

11th April 1938

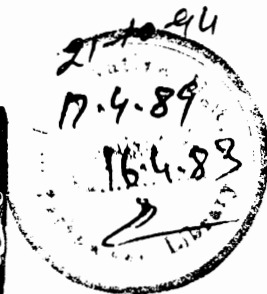
THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume III, 1938

(24th March to 12th April, 1938)

SEVENTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



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1938

Legislative Assembly.

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MR. N. M. JOSHI, M.L.A.

MR. L. C. BUSS, M.L.A.

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LEGISLATIVE ASSEMBLY.

Monday, 11th 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.

MEMBERS SWORN:

- Mrs. P. Subbarayan, M.L.A. (Madura and Ramnad *cum* Tinnevely: Non-Muhammadan Rural);
Mr. Bertie Munro Staig, C.S.I. (Financial Commissioner, Railways);
and
Mr. Satyendra Nath Roy, C.I.E., M.L.A. (Government of India: Nominated Official).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

INDIA'S MEMBERSHIP OF AND CONTRIBUTION TO THE LEAGUE OF NATIONS.

1292. *Mr. Mann Subedar: (a) Will the Honourable the Leader of the House please state whether Government propose to revise their decision to continue India's membership of the League of Nations, and, in particular, to continue the contribution from India?

(b) Will Government state the amount of contribution, with which India started as a member, the various changes therein, and the present contribution?

(c) Have Government made any representation either directly or through His Majesty's Government, in order to get this contribution reduced?

(d) Have Government considered the question of India's membership of the League in the light of events which occurred in connection with Manchuria, Abyssinia, Spain and Austria?

(e) Has the contribution of any of the Dominions to the League been reduced during the last four years?

Mr. G. H. Spence: With your permission, Sir, I wish to reply to this question on behalf of the Honourable the Law Member who is unavoidably absent.

(a) Government do not propose either to withdraw from the League or to default in the payment of the contribution.

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

(c) Yes, on numerous occasions and with some measure of success.

(d) Yes.

(e) Yes.

Statement showing India's contribution to the League of Nations from 1921-38.

| League financial year. | No. of units at which India is assessed. | Total No. of units. | Indian financial year. | India's contribution in Rupees. | |
|------------------------|--|---------------------|------------------------|---------------------------------|-------------------|
| 1921 . . . | 25 | 510 | 1921-1922 | 5,49,160 | Actuals. |
| 1922 . . . | 65 | 977 | 1922-1923 | 4,37,380 | " |
| 1923 . . . | 65 | 949 | 1923-1924 | 7,77,990 | " |
| 1924 . . . | 65 | 932 | 1924-1925 | 7,05,260 | " |
| 1925 . . . | 60 | 935 | 1925-1926 | 5,32,880 | " |
| 1926 . . . | 56 | 937 | 1926-1927 | 5,44,150 | " |
| 1927 . . . | 56 | 937 | 1927-1928 | 6,67,120 | " |
| 1928 . . . | 56 | 937 | 1928-1929 | 6,85,530 | " |
| 1929 . . . | 56 | 966 | 1929-1930 | 7,56,130 | " |
| 1930 . . . | 56 | 966 | 1930-1931 | 8,10,450 | " |
| 1931 . . . | 56 | 966 | 1931-1932 | 9,02,790 | " |
| 1932 . . . | 56 | 999 | 1932-1933 | 13,04,880 | " |
| 1933 . . . | 56 | 1,012 | 1933-1934 | 13,83,640 | " |
| 1934 . . . | 56 | 1,013 | 1934-1935 | 14,37,373 | " |
| 1935 . . . | 55 | 1,011 | 1935-1936 | 14,81,080 | " |
| 1936 . . . | 55 | 931 | 1936-1937 | 13,93,000 | " |
| 1937 . . . | 49 | 923 | 1937-1938 | 9,89,000 | Revised estimate. |
| 1938 . . . | 49 | 932 | 1938-1939 | 9,69,000 | Estimate. |

Mr. Manu Subedar: In view of the attempt made by the Honourable the Finance Member to cut down expenditure in the various departments of the Government of India and in view of his circular to those departments towards that end, may I inquire whether Government will make a like attempt to save some money on the outlay of India on this white elephant?

Mr. G. H. Spence: Government, Sir, will consider the possibility of savings in any outlay which is not necessarily involved in remaining in the League.

Mr. Manu Subedar: May I inquire what is the advantage which India is receiving for the outlay of nine to ten lakhs a year?

Mr. G. H. Spence: I cannot possibly answer that in reply to a supplementary question.

Mr. N. V. Gadgil: Will Government press the claims of more Indians being employed in the League when the contribution is going to remain the same?

Mr. President (The Honourable Sir Abdur Rahim): That does not arise out of this question.

Mr. T. S. Avinaashilingam Chettiar: In view of the fact that Burma has been separated from India this year, may I know if there will be any reduction in the contribution which India makes to the League of Nations?

Mr. G. H. Spence: There has already been a reduction specifically on that account.

Mr. Manu Subedar: May I know when was the last reduction made?

Mr. G. H. Spence: The last reduction was made in 1937.

Mr. Govind V. Deshmukh: Is it a fact that the League of Nations spends proportionately less on the Indian branch office?

Mr. G. H. Spence: India is one of the comparatively few countries .

Mr. Govind V. Deshmukh: Was it ever mentioned in the representation made for the reduction of contribution that the League spends proportionately less on its Indian branch than it does on its branch in England?

Mr. G. H. Spence: No, Sir.

Mr. K. Santhanam: With reference to part (b), may I know if the Government of India have considered the question of the revision of the constitution of the League and if they have sent any representations on the matter?

Mr. G. H. Spence: The Government of India, in common with the Governments of other State members, were consulted and they have sent a reply.

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

Mr. G. H. Spence: No, Sir.

Mr. Badri Dutt Pande: Have Government seen the statement of Mr. Chamberlain that his faith in the League of Nations is shaken?

Mr. President (The Honourable Sir Abdur Rahim): That does not arise out of this question.

Mr. K. Santhanam: May I know if Government will allot a day to state their views on the revision of the constitution of the League of Nations?

Mr. G. H. Spence: No, Sir, it is for the Honourable Member to put down a Resolution.

Mr. Govind V. Deshmukh: Will Government make a representation . . .

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

PRODUCTION OF POWER-ALCOHOL FROM MOLASSES.

1298. ***Mr. Manu Subedar:** (a) Will the Secretary for Education, Health and Lands state if it is true that, in the United Kingdom, power-alcohol is produced from imported molasses and it is used in motor transport?

(b) Have Government any information as to the progress of experiments or manufacture made in this direction in India?

(c) Are Government taking any steps to encourage the production of power-alcohol from molasses in India?

Sir Girja Shankar Bajpai: (a) Yes, in very limited quantities for use in high octane number motor fuels for special purposes.

(b) So far as Government are aware no experiments have been made in British India for the production of absolute alcohol except on a laboratory scale.

(c) The whole question is under investigation by a Joint Committee of Bihar and the United Provinces whose report is awaited.

Mr. Manu Subedar: In view of the fact that India is normally an importer of petrol and that the main land of India does not produce what is required for Indian consumption, will Government make a special effort with such organizations as they have got to carry on the necessary researches not merely on a laboratory scale but also on a commercial scale, and will Government consider the desirability of putting down a plant to produce petrol on a commercial scale?

Sir Girja Shankar Bajpai: My Honourable friend will agree that it will be premature for Government even to consider taking such action until the Report of the Committee to which I have referred becomes available.

Mr. Manu Subedar: May I inquire whether Government are deterred from doing the necessary research with regard to the power alcohol produced from molasses from a fear that it will affect the revenue which they are deriving from petrol at present?

Sir Girja Shankar Bajpai: That is an insinuation, Sir, which I cannot admit.

Mr. Lalchand Navalrai: When was that Report called for and when will it be available?

Sir Girja Shankar Bajpai: As far as I know, the Committee started functioning in January; I cannot say when the Report will be available.

Mr. K. Santhanam: May I know if the question of preference for Indian molasses will be considered in connection with the Indo-British trade negotiations?

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

Mr. K. Santhanam: May I know if the Honourable Member's Department is pressing this point on the Commerce Department?

Sir Girja Shankar Bajpai: Whatever my department may be doing with the Commerce Department will naturally be confidential as long as the negotiations remain confidential.

FALL IN THE EXPORT OF INDIGENOUS MEDICINES FROM MUTTRA TO SOUTH AFRICA.

1294. ***Mr. Manu Subedar:** (a) Will the Secretary for Education, Health and Lands state whether the attention of Government has been drawn to a complaint by the Muttra Traders Association that the export of indigenous medicines from Muttra to South Africa, which was considerable, has been seriously crippled by the recent imposition of licences on sale and other measures taken in the Union of South Africa?

(b) Have Government ascertained the facts and, if so, can they state whether the apprehensions expressed in the communication, from the Muttra Traders Association are or are not correct?

(c) Is the clause—"The most-favoured-nation treatment provided for shall apply also to taxes or charges levied in connection with the internal distribution and sale of imported articles"—of the provisional South African trade agreement reciprocal, *i.e.*, has the Union of South Africa agreed to any relaxation of measures or taxes on internal distribution and sale of products in the Union corresponding to the one, which is provided in the above quoted clause?

