themselves. Now, this is a practice to which I take the greatest exception. If you are going to place more powers in the hands of the subordinate officers, by the penalty clause whereby they can exact twice the amount of the tax avoided, you are in fact giving them too much power. Sir, I had to pay some income-tax and probably I got some notice but I forgot it, with the result that I received a notice that until I paid it by the 18th March—and the notice was actually received on the 28th March—a certain penalty would be imposed. I found that I had been fined a certain amount. This is a very very dangerous power and the income-tax Officers in this country should not be invested with such great powers, because they always believe that people submit wrong returns and they would, therefore, exact double the amount due. This is a matter which I seriously submit for the consideration of the Honourable the Finance Member.

One thing more—I am afraid I am tiring the House. (Voices: “No, no.”) In clause 48 we find that “one of the methods of avoiding the payment of tax without breaking the law is to transfer the assets from which the income arises to a company which is resident outside British India, and then to receive payments from that company in a form and in such circumstances that the amounts received from the company are never in fact repayable or repaid to it”. Now, there is no doubt that this practice exists, and I think that the time has come when a stringent provision like this should be laid down in the Act to circumvent the activities of all those gentlemen who are experts in the art of dodging the income-tax authorities.

My Honourable friend, Mr. Manu Subedar, when he was talking stated that he was not speaking for the rich man but for the industry and commerce of this country. Now, I do not represent a very rich constituency but a constituency of the poor peasants. At the same time as a citizen of this country I have some anxiety about the course of trade and industry in this country, and I think that in the interests of trade and industry it is necessary that people who can afford to pay should be willing to pay voluntarily. It is much better to part with something voluntarily rather than lose everything. So the interest of trade and commerce also demands that industry and commerce should pay something voluntarily. My Honourable friend, Mr. Manu Subedar, said that he did not hold any brief for the rich man. Similarly I do not hold any brief for the poor man either. At the same time I insist that the rich should pay more than they actually pay in this country. No doubt, I would like them to start paying more when a national Government is set up.

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

With these words, I support the motion for circulation. I hope the Honourable the Finance Member will try to disabuse his mind of the notion that we, on this side of the House, are trying to delay the Bill. As a matter of fact, we want time to study the Bill, to understand all the important provisions, their implications, and effect on the various classes of tax-payers in this country. With these words, Sir, I support the motion for circulation.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, before proceeding to deal with

the provisions of the Bill in detail, I should like to make a few preliminary observations on the motion for circulation. Sir, the Honourable the Leader of the Independent party said that in Simla Session, it might be possible to go through the Select Committee. The House is aware that the Motor Vehicles Bill—a heavy piece of legislation—has already been referred to the Select Committee. Our past experience as regards these Select Committees is that even if we sit for six or seven hours a day, it requires attendance at Select Committees for periods ranging over 20 days. The same thing happened in the case of the Indian Companies Bill and the Indian Insurance Bill. The same might happen in the case of the Motor Vehicles Bill also. The Income-tax Bill also is a very heavy piece of legislation. It is therefore wrong to assume that during the Simla Session, side by side with the Assembly work, we could proceed to go through the Select Committee stage of this Bill. I, therefore, suggest that the meetings of the Select Committee might be held sometime later than the Assembly meetings and not before the meetings.

It is never safe to assume that the Bill that is brought by the other side is absolutely and wholly in the interest of the country. There are varied interests affected by the Bill and it cannot be assumed that the Bill is wholly in the interests of every community. For instance, my Honourable friend would certainly get credit if he tried to bring in various incomes belonging or earned by his comrades and cousins.

Now, Sir, so far as the word "resident" in this country is concerned, if a European here or one of the civil servants who spends as long as 30 years or 40 years in this country earns a lot of money and invests it in England, his earning will be taxed here, but his investment in England will not be taxed. Or if he has property in England, that property will not be taxed. The Bill wants further that he should have a domicile in this country and it says that unless he has a domicile, his professional income in that country alone would come in here for the purpose of taxation. I ask, Sir, whether it is right that these people who spend most of their lives here should not be taxed on the investments which they make in England out of the earnings here. I have not yet heard of a single British subject becoming domiciled in this country. He spends not only most of his life in this country, his successive generations also spend their time here, his sons and grandsons also earn their bread in this country. They spend 30 years or 40 years in this country and then take away all the money to their country and invest it there. They earn property in England, they invest their savings in England on securities which earn interest and still they are not liable to pay any income-tax on the properties or securities held by them in England which they have accumulated from their earnings and their exertions here. I would ask whether this is right. The Honourable the Finance Member adumbrated the principle that unless foreign income of an Indian is also taxed, there will be a tendency to invest capital in foreign countries. On the same analogy, may I ask him if a resident in British India—an English civilian or a trader—has income from outside India and if that income is not taxed, will there not be greater tendency for him to invest his earnings in trade in foreign countries like Japan, Hongkong, etc., so that he may keep his investments there and earn high rate of interest which will be free from Indian income-tax and this will, in my humble opinion, deprives us of a large share of income-tax which will be really useful for industrial purposes? We should, therefore, enlarge the scope of taxation by laying down that not only the income that is brought to this country but also the income of every resident even though he has not a