Sir Girja Shankar Bajpai: (a) Yes.

(b) Government have asked for a report of the facts from their Agent General in the Union of South Africa.

(c) The obligation imposed by the clause is reciprocal in the sense that, in the matter of taxes and charges of the kind specified, each country undertakes to accord to the other most-favoured-nation treatment, *i.e.*, treatment not less favourable than that accorded to any other country.

Mr. Manu Subedar: May I know if Government have asked for any information at all, and if such information discloses that the genuine interests of Indian exporters in this particular line are affected, have Government a proposal before them to take up this question with the South African Government?

Sir Girja Shankar Bajpai: The whole object of making the inquiry is to make sure whether Indian interests are affected, and if they are affected, suitable representations will be made.

SALARY AND TRAVELLING ALLOWANCE OF THE SUPERINTENDENT OF EDUCATION FROM DELHI, AJMER-MERWARA AND CENTRAL INDIA.

1295. ***Mr. Muhammad Ashar Ali:** Will the Education Secretary please state the actual salary and the annual travelling allowance drawn by the Superintendent of Education from Delhi, from Ajmer-Merwara and from Central India Provinces, separately?

Sir Girja Shankar Bajpai: I have asked for some information and will furnish a complete reply to the House in due course.

CONTINUANCE OF MEASURES FOR EXPANSION OF CONSUMPTION OF TEA.

1296. ***Mr. Brojendra Narayan Chaudhury:** Will the Secretary for Commerce please state:

- (a) if the attention of Government has been drawn to the fact that the provisions of the Tea Cess Act authorising levy of cess and constitution of the Tea Market Expansion Board, are going to expire on 31st March;
- (b) if Government intend to take steps for continuance of measures for expanding consumption of tea by introducing legislation;
- (c) if Government intend to give to the Legislature an opportunity for discussing the administration of the Tea Cess Fund before measures are taken for the continuance of the tea consumption propaganda;

- (d) the amounts of tea cess levied and spent yearly and the amounts spent in foreign countries; and
- (e) the rules, if any, made by Government prescribing the conditions for expenditure outside India?

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

(b) In exercise of the powers conferred by section 9 of the Indian Tea Cess Act, 1903, the Central Government have, on the recommendation of the Indian Tea Market Expansion Board, already declared in the Commerce Department Notification No. 485-Tr.(I.E.R.), dated the 26th March, 1938, published in the Gazette of India of the same date, that the said Act shall continue in force for another ten years, i.e., until the 31st March, 1948. A copy of the above-mentioned Gazette is in the Library of the House.

(c) In view of the reply to part (b) this part does not arise.

(d) A statement furnishing the information asked for is laid on the table in respect of the last five years.

(e) The Honourable Member is referred to rule 2 of the Indian Tea Cess Rules, 1937, published in the Commerce Department Notification No. 476 (1)-Tr. (I.E.R.), dated the 31st July, 1937, in the Gazette of India of the same date, a copy of which is in the Library.

Statement showing the amount of the Tea cess collected and the sums spent in India and abroad during the five years 1932-33 to 1936-37.

| Years. | Tea Cess. Receipts. | Expenditure. | | | Total expenditure (Columns 3-5). |
|---------------|------------------------|-----------------------|---|---------------------|---|
| | | Campaign in India. | Campaign abroad in- cluding ad- ministration expenditure. | Miscella- neous. | |
| 1 | 2 | 3 | 4 | 5 | 6 |
| | Rs. | Rs. | Rs. | Rs. | Rs. |
| 1932-33 . . . | 14,14,418 | 6,50,000 | 7,18,572 | 34,227 | 14,03,459 |
| 1933-34 . . . | 14,24,419 | 6,00,000 | 6,99,989 | 36,504 | 13,36,503 |
| 1934-35 . . . | 16,10,633 | 7,80,000 | 8,06,654 | 57,863 | 16,44,517 |
| 1935-36 . . . | 23,42,797 | 12,00,000 | 8,80,664 | 47,110 | 21,37,774 |
| 1936-37 . . . | 22,86,507 | 14,00,000 | 12,70,575 | 73,911 | 27,53,487 |

Mr. Brojendra Narayan Chaudhury: Do I understand that the Government have no intention of consulting this House regarding the extension of the Tea Market Expansion Board, and if so, what are the reasons?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid I have not been able to hear one word of what the Honourable Member was saying.

Mr. Brojendra Narayan Chaudhury: Why should not this House be given the opportunity of discussing the affairs of the Tea Market Expansion Board, by bringing in legislation instead of extending its life by means of a notification?

The Honourable Sir Muhammad Zafrullah Khan: I am sorry I have not heard one word of what the Honourable Member has been saying.

Mr. President (The Honourable Sir Abdur Rahim): I think the Honourable Member might just as well come nearer and put his question.

Mr. Brojendra Narayan Chaudhury: No. I will put my question again. May I know why the Government, instead of undertaking legislation for the purpose of extending the life of the Tea Market Expansion Board, has done so by means of a notification?

The Honourable Sir Muhammad Zafrullah Khan: As the Act in force gives the Government power specifically to extend its operation, the natural thing would be for Government to decide whether they should or should not extend it. I am afraid it would be wasting the time of the House, where power already exists, to come back to the House for the same power.

Mr. Brojendra Narayan Chaudhury: I want to know the reason why Government have taken advantage of only one alternative and not of the other?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid there is no other alternative. Where there is power to extend the operation of an Act or a rule given and Government are of opinion that the operation of the rule or the Act ought to be extended, their only course is to extend it.

NEGOTIATIONS FOR A TRADE AGREEMENT WITH AFGHANISTAN.

1297. ***Mr. Abdul Qaiyum:** (a) Will the Commerce Secretary please state whether it has been decided to open trade negotiations with Afghanistan?

(b) If so, when are these negotiations likely to begin?

(c) Is it intended to appoint delegates to negotiate this trade pact?

(d) If so, do Government propose to nominate a representative of the Peshawar Chamber of Commerce on this delegation?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). I would refer the Honourable Member to the reply given to part (c) of Sardar Sant Singh's starred question No. 650 on the 7th March, 1938.

(c) I do not know what the Honourable Member means by "this trade pact", but if he is referring to the trade discussions which the Government of India hope shortly to have with the Afghan Government, the answer is in the negative.

(d) Does not arise.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government have received any representations from the North-West Frontier Government with regard to starting negotiations with the Afghan Government?

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

Mr. Abdul Qaiyum: May I know when these negotiations are likely to begin?

The Honourable Sir Muhammad Zafrullah Khan: I am unable to add anything to what was said on the last occasion.

Mr. Abdul Qaiyum: I do not remember what was said long ago.

The Honourable Sir Muhammad Zafrullah Khan: It was not very long ago.

NON-GRANT OF HOLI AND MUHARRAM HOLIDAYS IN THE IMPROVEMENT TRUST OFFICES, DELHI.

1298. ***Mr. N. V. Gadgil** (on behalf of Mr. K. M. Jedhe): Will the Secretary for Education, Health and Lands please state:

- (a) whether it is a fact that the Delhi Improvement Trust Office is under the general control of the Chief Commissioner, Delhi;
- (b) whether it is a fact that the Chief Commissioner of Delhi notified 11th, 12th, 13th, 15th and 16th March, 1938, as holidays on account of Muharram and Holi festivals to be observed by all offices under him;
- (c) whether it is a fact that in spite of the orders of the Chief Commissioner of Delhi, the Improvement Trust, Delhi, granted no holidays to their employees on the occasion of Holi and Muharram; and
- (d) if the answer to the preceding parts be in the affirmative, what steps Government propose to take in this matter?

Sir Girja Shankar Bajpai: (a) No. The Chief Commissioner's powers of control over the Trust are defined in the United Provinces Town Improvement Act, 1919 (United Provinces Act, VIII of 1919), as extended to the Province of Delhi, a copy of which is available in the Library of the House. The Trust is not a Government office.

(b) Yes.

(c) The orders of the Chief Commissioner referred to do not apply to the Trust in this respect. The following holidays were observed during Muharram and Holi festivals:

| Muharram. | | Holi. | |
|-------------|-------------|-------------|-------------|
| Closed. | Communal. | Closed. | Communal. |
| 12th March. | 11th March. | 16th March. | 15th March. |

(d) Does not arise.

MUSLIM REPRESENTATION IN THE CLERICAL ESTABLISHMENT UNDER THE SURVEYOR GENERAL OF INDIA.

†1299. ***Mr. H. M. Abdullah:** Will the Secretary for Education, Health and Lands please state the total strength of the clerical establishments under the control of the Surveyor General of India, and how the Muslim community is represented thereon?

Sir Girja Shankar Bajpai: The total number is 238 of whom 43 are Muslims.

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

GROUPING OF SURVEYORS AND CLERKS IN THE OFFICE OF THE SURVEYOR GENERAL IN INDIA.

†1300. ***Mr. H. M. Abdullah:** Will the Secretary for Education, Health and Lands please state if in the office of the Surveyor General of India, the surveyors and clerks are being treated as one class for the purpose of communal representation, and if the pay, prospects and conditions of service of the two classes of subordinates are different?

Sir Girja Shankar Bajpai: There are no surveyors in the office of the Surveyor General of India situated in Calcutta. In the rest of the Survey of India offices surveyors and clerks form part of the Lower Subordinate Service and are treated as one class for the purpose of communal representation. The pay, prospects and conditions of service of the two classes of subordinates are the same.

EMPLOYMENT OF RETIRED MILITARY MEN AS PEONS IN THE OFFICE OF THE SURVEYOR GENERAL IN INDIA.

†1301. ***Mr. H. M. Abdullah:** Will the Secretary for Education, Health and Lands please state if Government have issued orders that retired military men should be employed as peons when vacancies occur in the office of the Surveyor General of India, and, if so, how many vacancies have, since the issue of the orders, occurred in that office and how have they been filled up whether by retired soldiers or otherwise?

Sir Girja Shankar Bajpai: No orders have been issued by Government. The Defence Department drew attention sometime ago to the desirability of appointing where possible *ex*-soldiers as peons, etc., and the suggestion was brought to the notice of the Surveyor General of India in 1932 and in 1935. The number of vacancies of peons which have occurred in the Office of the Surveyor General of India since 1932 is eight. None of these was filled by an *ex*-soldier.

VERANDAHS IN FRONT OF SHOPS AT PANCHKUIN AND BAIRD ROADS, NEW DELHI.

1302. ***Mr. Sham Lal:** (a) Will the Secretary for Education, Health and Lands be pleased to state whether Government are aware of the fact that the verandahs in front of the shops at Panchkuin and Baird Roads, New Delhi, are included in the leases granted by Government, and have been constructed by the lessees at their own cost?

(b) Is it a fact that the New Delhi Municipal Committee is treating these verandahs as streets and invariably prosecutes the owners and occupiers of the shops for placing any articles on these verandahs, and does not even allow them to place chairs, benches or stools thereon?

Sir Girja Shankar Bajpai: (a) Yes.

(b) Government understand that the New Delhi Municipal Committee hold that the verandahs, which are used as public passages are "streets" within the meaning of section 3 (13) (a) of the Punjab Municipal Act, 1911, and that a person who obstructs them is liable to prosecution under section 178 of the Act. There have been some prosecutions which have ended in convictions.

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

RATE OF RENTS FOR SHOPS CHARGED BY THE NEW DELHI MUNICIPAL COMMITTEE.

1803. ***Mr. Sham Lal:** Will the Secretary for Education, Health and Lands be pleased to state if the New Delhi Municipal Committee has fixed any uniform rate of rents for its shops? If not, on what basis does it rent them out?

Sir Girja Shankar Bajpai: No rent has been fixed by the New Delhi Municipal Committee for its shops. They are auctioned and allotted to the highest bidders.

SAFEGUARDING OF THE INTERESTS OF SHOP-KEEPERS IN NEW DELHI.

1804. ***Mr. Sham Lal:** Will the Secretary for Education, Health and Lands be pleased to state what steps the New Delhi Municipal Committee has taken to safeguard the interests of the shop-keepers at New Delhi, and do Government propose to appoint a Bazar Chaudhri at New Delhi to afford closer contact between the merchants at New Delhi and the Municipal Committee and the Government?

Sir Girja Shankar Bajpai: The New Delhi Municipal Committee have appointed a Market Inspector. No Bazaar Chaudhri has been appointed but the Honourable Member's suggestion in this respect will be brought to the notice of the New Delhi Municipal Committee whom it primarily concerns.

OPENING OF A CLINIC FOR CHEMICAL ANALYSIS OF FOOD STUFFS IN NEW DELHI.

1805. ***Mr. Sham Lal:** (a) Will the Secretary for Education, Health and Lands be pleased to state if Government propose to open a chemical analysing clinic at New Delhi where the merchants may be able to have the foodstuffs analysed free of charge, and thus enable them to import only standard stuffs?

(b) If not, how do Government intend to protect the merchants for defects in foodstuffs beyond their control?

Sir Girja Shankar Bajpai: (a) There is already a chemical section in the Public Health Laboratory, where foodstuffs are analysed. It is not possible to analyse them free of charge.

(b) In view of the reply given to part (a), this part of the question does not arise.

Mr. Sham Lal: What is the fee charged for this?

Sir Girja Shankar Bajpai: Rupees five.

PROPOSAL TO TRANSFER THE PASTEUR INSTITUTE TO THE CENTRAL RESEARCH INSTITUTE.

1806. ***Mr. Sham Lal:** (a) Will the Secretary for Education, Health and Lands be pleased to state if there is any proposal to transfer the Pasteur Institute to the Central Research Institute?

(b) Is it a fact that the Pasteur Institute is an institution founded by private subscription?

(c) Is it intended to consult the subscribers before transferring this institute to the Central Research Institute?

Sir Girja Shankar Bajpai: (a) Yes; the proposal is under consideration.

(b) Yes. Private subscriptions were raised by the Association of the Institute, but were supplemented by grants made by the Central Government, certain Provincial Governments, Indian States, Local Bodies, etc.

(c) Government have no information. This is a matter for the Association of the Institute.

DIRECTOR OF THE ANTI-RABIC SECTION.

†1907. ***Mr. Sham Lal:** (a) Will the Secretary for Education, Health and Lands be pleased to state if it is a fact that the Director of the Anti-Rabic Section is an Anglo-Indian, getting Rs. 1,400 a month and that there is a proposal to give him an increment of Rs. 200?

(b) If so, what is the reason for not putting an Assistant Surgeon in charge of this section and reducing the expenditure?

Sir Girja Shankar Bajpai: (a) The Director is an Anglo-Indian officer of the Medical Research Department and his pay is Rs. 1,350 *plus* a special pay of Rs. 100 a month. The reply to the latter part is in the negative.

(b) The Director of the Pasteur Institute, Kasauli, is required not only to administer anti-rabic treatment, but is also responsible for the manufacture of anti-rabic vaccine and the direction and prosecution of researches for which a highly trained and responsible officer is essential. It is not, therefore, practicable to entrust the work to an Assistant Surgeon.

INDIAN AND FOREIGN CAPITAL IN CERTAIN INDUSTRIES.

1908. ***Prof. H. G. Ranga:** (a) Will the Commerce Secretary be pleased to state the total paid up capital in the following industries in 1925 and in 1937?

1. Cotton Textile Manufacture.
2. Steel and Iron Manufacture.
3. Cement.
4. Sugar.
5. Jute.
6. Match.
7. Railways.
8. Merchant Shipping.

(b) How much of the total capital in each of these industries was owned by Indians, what portion was owned by Britishers and what portion by persons of other nationalities, in 1925 and in 1937?

†Answer to this question laid on the table, the questioner having exhausted his quota.

(c) If the information sought in part (b) is not available, are Government prepared to consider it desirable to institute an enquiry into the matter at an early date?

The Honourable Sir Muhammad Zafrullah Khan: (a) The Honourable Member is referred to the following publications of the Department of Commercial Intelligence and Statistics which are available in the Library of the House and contain such information as is available on the subject:

(1) "Joint Stock Companies in British India and in the Indian States of Hyderabad, Mysore, Baroda, Gwalior, Indore and Travancore"—Annual publication.

(2) Monthly publication *Joint Stock Companies*.

(b) The information is not available.

(c) No.

CONSULTATION OF THE ALL-INDIA KISAN SABHA IN CONNECTION WITH THE NEGOTIATIONS FOR INDO-BRITISH TRADE AGREEMENT.

1309. ***Prof. N. G. Ranga:** Will the Commerce Secretary be pleased to state if the All-India Kisan Sabha will be consulted when discussions over the Indo-British trade negotiations are taken up with the non-official advisers chosen by Government?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir.

Prof. N. G. Ranga: In which other way do the Government of India propose to ascertain the views of peasants if they are not prepared to consult the All-India Kisan Sabha?

The Honourable Sir Muhammad Zafrullah Khan: I do not know whether the necessity would arise to consult the views of peasants as distinct from general agricultural interests.

Prof. N. G. Ranga: Are we to understand that peasants as distinct from general agricultural interests are different?

The Honourable Sir Muhammad Zafrullah Khan: No. The Honourable Member was himself making the distinction. I am not making a distinction.

Prof. N. G. Ranga: Is it not a fact that so far the Government of India have not taken any definite steps to consult agriculturists in this country in regard to this particular matter?

The Honourable Sir Muhammad Zafrullah Khan: That is not correct.

Prof. N. G. Ranga: Is there any other organisation claiming to represent the agriculturists in this country and has it been consulted by Government with regard to the Indo-British trade negotiations?

The Honourable Sir Muhammad Zafrullah Khan: I am unable to say whether there is any other such organisation.

Prof. N. G. Ranga: Are we to understand that Government are so ignorant about the organisation of peasants

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

Mr. Manu Subedar: May I know if the consultations between non-official advisers are concluded, or if they are still going on?

The Honourable Sir Muhammad Zafrullah Khan: That has nothing to do with this particular question.