[Mr. M. Ananthasayanam Ayyangar.]

domicile, which arises in a foreign country, should also be taxed. This wholesome provision ought to be introduced. But exception is sought to be created in favour of a resident in British India, if he has no domicile in this country. Take for instance, a British subject. A civilian who comes into this country is sought to be exempted so far as his income which arises to him in a foreign country. But if he carries on a particular business, that alone is taxable here. It cannot be expected that a civilian employed in this country carries on business in that country while he is employed as a civil servant. He has no Indian domicile. I would ask, supposing the civil servant earns his salary in India for 30 years or 40 years and goes on investing his savings in England where he earns interest on those investments. Why should not the income from such investments be liable to tax here? Under the Bill he is not liable. If he is an Indian, even though he invests his savings in England, his income derived from such investments is liable to income-tax however long he may live outside India, still if he has an idea of coming back to India, his income will be taxed. If he has a residential qualification, then he is taxed the moment he enters this country.

Now, Sir, I wish to submit to the House that the Government appointed an Expert Enquiry Committee composed of officials. That Expert Committee recommended that the income of a resident in this country even though he is not domiciled in this country, even though he has domicile in England, his foreign income should also be taxed. On page 1 of the report it is said :

"This, however, was objected to on the grounds that it would amount in practice to discrimination in favour of Europeans and residents domiciled in an Indian State, and the proposal for the accrual basis modified by the domicile qualification was rejected by the Legislature."

I submit, Sir, the very thing that he now introduces in clause 4 of the Bill was rejected by this Legislature on a previous occasion. The report further proceeds :

"We may point out that there is, for the majority of cases, a definite reply to the plea of hardship in that there are reciprocal arrangements for double taxation relief."

Now, Sir, there is the other ground also which the authors of this report refer to. The income which a resident of this country gets in a foreign country, if he is charged to income-tax in this country, he gets relief there. He will not be taxed in both countries. He will get relief from double taxation. On account of the arrangement made in 1927 between the Government of the United Kingdom and the Government of this country, that double taxation relief ought to be allowed after 1927. That is the recommendation of the Committee itself.

The Honourable the Mover has not given us any reasons for ignoring the recommendation of the Committee. The only explanation that I can think of is that his own kith and kin ought not to be taxed, though through all their lives they earn their money here and invest it in England and earn interest on those investments. I can think of only that ground for exempting them from Indian taxation. I would ask if his so-called interest in the welfare of the toiling millions of this country should stop short there or whether he should not extend it and bring in the income of his own kith and kin in foreign countries who are resident here. The Committee further say :

"Having regard to all these considerations, we recommend that foreign income of residents in British India should be dealt with on the basis of the whole income arising. Incidentally this would provide for the allowance of foreign business losses."

Then the question arises as to what is the definition of "residence". On this subject, the Committee of Experts said:

"The foregoing necessitates a definition of 'residence' and in this connection reference may usefully be made to clauses 6 and 7 of the draft Income-tax Bill appended to the report of the United Kingdom Income-tax Codification Committee presented to Parliament in April, 1936."

This definition is given in the foot note on page 2 of the Expert Committee Report. As regards residential qualification, it says that it is enough if he is there for a period of 182 days, or even if he is not there for a period of 182 days, if he is there for 91 days and he has a house or even rents a house, it is enough. But in this Bill it is necessary that he should be here for a period of 182 days. If he is here only for 91 days he is not a resident. I should like to know why the author of this Bill did not make him a resident. He would not come within the definition of "resident" and therefore he need not bring any foreign income for the purpose of taxation. I should like to know if it is fair to this country. If the Honourable Member has any care for the best interests of this country he should have introduced another definition regarding the residential qualification that if he has a house and lives for 91 days or even if he does not live for 91 days but has a house then he will be a resident. That definition is absent. On these two grounds, the foreign income of a British subject, even though he is resident here, is sought to be avoided and he is not taxed. The whole Bill need not be taken as if in every clause an attempt has been made to improve the resources. No doubt some of the loopholes are sought to be avoided, but this has not been provided for.