Mr. Manu Subedar: The question says, "Will the Commerce Secretary be pleased to state if the All-India Kisan Sabha will be consulted when discussions over the Indo-British trade negotiations are taken up with the non-official advisers chosen by Government?" My question is whether these discussions and negotiations are still going on or whether they have concluded?

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

PROTECTION AND FACILITIES TO WHEAT, RICE AND COTTON GROWERS.

1310. ***Prof. N. G. Ranga:** Will the Secretary for Education, Health and Lands be pleased to state:

- (a) if Government are prepared to give the same kind of protection and facilities for wheat, rice and cotton growers as are afforded to tea and coffee planters through the Tea and Coffee Cess Acts and Tea Control Act; and
- (b) if permanent committees like the Indian Cotton Committee are proposed to be constituted on a representative basis for the benefit of wheat, cotton and rice producers?

Sir Girja Shankar Bajpai: (a) and (b). Government have no such steps in contemplation.

Prof. N. G. Ranga: Will Government consider the advisability of establishing permanent committees for rice, wheat and cotton producers on the same lines as those existing for cotton growers?

Sir Girja Shankar Bajpai: My Honourable friend has a separate question on making these committees permanent and he might wait till that question is reached.

Mr. T. S. Avinashilingam Chettiar: May I know whether the Government have considered this matter and come to the conclusion that it is not necessary?

Sir Girja Shankar Bajpai: Government have come to the conclusion that in the case of small growers of crops such as wheat and rice there is no likelihood of the cultivators concerned agreeing to tax themselves.

Prof. N. G. Ranga: What steps have Government taken to satisfy themselves that the growers of rice and wheat are not likely to agree to tax themselves in a matter of this kind?

Sir Girja Shankar Bajpai: Common sense based on such information as is available.

Prof. N. G. Ranga: Will any reference be made to the various Provincial Governments to ascertain through them whether the producers of wheat and rice are willing to tax themselves in order to have this necessary protection?

Sir Girja Shankar Bajpai: Government's correspondence in the past with Local Governments does not encourage them to think that any separate reference now would have better results.

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

PADDY SUB-COMMITTEE OF THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH.

1811. *Prof. N. G. Ranga: Will the Secretary for Education, Health and Lands be pleased to state:

- (a) what were the subjects discussed and conclusions arrived at at the meeting of the Paddy Sub-Committee of the Imperial Council of Agricultural Research;
- (b) when the Committee is likely to meet again;
- (c) whether any suggestion was made by any of its members for making the Committee a permanent one; and
- (d) whether Government propose to place it on a permanent basis, on the lines of the Indian Cotton Committee?

Sir Girja Shankar Bajpai: (a) I assume that the Honourable Member is referring to the Rice Committee of the Imperial Council of Agricultural Research. The Committee discussed all the items on the agenda of the meeting, and had also before it the report of the Rice Research Sub-Committee which sat throughout the previous day. The report of the Committee is confidential. A copy of the agenda is placed on the table of the House.

- (b) This is not settled yet.
- (c) Yes, but the proposal was not moved in the Committee.
- (d) The question has not been considered.

Agenda for the Meeting of the Rice Committee to be held at New Delhi on Saturday, the 5th March, 1938.

1. Action taken on the recommendations of the first meeting of the Rice Committee.
2. Progress reports on rice research schemes for 1936-37.
 - (a) Madras (Berhampur Station).
 - (b) Bengal (Bankura and Chinsura).
 - (c) United Provinces (Nagina).
 - (d) Burma (Hmawbi).
 - (e) Bihar (Sabour).
 - (f) Central Provinces (Raipur).
 - (g) Assam (Habiganj).
 - (h) Investigations on Gangai disease of paddy.
 - (i) Investigations on the quality of rice. Final report of the work done at Coimbatore.
 - (j) Investigations on quality in crops with special reference to rice work done at Bangalore (1934-37).

(Report of the Rice Research Sub-Committee.)

3. General Problems of co-ordination of Rice Research :

Sir John Russell's proposals regarding :

(A) Standardisation of work on manurial experiments :

- (i) General note entitled "The Replanning of rice manurial experiments on the basis of the results of the last five years in the Imperial Council of Agricultural Research rice schemes" by the Agricultural Expert, Imperial Council of Agricultural Research.
- (ii) Note on "Split-plot" and other "Confounded" designs by the Statistician, Imperial Council of Agricultural Research.
- (iii) Analysis of the results of certain rice stations by the Statistician, Imperial Council of Agricultural Research.

(B) Water requirements of Rice (a short report of the progress so far made).

(C) Yield—The need for Sample Surveys (Report of the Rice Research Sub-Committee).

4. Comparison of numbers of varieties under test, nature of manurial experiments and other main items of work at rice experiment stations. Action taken on the note by the Agricultural Expert which was considered at the previous meeting. (Report of Rice Research Sub-Committee).

5. Extensions of Rice Research Scheme :

(A) Future Policy.

- (B) (i) Application from the Government of the United Provinces for a grant of Rs. 1,20,000 spread over 5 years for the extension of the rice research scheme in the United Provinces (Grant required about Rs. 65,000, spread over 3 years)—(Report of the Rice Research Sub-Committee).
- (ii) Application from the Government of Central Provinces and Berar for a grant of Rs. 13,400 spread over two years on account of the extension of the rice research scheme (Report of the Rice Research Sub-Committee).
- (iii) Application from the Director, Indian Institute of Science, for a grant of Rs. 14,964 spread over three years for the extension of the scheme on "Quality" in Crops with special reference to rice. (Report of the Rice Research Sub-Committee).

6. New Schemes of Rice Research :

- (i) Application from the Government of Travancore for a grant of Rs. 99,180 spread over a period of seven years for scheme on the improvements of paddy in Travancore.
- (ii) Application from the Government of Madras for a grant of Rs. 67,360 spread over a period of five years for a scheme of rice research in the Chingleput District of the Madras Presidency.
- (iii) Application from the Government of Kashmir for a grant of Rs. 20,400 spread over a period of five years for a scheme of research on rice in Kashmir. (Report of the Rice Research Sub-Committee).

7. Agricultural Expert's note on the drawing up of schemes, technical programmes and annual reports. (Report of the Rice Research Sub-Committee).

8. Notes by the Rice Specialist, Sabour :

- (a) Maintenance of the purity of improved varieties of paddy under cultivators' conditions.
- (b) Investigations of the factors which govern quality in fine rices and the possibility of growing such rices in tracts other than those to which they originally belong without any deterioration in their quality. (Report of the Rice Research Sub-Committee).

9. Effect of "Paris Green" on crops—results of the latest experiments.

10. Note by the Director of Agriculture, Assam, on the cultivation of Boro paddy in the precarious tracts of Assam under irrigation by mechanical means.

11. Note by the Director of Agriculture, Central Provinces and Berar, regarding the necessity to ascertain the definite causes that contribute to breakage in hulling of paddy.

I. C. A. R. RICE COMMITTEE, MEETING, MARCH, 1938.

Supplementary Agenda.

Add under item 5—Extension of Rice Research Schemes :

- B (iv) Application from the Government of Assam for a grant of Rs. 99,881 spread over a period of five years for the continuance of Research in Deep Water Paddy in Assam. (Report of the Rice Research Sub-Committee).

Add under item 6—New Schemes of Rice Research :

- (iv) Application from the Commissioner of Agriculture, Baroda, for a grant of Rs. 22,493 spread over five years for a paddy research scheme in the Baroda State. (Report of the Rice Research Sub-Committee).

Prof. N. G. Ranga: When will it be considered?

Sir Girja Shankar Bajpai: It will be considered when the committee meets next.

Prof. N. G. Ranga: Is it likely to meet within the next one year?

Sir Girja Shankar Bajpai: I expect so.

ACCIDENT AND FIRE IN THE DIGBOI OIL-FIELDS.

1312. ***Mr. Kuladhar Chaliha:** Will the Labour Secretary please state:

- (a) if there was any accident and fire in the Digboi oil-fields in 1936, 1937 and 1938;
- (b) the number of deaths of labourers and other employees from the accidents and fires; and
- (c) the amount of compensation paid to the representatives of those who died in consequence of the fires and accidents?

The Honourable Sir Muhammad Zafrullah Khan: (a) One accident (an explosion resulting in fire) was reported to the Chief Inspector of Explosives in 1936. No accident has come to his notice either in 1937 or up to date during the current year.

(b) Four.

(c) The information is not available.

Mr. Kuladhar Chaliha: May I know whether there was any fire in 1938 and consequently two deaths?

The Honourable Sir Muhammad Zafrullah Khan: I have said that nothing has come to notice.

Maulvi Abdur Rasheed Chaudhury: Has the Burma Oil Company taken any steps to prevent similar accidents?

The Honourable Sir Muhammad Zafrullah Khan: That is a question of which obviously I shall require notice.

Mr. Kuladhar Chaliha: May I know whether any attempt was made to get the information?

The Honourable Sir Muhammad Zafrullah Khan: I cannot say actually whether any attempt was made but the information would be difficult to get in any case.

Mr. Kuladhar Chaliha: Will you make any inquiry now?

The Honourable Sir Muhammad Zafrullah Khan: I do not think it would be justified.

Mr. T. S. Avinashilingam Chettiar: May I know whether the accounts of these accidents are sent to the Government as a matter of course or they have to get it after inquiries?

The Honourable Sir Muhammad Zafrullah Khan: They are sent as a matter of course but the question I was put was whether any compensation was paid to the persons who suffered.

IMPROVEMENT OF THE HANDLOOM INDUSTRY AND SERICULTURE IN ASSAM.

1818. ***Mr. Kuladhar Chaliha:** Will the Commerce Secretary please state:

- (a) whether Government have given any grant for the improvement of the handloom industry to Assam;
- (b) whether Government have given any grant for the improvement of sericulture in Assam, and what the amount of the grant was; and
- (c) whether any scheme has been received from the Government of Assam for the improvement of sericulture there?

The Honourable Sir Muhammad Zafrullah Khan: (a) Since November, 1934, Assam has received from the Central Government a total subvention of Rs. 69,300 for the development of the handloom industry. A grant of Rs. 24,400 has also been sanctioned for the Province for 1938-39.

(b) During the four years 1935-36 to 1938-39 grants amounting to Rs. 73,292 have been sanctioned for Assam for the development of the sericultural industry.

(c) Yes, Sir. The grants are being spent by the Provincial Government on schemes approved by the Government of India.

Prof. N. G. Ranga: When will this question of making a grant for the improvement of the handloom industry come up for reconsideration?

The Honourable Sir Muhammad Zafrullah Khan: The question comes up every year before the Industries Conference.

Prof. N. G. Ranga: May I know whether this particular grant was started for a period of five years?

The Honourable Sir Muhammad Zafrullah Khan: Yes.

Prof. N. G. Ranga: When will it come to an end?

The Honourable Sir Muhammad Zafrullah Khan: I am unable to give the exact year.

Prof. N. G. Ranga: Are Government considering the advisability of increasing this grant for the handloom industry?

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

NON-ALLOTMENT OF QUARTERS IN NEW DELHI TO THE STAFF OF THE NORTH WESTERN RAILWAY DIVISIONAL OFFICES.

1814. ***Sardar Mangal Singh:** Will the Labour Secretary please state:

- (a) the circumstances under which the clerks of the offices of Divisional Superintendent and Divisional Accounts Office, North-Western Railway, New Delhi, who were occupying quarters in Timarpur colony for the last six years or so, were ordered to vacate the same with effect from the 31st March, 1938 and refused allotment of quarters in New Delhi;
- (b) whether it is a fact that the New Delhi quarters are allotted to officers who are required to be on duty in New Delhi with the Government of India, or the Local Government of Delhi;
- (c) why the staff of these offices is not treated on the same footing for allotment of quarters in New Delhi as the staff of other attached offices under the Central Government, like the Controller of Railway Accounts, the Director of Railway Audit;
- (d) whether it is a fact that these quarters are also allotted to the staff of some non-Government bodies, viz., the New Delhi Municipal Committee, the Improvement Trust; if so what is the reason for this discrimination against the staff of the North Western Railway Divisional offices; and
- (e) whether it is true that the staff of the said offices have represented the case to the proper authorities; what is the reason of the above mentioned ejection?

The Honourable Sir Muhammad Zafrullah Khan: (a) These clerks are not on duty with the Government of India and are no longer employed in Old Delhi. Their claims for quarters in the general pool of accommodation in Old Delhi, can, therefore, be met only after the demands of the entitled staff and other staff employed in Old Delhi have been fully met. The accommodation hitherto allotted to them in Timarpur was surplus to the requirements of the entitled staff but owing to the heavy demand this year for Government quarters from the entitled staff and those employed in Old Delhi, it was found necessary to ask them to vacate their quarters in favour of those who had a better claim. They were offered houses in New Delhi, where they are at present employed, from the surplus accommodation available during the summer season, and two clerks have responded to this offer.

(b) Yes.

(c) The Divisional Superintendent's and the Divisional Accounts Offices, North Western Railway, are not "attached" offices of the Government of India.

(d) There is no discrimination against the staff of the North Western Railway Divisional Offices, who, like the staff of the New Delhi Municipal Committee and the Delhi Improvement Trust, are eligible for allotment of quarters in New Delhi during the summer season, when surplus accommodation is available; no accommodation can be guaranteed to any of them during the winter. An exception was made for certain audit staff attached temporarily on duty with the Improvement Trust for special reasons which are not applicable to the present case.

(c) A telegraphic representation was received a few days ago. I have already given the reasons why the staff were asked to vacate their quarters in Timarpur, in my answer to part (a) of the question.

Sardar Mangal Singh: May I know whether the Divisional Superintendent has represented their case to the Estate Officer and that representation is still pending?

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

SCHEME FOR PRODUCTION OF POWER-ALCOHOL.

†1315. ***Seth Haji Sir Abdoola Haroon:** (a) Has the attention of the Commerce Secretary been also drawn to the appointment of the "Power-Alcohol Committee" by the Governments of the United Provinces and Bihar for devising a concrete scheme for the manufacture of power-alcohol in the country?

(b) Is it true that Government refused to allow the Sugar Technologist to serve on this Committee?

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

ECONOMIC TRANSPORT OF SUGAR WITHIN THE COUNTRY.

†1316. ***Seth Haji Sir Abdoola Haroon:** Has the Commerce Secretary made investigations in regard to the estimated consumption of sugar in the various Provinces of India in relation to their respective production with a view to considering the possibility of arranging an economic transport of sugar (by avoiding criss-crossing of the traffic) from the producing centres to the distant consuming markets within the country, and if so, will Government give a comparative table of such production and estimated consumption for each Province during the last five years?

Sir Girja Shankar Bajpai: The reply to the first part is in the negative. The request in the second part cannot, therefore, be complied with.

RESTRICTIONS ON THE EMPLOYMENT OF INDIAN SEAMEN ON THE UNITED KINGDOM REGISTERED SHIPS.

1317. ***Mr. N. M. Joshi:** (a) Will the Commerce Secretary be pleased to state whether any attempt is being made in the United Kingdom either against the employment of Indian seamen or for the reduction of the number of Indian seamen employed on the United Kingdom registered ships?

(b) If the answer to part (a) be in the affirmative, will he be pleased to state what steps Government propose to take to see that unjustifiable restrictions are not placed by the United Kingdom authorities on the employment of Indian seamen on the United Kingdom registered ships?

The Honourable Sir Muhammad Zafrullah Khan: (a) Government have no information to this effect.

(b) Does not arise.

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

Mr. Manu Subedar: May I know whether the Government of India will draw the attention of His Majesty's Government to this question of racial discrimination?

The Honourable Sir Muhammad Zafrullah Khan: Which discrimination?

Mr. Manu Subedar: The discrimination referred to in part (b).

The Honourable Sir Muhammad Zafrullah Khan: (b) Arises only if the answer to part (a) is in the affirmative.

Mr. Manu Subedar: Is the Honourable Member aware that these disabilities of Indian seamen are not of recent origin but of distant origin?

The Honourable Sir Muhammad Zafrullah Khan: I cannot go beyond the scope of part (a) of the question and I have no information with regard to that.

Mr. N. M. Joshi: May I ask whether the Government of India made inquiries and got no information or they have made no inquiries at all?

The Honourable Sir Muhammad Zafrullah Khan: The Government of India have no information that there are any disabilities of the kind mentioned.

Mr. N. M. Joshi: I want to know whether the Government of India made inquiries?

The Honourable Sir Muhammad Zafrullah Khan: If the Honourable Member will let me know the kind of disabilities he has in mind and which he apprehends are being exercised, then I will make inquiries.

Mr. N. M. Joshi: My question was whether any attempts have been made to reduce the employment of Indians on British ships and if Government says that they have made inquiries and no attempts have been made at all for reducing the employment of Indians, then that may mean one thing but if they have made no inquiry and they say they have no information, that is another thing.

The Honourable Sir Muhammad Zafrullah Khan: I can answer the specific question whether enquiries were made only after looking into the correspondence on the subject, if any, but if the Honourable Member has any information that any specific attempt has been made, then I am prepared to make inquiries.

Mr. K. Santhanam: May I know if Government have any statistics about Indian seamen employed on British ships?

The Honourable Sir Muhammad Zafrullah Khan: The next question deals with it.

Mr. N. M. Joshi: The Government are aware that they are indifferent to this matter?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir.

INDIAN SEAMEN GOING TO SEA ON THE UNITED KINGDOM REGISTERED SHIPS.

1318. ***Mr. N. M. Joshi:** (a) Will the Commerce Secretary be pleased to state whether Government have any information, or whether Government are collecting any information, in regard to the number of Indian seamen who go to sea on the United Kingdom registered ships as well as the number of Indian seamen who are subjects of Indian States under the protection of the Government of India, who go to sea on such ships?

(b) If the answer to part (a) be in the affirmative, will he be pleased to place before this House the information Government may have or the result of their enquiry?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). According to the latest available figures, which were collected in 1937, the total number of Indian seamen who go to sea on British registered ships is approximately 25,000.

Government have no information as to how many subjects of Indian States are included in this figure.

Mr. T. S. Avinashilingam Othettiar: May I know when compared with previous figures there is a fall or rise in the employment of Indian seamen?