Then as regards companies, there is a definition here under which every company working here might possibly escape. The definition given by the Committee on page 3 of their report is much more simple and I do not know why a more complicated definition has been put in under which every foreign company working here will have a chance to escape the liability to tax. The Committee's definition is this:

"A company shall be treated as resident in British India if it is controlled in British India at any time during the year in which the profits sought to be assessed arise.

As to what constitutes 'control' there is, we consider, sufficient guidance in the numerous decided cases."

Now please read the Bill. In clause 4 the proviso to sub-clause (c) runs thus:

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

The qualification of domicile is insisted upon both in the case of an individual as also in the case of a company. I have just made my submissions with regard to an individual how he escapes taxation with regard to his foreign income. Now, as regards companies it is made practically impossible for any company to be brought under this definition. Then in clause 5 on page 4, it is provided that a company is resident in British India unless the central control and management of its affairs is situated wholly without British India. That is to say, if any company has its central control in a foreign country and its management also is in that

[Mr. M. Ananthasayanam Ayyangar.]

country, it escapes assessment of its income. It is treated differently from a resident company in this country. This, Sir, is discrimination *in excelsis*. This gives a premium to a foreign company to take away all its income from this country and keep it invested in other countries. I do not know if the word "central" refers to both control and management. The English companies working here have all got their headquarters in England and they are centrally controlled and centrally managed in England, although for the purpose of gathering profits here they have a network of organisations and associations. But if we apply this definition, every company carrying on business in this country would escape and would not be a resident company.

Then so far as the definition of domicile in relation to a company is concerned, it is curious. If it is resident it has a domicile. Therefore, though there are two definitions, one of residence and another of domicile, practically it is one and the same thing. I have been trying to find out whether any of these companies will come under the definition or will be liable to tax, and I have yet to see that they will be liable to taxation. My own impression is that all these companies doing business here will not be treated as resident companies with domicile, and thus their foreign income will escape taxation. The individuals may change but the control and management will continue to be the same. If Mr. James goes away today Mr. Boyle will manage and the administration continues. And on account of the various clauses and sections of the Government of India Act no discriminatory legislation can be passed. An individual or a company gathers money here but by investing it in a foreign country escapes taxation; whereas if our countryman carries on business in Japan his gains will be taxed. My Honourable friend, Mr. Manu Subedar, pointed out that the Government are trying to tax our income both here and in Japan and therefore industry will go to the wall. I can only say that all principles of taxation have been thrown to the winds, and so far as the Europeans are concerned they have got the best of both worlds. I am surprised to hear fears that there are talks of attempts to kill the Bill. Sir, I am not sorry for these amendments. I have got to look very cautiously before I agree to anything. I have to see whether it is in the interest of my country. Therefore I am not going to fall into the trap; I will take my own time and consider it in detail. I come from a constituency of five districts and I would, therefore, like to know whether this Bill really serves the purpose for which it is intended. As regards the Select Committee motion I want to know if a comprehensive amending Bill ought not to be brought. On that account I am not recommending at this stage that we should throw out this measure. In the Company law we had a lot of difficulty. The Original Act had 280 or 300 sections. In spite of our protests they persisted in having an amending Bill with 150 clauses and a number of Schedules. In the last six months there was another amending Bill. There is a saying in Sanskrit to the effect that:

"If there is a commentary and annotation of some book, there will be a succession of further commentaries and annotations but the original text will remain as it is."

Now, therefore, the Company law really required another attempt on the part of the Leader of the House, within such a short time after it was passed, to modify it in various respects. Do you want the same thing to happen with this Bill also? You wait for some time and allow us

to read and understand what this Bill means, and what special provisions are there. There is bound to be oversight. They say they are more interested in the country. We have every right to say that we are more interested in the country, at any rate we are not going to go away from it. We only say we will consider what the points are in its favour and what we have to eschew. I would say it is not trying to kill the Bill or trying to play dilatory tactics.