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

INDIAN SEAMEN SERVING ON THE UNITED KINGDOM REGISTERED SHIPS IN THE COASTAL AND OVERSEAS TRADE OF INDIA.

1319. ***Mr. N. M. Joshi:** Will the Commerce Secretary be pleased to state the total number of Indian seamen serving on the United Kingdom registered ships in the coastal and in the overseas trade of India for each of the last five years ending the 31st March, 1937?

The Honourable Sir Muhammad Zafrullah Khan: The information asked for is being collected and will be laid on the table of the House when received.

HOISTING OF THE UNION JACK IN THE ASSEMBLY SECTOR, NEW DELHI.

1320. ***Mr. Mohan Lal Saksena:** Will the Honourable the Law Member be pleased to state:

- (a) if it is a fact that the Union Jack is hoisted in the Assembly sector of the Council Chamber during the time the sittings of the Assembly are held; and
- (b) if the reply to part (a) be in the affirmative, under what rule it is done?

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

(b) It has been a longstanding practice to hoist the Union Jack on the Council House when the Council of State and the Legislative Assembly are sitting. This practice follows that in the Houses of Parliament and is governed by no specific rule.

Mr. Manu Subedar: Will the Honourable Member explain what is the Union Jack?

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

Mr. T. S. Avinashilingam Chettiar: Is the House bound to hoist this particular flag under any rule of Standing Order?

The Honourable Sir Muhammad Zafrullah Khan: There is no question of being bound or not bound.

Prof. N. G. Ranga: Is it permissible for any of the Members to remove that flag from there?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir.

Prof. N. G. Ranga: Why not?

The Honourable Sir Muhammad Zafrullah Khan: The Members do not own the House.

Mr. M. Ananthasayanam Ayyangar: May we know if it is the Honourable the President of the Legislative Assembly who is in charge of this, or the Government have got the right to fly the flag?

The Honourable Sir Muhammad Zafrullah Khan: That is a question to be addressed to the Honourable the President.

Mr. S. Satyamurti: Will the Honourable the President kindly look into the matter and remove the flag, which we do not want?

Mr. President (The Honourable Sir Abdur Rahim): I do not think it lies with me.

Mr. S. Satyamurti: Will the Honourable the President kindly examine the matter and consult the Speaker of the House of Commons whether such flags can be flown without the Speaker's consent or knowledge? I merely want to know the parliamentary practice, and I should like to ask why we should have an emblem of slavery here while we are fighting the battle of freedom here.

Mr. T. S. Avinashilingam Chettiar: (After a short lapse). May I know your answer, Sir?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member cannot put questions to the Chair.

DIFFERENT SCALES OF PAY AND PENSION OF DAFTRIES IN THE CENTRAL PUBLIC WORKS DEPARTMENT, NEW DELHI.

†1921. ***Mr. D. K. Lahiri Chaudhuri:** (a) Will the Labour Secretary state if it is a fact that the daftaries in the Central Public Works Department, New Delhi, Divisions A, B, Service and Electric, Horticultural, Provincial, get their salaries at the rate of Rs. 17 per month, with no annual increment? If so, why are they not given the annual increment?

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

(b) Is it a fact that the daftaries in the Divisions other than the Divisions A, B, Electric, Service, Horticultural and Provincial, get their pay at Rs. 15 to Rs. 25 and if so, why do the daftaries in the above mentioned departments not get the same pay?

(c) Is it a fact that the daftaries in the Central Public Works Department get their salaries from Rs. 20 to Rs. 30 per mensem, and if so, why do the daftaries of A, B, Electric, Service, Horticultural and Provincial Divisions, not get salaries at the same scale?

(d) If it is a fact that the peons in the Central Public Works Department get their salaries at Rs. 15, Rs. 16, Rs. 17 per month, and if so, why do the daftaries in A, B, Service, Electric, Horticultural and Provincial Divisions, not get the same scale?

(e) Is it a fact that the Central Public Works Department is under the Labour Department, and if so why the pay and pension rules which are applied in the case of daftaries employed in the Labour Department, Government of India, are not applied in the case of daftaries, Central Public Works Department also?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). Duftries employed in all the Divisional Offices at New Delhi, from a date prior to the 16th July, 1931, draw the old fixed rate of Rs. 17 per mensem and are consequently not entitled to increments, while those employed since that date are on the revised scale of Rs. 15—1—25. The duftries at present employed in the temporary Divisions draw pay on this scale not because they are in these particular divisions but because they are new entrants.

(c) There are two scales of pay (Rs. 20—1—25 and Rs. 25—1—30) for duftries employed in the Chief Engineer's office who were in service prior to the 16th July, 1931. For new entrants, the revised scale of pay is Rs. 15—1—25 which is the same as that for new entrants in Divisional Offices.

(d) The rates mentioned are for peons who are in service prior to the 16th July, 1931. For new entrants, the rates are Rs. 14 for peons and Rs. 16 for cycle peons. The work of duftries is different in character.

(e) The Labour Department is responsible for public works but this does not render the rates of pay in it applicable to the Central Public Works Department which is not part of the Secretariat.

UNSTARRED QUESTIONS AND ANSWERS.

TEACHERS GETTING ALLOWANCES FOR EVENING CLASSES IN THE GOVERNMENT COMMERCIAL INSTITUTE, DELHI.

178. **Maulvi Abdur Rasheed Chaudhury:** (a) Will the Education Secretary please state if it is a fact that the teachers of the Government Commercial Institute, Delhi, get allowances for the evening classes?

(b) If the answer to part (a) be in the affirmative, will the Education Secretary please state the number of students who qualified themselves for the Diploma by attending these classes during the last three years, and the total amount of money received by the teachers as allowances during the same period?

Sir Girja Shankar Bajpai: Enquiries have been made and a reply will be furnished to the House in due course.

ABSENCE OF MUSLIMS IN THE TEACHING AND MENIAL STAFF OF THE
GOVERNMENT COMMERCIAL INSTITUTE, DELHI.

179. **Khan Sahib Nawab Siddique Ali Khan:** (a) Will the Secretary for Education, Health and Lands please state if it is a fact that there is not a single Muslim either on the teaching or on the menial staff of the Government Commercial Institute, Delhi?

(b) If the answer to part (a) be in the affirmative, what steps have Government taken to safeguard the Muslim interests in the said institution?

Sir Girja Shankar Bajpai: Questions Nos. 179 to 182. Enquiries have been made and replies will be furnished to the House in due course.

CERTAIN PARTICULARS REGARDING STUDENTS IN THE GOVERNMENT
COMMERCIAL INSTITUTE, DELHI.

†180. **Khan Sahib Nawab Siddique Ali Khan:** Will the Secretary for Education, Health and Lands please lay on the table a statement regarding the Government Commercial Institute, Delhi, showing the following particulars for the last five years?

| Year. | No. of students admitted (community-wise). | No. of withdrawals before completing the course (community-wise). | Fee concessions (community-wise). | Cost per capita. |
|-------|--|--|--------------------------------------|------------------------|
| | | | | |

RECRUITMENT OF MUSLIMS ON THE STAFF OF THE GOVERNMENT COMMERCIAL
INSTITUTE, DELHI.

†181. **Khan Sahib Nawab Siddique Ali Khan:** Will the Secretary for Education, Health and Lands please state if Government are prepared to appoint some Muslims on the staff of the Government Commercial Institute, Delhi, to give the Muslims due representation and to remove their grievances?

PURCHASE OF STATIONERY USED IN THE GOVERNMENT COMMERCIAL INSTITUTE,
DELHI.

†182. **Khan Sahib Nawab Siddique Ali Khan:** Will the Secretary for Education, Health and Lands aware of the fact that the stationery used in the Government Commercial Institute, Delhi, is purchased from private firms by the Head Master of the said Institute? If so, will the Secretary for Education, Health and Lands please state why it is not supplied by the Government Stationery Department?

FUNCTIONS OF THE RAILWAY CONCILIATION OFFICER AT CALCUTTA.

183. **Mr. Muhammad Ashar Ali:** Will the Labour Secretary please refer to the speech on page 819 of the Legislative Assembly Debates of the 17th February, 1938, regarding the Conciliation Officer stationed in

† For answer to this question, see answer to question No. 179

Calcutta, and state whether the Conciliation Officer will deal with individual cases of disputes caused by the abuse of powers, cases of the disregard of rules, etc?

The Honourable Sir Muhammad Zafrullah Khan: The Conciliation Officer cannot undertake the examination of individual cases as a normal part of his duties. He has no disciplinary powers and administrative machinery is provided for the investigation of such cases. But where he feels that he can usefully give assistance he is not precluded from so doing.

DRAFT CONVENTIONS AND RECOMMENDATIONS ADOPTED BY THE TWENTY-THIRD SESSION OF THE INTERNATIONAL LABOUR CONFERENCE (JUNE, 1937).

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, I lay on the table the Draft Conventions and Recommendations adopted by the Twenty-third session of the International Labour Conference in June 1937, together with a statement showing the particulars of the course which the Government of India propose to follow in respect of the Draft Conventions and Recommendations.

Draft Conventions and Recommendations.

1. Recommendation concerning international co-operation in respect of public works.

Formal preamble has been omitted.

Whereas the advance planning of public works is a useful method of preventing unemployment and counteracting economic fluctuations; and

Whereas action for this purpose can be effective only if it is based on adequate information and international co-operation;

The Conference recommends that :

1. Each Member of the International Labour Organisation should communicate annually to the International Labour Office, on the most suitable date, statistical and other information concerning public works undertaken or planned on its territory, including orders for plant, equipment and supplies.

2. The information communicated by Members in accordance with paragraph 1 should be supplied as far as possible in accordance with a uniform plan relating more particularly to the expenditure involved, the method of financing the works and the number of workers engaged.

3. Each Member should co-operate in the work of any international committee which may be set up by the Governing Body of the International Labour Office for the purpose, more particularly, of studying the information communicated in accordance with paragraph 1 and preparing the uniform plan referred to in paragraph 2.

4. Each Member should carefully consider what action to take on the basis of any reports which the Governing Body of the International Labour Office may send it as a result of the discussions of the committee contemplated by paragraph 3.

2. Recommendation concerning the national planning of public works.

Formal preamble has been omitted.

Whereas in the absence of advance planning expenditure on public works tends to increase in years of prosperity and to diminish in years of depression;

Whereas fluctuations in the volume of employment of workers engaged on public works are thereby superimposed on the fluctuations in the volume of employment arising out of commercial demand, thus aggravating successively the shortage of certain classes of workers in periods of prosperity and the extent of unemployment in periods of depression;

Whereas it is desirable to time public works in such a way as to reduce industrial fluctuations as far as possible;

Whereas the uniform application of such a policy of timing to all public works involves the co-ordination of the administrative and financial methods applied by the various authorities; and

Whereas it is also desirable, if public works are to be fully effective as a remedy for unemployment, that measures should be adopted relating to the conditions of recruitment and employment of the workers engaged on the works;

The Conference recommends that each Member should apply the following principles :

PART I.—TIMING OF PUBLIC WORKS.

1. (1) Appropriate measures should be adopted for the purpose of achieving a suitable timing of all works undertaken or financed by public authorities.

(2) This timing should involve an increase in the volume of such works in periods of depression and for this purpose it is desirable to provide for the preparation in advance, during periods of prosperity, of works capable of being held in reserve or exceeding ordinary requirements and which should be ready for execution as soon as the need is felt.

(3) Special attention should be paid to public works which stimulate heavy industries or public works which create a more direct demand for consumers' goods, as changing economic conditions may require.

2. The policy of timing public works should apply to all such works (including works in colonies) undertaken by central authorities, regional or local authorities, public utility undertakings, or any body or individual in receipt of subsidies or loans from a public authority.

3. There should be established a national co-ordinating body the duties of which should be, more particularly—

- (a) to centralise information relating to the various kinds of public works;
- (b) to ensure or encourage the preparation of works in advance; and
- (c) to give instructions or advice as to when works should be held in reserve and when works held in reserve should be undertaken, account being taken of fluctuations in the volume of unemployment, changes in the index of wholesale prices, changes in the rate of interest and any changes in other indices which indicate an alteration in the economic situation.

PART II.—FINANCING OF PUBLIC WORKS.

4. Among the financial measures necessitated by the policy embodied in the present Recommendation the following should receive special consideration :

- (a) the placing to reserve in periods of prosperity of the resources necessary for carrying out works prepared for periods of depression;
- (b) the carrying forward of unexpended balances from one year to another;
- (c) restricted borrowing by public authorities in periods of prosperity and accelerated repayment of loans previously contracted;
- (d) the financing by loan in periods of depression of public works likely to stimulate economic recovery, and, generally speaking, the application of a monetary policy which will make possible the expansion of credit required at such a time for the speeding up of the public works and which will ensure the lowest possible rate of interest on the loans.

5. The co-ordinating body provided for in paragraph 3 or a special body acting in co-operation with it should be entrusted with all or some of the following duties in connection with the financing of public works :

- (a) to advise the central authority on financial policy and, if necessary, taxation policy relating to public works;
- (b) to assist in achieving proper co-ordination between the credit policy and market operations of the central bank, or corresponding institution, and the public works policy of the Government;
- (c) to co-ordinate the borrowing policy of the different public bodies referred to in paragraph 2; and
- (d) to take such measures as may be necessary to ensure that the policy of the central authority in respect of loans and subsidies is made effective.

PART III.—EMPLOYMENT OF CERTAIN CLASSES OF WORKERS.

6. In applying the policy of timing provided for in this Recommendation, consideration should be given to the possibility of including works which will give employment to special classes of workers such as young workers, women and non-manual workers.

PART IV.—CONDITIONS OF RECRUITMENT AND EMPLOYMENT.

7. The recruitment of workers for employment on public works should be effected for preference through the public employment exchanges.

8. Foreign workers authorised to reside in the country concerned should be accepted for employment on public works in the same conditions as nationals, subject to reciprocal treatment.

9. The rates of wages of workers on public works should be not less favourable than those commonly recognised workers' organisations and employers for work of the same character in the district where the work is carried out; where there are no such rates recognised or prevailing in the district, those recognised or prevailing in the nearest district in which the general industrial circumstances are similar should be adopted, subject to the condition that the rates should in any case be such as to ensure to the workers a reasonable standard of life as this is understood in their time and country.

3. Draft convention fixing the minimum age for admission of children to Industrial employment (revised 1937).

Formal preamble has been omitted.

PART I.—GENERAL PROVISIONS.*Article 1.*

1. For the purpose of this Convention, the term "industrial undertaking" includes particularly—

- (a) mines, quarries, and other works for the extraction of minerals from the earth.
- (b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding, and the generation, transformation, and transmission of electricity and motive power of any kind;
- (c) construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, waterwork, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure;
- (d) transport of passengers or goods by road or rail or inland waterway including the handling of goods at docks, quays, wharves, and warehouses, but excluding transport by hand.

2. The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

Article 2.

1. Children under the age of fifteen years shall not be employed or work in any public or private industrial undertaking, or in any branch thereof.

2. Provided that, except in the case of employments which, by their nature or the circumstances in which they are carried on, are dangerous to the life, health or morals of the persons employed therein, national laws or regulations may permit such children to be employed in undertakings in which only members of the employer's family are employed.

Article 3.

The provisions of this Convention shall not apply to work done by children in technical schools, provided that such work is approved and supervised by public authority.

Article 4.

In order to facilitate the enforcement of the provisions of this Convention, every employer in an industrial undertaking shall be required to keep a register of all persons under the age of eighteen years employed by him, and of the dates of their births.

Article 5.

1. In respect of employments which, by their nature or the circumstances in which they are carried on, are dangerous to the life, health or morals of the persons employed therein, national laws shall either—

(a) prescribe a higher age or ages than fifteen years for the admission thereto of young persons or adolescents; or

(b) empower an appropriate authority to prescribe a higher age or ages than fifteen years for the admission thereto of young persons or adolescents.

2. The annual reports to be submitted under Article 22 of the Constitution of the International Labour Organisation shall include full information concerning the age or ages prescribed by national laws in pursuance of sub-paragraph (a) of the preceding paragraph or concerning the action taken by the appropriate authority in exercise of the powers conferred upon it in pursuance of sub-paragraph (b) of the preceding paragraph, as the case may be.

PART II.—SPECIAL PROVISIONS FOR CERTAIN COUNTRIES.

Article 6.

1. The provisions of this Article shall be applicable in Japan in substitution for the provisions of Articles 2 and 5.

2. Children under the age of fourteen years shall not be employed or work in any public or private industrial undertaking, or in any branch thereof: Provided that national laws or regulations may permit such children to be employed in undertakings in which only members of the employer's family are employed.

3. Children under the age of sixteen years shall not be employed or work on dangerous or unhealthy work as defined by national laws or regulations in mines or factories.

Article 7.

1. The provisions of Articles 2, 4 and 5 shall not apply to India, but in India the following provisions shall apply to all territories in respect of which the Indian Legislature has jurisdiction to apply them.

2. Children under the age of twelve years shall not be employed or work in factories working with power and employing more than ten persons.

3. Children under the age of thirteen years shall not be employed or work in the transport of passengers or goods, or mails, by rail, or in the handling of goods at docks, quays or wharves, but excluding transport by hand.

4. Children under the age of fifteen years shall not be employed or work—

(a) in mines, quarries and other works for the extraction of minerals from the earth;

(b) in occupations to which this Article applies which are scheduled as dangerous or unhealthy by the competent authority.

5. Unless they have been medically certified as fit for such work—

(a) persons who have attained the age of twelve years but are under the age of seventeen years shall not be permitted to work in factories working with power and employing more than ten persons;

(b) persons who have attained the age of fifteen years but are under the age of seventeen years shall not be permitted to work in mines.

Article 8.

1. The provisions of this Article shall be applicable in China in substitution for the provisions of Articles 2, 4 and 5.

2. Children under the age of twelve years shall not be employed or work in any factory using machines driven by motor power and regularly employing thirty persons or more.