Now, I honestly believe that a consolidated Bill ought to have been brought here. With respect to the slab system, it is open to the Honourable the Finance Member to say that in this Bill that slab system is introduced and that incomes below Rs. 2,000 shall be exempted whatever might become of incomes above it and that so and so will be the general rate. We know for various political considerations that might arise, we might throw away the Finance Bill, and the Honourable the Finance Member will then have his own way: he will bring a certified Bill. The Finance Department is only for finance in the Finance Bill, but with us reduction of postage, reduction of salt duty, etc., with a view to helping the poor are the only considerations. Does the Finance Member honestly believe if that expression is Parliamentary (*Some voices: "It is parliamentary"*), that we in this House have the time and leisure to devote to the Finance Bill in relation to the sections of this Bill designed to give his Department larger powers in regard to every taxation measure. Will there be time for us to sit down coolly and calmly and find out, with respect to the slab system, how it affects the various provisions of the Bill? Would my friend the Law Member allow a discussion on it? Would he not call it dilatory tactics? And then our President may consider it irrelevant. Owing to all these dangers, I ask what is it that prevented the Finance Member from saying in this Bill that the slab system will prevail. This is after all a new taxation measure and these are the defects. Therefore, it is not as if my Honourable friend Mr. Dutta's motion is absolutely calculated to throw away this Bill into the Eastern or the Western sea. We are trying to see a suitable Bill passed.

I have already said that with respect to the income of the Europeans living in this country but who have not become domiciled, a provision to tax it is not there. This much for the circulation motion.

I will now go to some other clauses to show that the Bill is not all what it appears to be. Let us know more about its scope and its clauses. There are some provisions which are useful. The sources of income that will be affected, the classes of persons that will be affected, the nature of exemptions that are allowed, the way in which the income is assessed, and the stringent penalties, these are the five heads under which the whole Act can be discussed. I find almost every section except those which were inconvenient to the Honourable Member or which restricted the Governments rights or the Europeans privileges has been left alone. Now, as regards the leave salaries paid in the United Kingdom by our Government, my Honourable friend wanted to come forward with a gesture that he would tax them also by cancelling the notification under section 60 (1). We are accustomed to such gestures. When they introduced the Insurance Bill, the moment we took exception to its clauses, they threatened us, both inside and outside the Assembly, that they would withdraw it, as if we would go into the deep sea but for their Bill. Likewise if we object to any of the provisions of this Bill and say that we would

[Mr. M. Ananthasayanam Ayyangar.]

introduce amendments, he says he is going to show the Damocles' sword. He is still dangling that sword under section 60 of the present Act under which power is vested in the Governor General to exempt certain classes of income. Did we not become accustomed to this in the case of the previous Bills? We wanted that the rules framed by the Executive ought to be placed before both the Houses of the Legislature before they could be accepted or have the force of law. Formerly, when the Legislature had no voice, when people were not alive to their responsibilities, sections were introduced in the Income-tax Act, 1922, investing the Governor General with all residuary powers. That residuary power is contained in section 60. Is there justification now for still retaining that power and telling us unless you as good boys bow your heads to this Bill and pass it or support the motion for reference to the Select Committee we will continue the Notification? If X who is employed in this country goes on leave to England, stays there for five or six months, his leave salary is not liable to taxation—he gets the best of both the worlds. In that country he is not liable to tax unless he is there for a particular period. What is the justification for keeping this section 60 still in the Act? He escapes the tax here, he escapes the tax there also. The leave salary ought to be taxed. In spite of that my Honourable friend comes to this House and says, "I have done very well in this Bill, I have, no doubt, not included in this Bill a clause to omit section 60 but the Notification will be cancelled, why don't you support?" I was really wondering and wanted to find out if section 60 was not still there. If section 60 was still there, you can exempt every European or Englishman from paying any tax. Can't you do it? I would ask my Honourable friend to bear with me and say whether section 60 is not here in a more comprehensive manner. What is the good of this Bill if the Central Government can by a Notification in the Gazette of India, make an exemption, a reduction in rate, or other modifications in respect of income-tax, in favour of any class of income, or in regard to the whole or any part of the income, and in regard to any class of persons? Whatever might be the class of income, whoever might be the individual, it is open to him to do so. What is the good of saying then that, this Bill is a God-send? Let him

5 P. M.

say on the floor of the House today, that he is prepared to repeal section 60. I will move an amendment and let him accept it. I will now read a portion from page 9 of the Committee's Report regarding the exemption of leave salaries from tax if paid outside India:

"The exemption therefore was intended to restrict taxation in the home country only, but it is common knowledge that in almost every case, leave is so arranged that no liability attaches to the leave pay even in the country where received. This seems to be an almost unique example of income not taxed in either the country of origin or the country of receipt

Whatever justification there may have been originally for this exemption, we agree with the representations made that there is no justification for it now and we recommend that it should be revoked."

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member wishes to continue his speech?

Mr. M. Ananthasayanam Ayyangar: Yes.

Mr. President (The Honourable Sir Abdur Rahim): Then the House stands adjourned till 11 O'clock tomorrow.

The Assembly then adjourned till Eleven of the Clock on Friday, the 8th April, 1938.