3. Children under the age of fifteen years shall not be employed or work—

(a) in mines regularly employing fifty persons or more; or

(b) on dangerous or unhealthy work as defined by national laws or regulations in any factory using machines driven by motor power and regularly employing thirty persons or more.

4. Every employer in an undertaking to which this Article applies shall keep a register of all persons under the age of sixteen employed by him, together with such evidence of their age as may be required by the competent authority.

Article 9.

1. The International Labour Conference may, at any Session at which the matter is included in its Agenda, adopt by a two-thirds majority draft amendments to any one or more of the preceding Articles of Part II of this Convention.

2. Any such draft amendment shall state the Member or Members to which it applies, and shall, within the period of one year, or, in exceptional circumstances, of eighteen months, from the closing of the Session of the Conference, be submitted by the Member or Members to which it applies to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.

3. Each such Member will, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification of the amendment to the Secretary-General of the League of Nations for registration.

4. Any such draft amendment shall take effect as an amendment to this Convention on ratification by the Member or Members to which it applies.

PART III.—FINAL PROVISIONS.

Article 10.

The formal ratifications of this Convention shall be communicated to the Secretary-General of the League of Nations for registration.

Article 11.

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Secretary-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Secretary-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 12.

As soon as the ratifications of two Members of the International Labour Organisation have been registered, the Secretary-General of the League of Nations shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 13.

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Secretary-General of the League of Nations for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 14.

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the Agenda of the Conference the question of its revision in whole or in part.

Article 15.

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 16.

The French and English texts of this Convention shall both be authentic.

4. Draft convention concerning the age for admission of children to non-industrial employment (revised 1937).

Formal preamble has been omitted.

Article 1.

1. This Convention applies to any employment not dealt with in the Convention concerning the age for admission of children to employment in agriculture (Geneva, 1921), the Minimum Age (Sea) Convention (Revised), 1936, or the Minimum Age (Industry) Convention (Revised), 1937.

2. The competent authority in each country shall, after consultation with the principal organisations of employers and workers concerned, define the line of division which separates the employments covered by this Convention from those dealt with in the three aforesaid Conventions.

3. This Convention does not apply to—

- (a) employment in sea-fishing;
- (b) work done in technical and professional schools, provided that such work is essentially of an educative character, is not intended for commercial profit and is restricted, approved and supervised by public authority.

4. It shall be open to the competent authority in each country to exempt from the application of this Convention—

- (a) employment in establishments in which only members of the employer's family are employed, except employment which is harmful, prejudicial or dangerous within the meaning of Articles 3 or 5 of this Convention;
- (b) domestic work in the family performed by members of that family.

Article 2.

Children under fifteen years of age, or children over fifteen years who are still required by national laws or regulations to attend primary school, shall not be employed in any employment to which this Convention applies except as hereinafter otherwise provided.

Article 3.

1. Children over thirteen years of age, may, outside the hours fixed for school attendance, be employed on light work which—

- (a) is not harmful to their health or normal development; and
- (b) is not such as to prejudice their attendance at school or capacity to benefit from the instructions there given.

2. No child under fourteen years of age shall—

- (a) be employed on light work for more than two hours per day whether that day be a school day or a holiday; or
- (b) spend at school and on light work a total number of hours exceeding seven per day.

3. National laws or regulations shall prescribe the number of hours per day during which children over fourteen years of age may be employed on light work.

4. Light work shall be prohibited—

- (a) on Sundays and legal public holidays; and
- (b) during the night.

5. For the purpose of the preceding paragraph the term "night" means—

- (a) in the case of children under fourteen years of age, a period of at least twelve consecutive hours comprising the interval between eight p. m. and eight a. m.;
- (b) in the case of children over fourteen years of age, a period which shall be prescribed by national laws or regulations but the duration of which shall not, except in the case of tropical countries where a compensatory rest is accorded during the day, be less than twelve hours.

6. After the principal organisations of employers and workers concerned have been consulted, national laws or regulations shall:—

- (a) specify what forms of employment may be considered to be light work for the purpose of this Article; and
- (b) prescribe the preliminary conditions to be complied with as safeguards before children may be employed on light work.

7. Subject to the provisions of sub-paragraph (a) of paragraph 1 above;

- (a) national laws or regulations may determine work to be allowed and the number of hours per day to be worked during the holiday time of children referred to in Article 2 who are over fourteen years of age;
- (b) in countries where no provision exists relating to compulsory school attendance, the time spent on light work shall not exceed four and a half hours per day.

Article 4.

1. In the interests of art, science or education, national laws or regulations may, by permits granted in individual cases, allow exceptions to the provisions of Articles 2 and 3 of this Convention in order to enable children to appear in any public entertainment or as actors or supernumeraries in the making of cinematographic films;

2. Provided that—

- (a) no such exception shall be allowed in respect of employment which is dangerous within the meaning of Article 5, such as employment in circuses, variety shows or cabarets;
- (b) strict safeguards shall be prescribed for the health, physical development and morals of the children, for ensuring kind treatment of them, adequate rest, and the continuation of their education; and
- (c) children to whom permits are granted in accordance with this Article shall not be employed after midnight.

Article 5.

A higher age or ages than those referred to in Article 2 of this Convention shall be fixed by national laws or regulations for admission of young persons and adolescents to any employment which, by its nature, or the circumstances in which it is to be carried on, is dangerous to the life, health or morals of the persons employed in it.

Article 6.

A higher age or ages than those referred to in Article 2 of this Convention shall be fixed by national laws or regulations for admission of young persons and adolescents to employment for purposes of itinerant trading in the streets or in places to which the public have access, to regular employment at stalls outside shops or to employment in itinerant occupations, in cases where the conditions of such employment require that a higher age should be fixed.

Article 7.

In order to ensure the due enforcement of the provisions of this Convention, national laws or regulations shall—

- (a) provide for an adequate system of public inspection and supervision;
- (b) require every employer to keep a register of the names and dates of birth of all persons under the age of eighteen years employed by him in any employment to which this Convention applies other than an employment to which Article 6 applies;
- (c) provide suitable means for facilitating the identification and supervision of persons under a specified age engaged in the employments and occupations covered by Article 6; and
- (d) provide penalties for breaches of the laws or regulations by which effect is given to the provisions of this Convention.

Article 8.

There shall be included in the annual reports to be submitted under Article 22 of the Constitution of the International Labour Organisation full information concern

ing all laws and regulations by which effect is given to the provision of this Convention, including—

- (a) a list of the forms of employment which national laws or regulations specify to be light work for the purpose of Article 3;
- (b) a list of the forms of employment for which, in accordance with Articles 5 and 6, national laws or regulations have fixed ages for admission higher than those laid down in Article 2; and
- (c) full information concerning the circumstances in which exceptions to the provisions of Articles 2 and 3 are permitted in accordance with the provisions of Article 4.

Article 9.

1. The provisions of Articles 2, 3, 4, 5, 6 and 7 of this Convention shall not apply to India, but in India the following provisions shall apply to all territories in respect of which the Indian Legislature has jurisdiction to apply them.

2. Children under thirteen years of age shall not be employed—

(a) in shops, offices, hotels or restaurants;

(b) in places of public entertainment; or

- (c) in any other non-industrial occupations to which the provisions of this paragraph may be extended by the competent authority.

3. In the interest of art, science or education, national laws or regulations may by permits granted in individual cases, allow exceptions to the provisions of the preceding paragraph in order to enable children to appear in any public entertainment as or actors or supernumeraries in the making of cinematographic films.

4. Persons under seventeen years of age shall not be employed in any non-industrial employment which the competent authority, after consultation with the principal organisations of employers and workers concerned, may declare to involve danger to life, health or morals.

5. The International Labour Conference may, at any Session at which the matter is included in its Agenda, adopt by a two-thirds majority draft amendments to the preceding paragraphs of this Article.

6. Any such draft amendment shall, within the period of one year, or, in exceptional circumstances, of eighteen months, from the closing of the Session of the Conference, be submitted in India to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.

7. India will, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification of the amendment to the Secretary-General of the League of Nations for registration.

8. Any such draft amendment shall take effect as an amendment to this Convention on ratification by India.

NOTE.—Articles 10 to 16 are identical with Articles 10 to 16 of the Draft Convention fixing the minimum age for admission of children to industrial employment (revised 1937).

5. Recommendation concerning the minimum age for admission of children to industrial employment in family undertakings.

Formal preamble has been omitted.

Whereas the Minimum Age (Industry) Convention (Revised), 1937, while restricting the scope of the exception for family undertakings contained in the 1919 Convention, still permits such undertakings to be excluded from its scope except in the case of employments which, by their nature or the circumstances in which they are carried on, are dangerous to the life, health or morals of the persons employed therein; and

Whereas it is reasonable to hope that it will be possible to suppress this exception completely in the not distant future;

The Conference recommends that the Members of the Organisation should make every effort to apply their legislation relating to the minimum age of admission to all industrial undertakings, including family undertakings.

6. Draft convention concerning the reduction of hours of work in the textile industry.

The General Conference of the International Labour Organisation,

Having met at Geneva in its Twenty-third Session on 3 June 1937;

Considering that the question of the reduction of hours of work in the textile industry is the second item on the Agenda of the Session;

Confirming the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living;

Considering it to be desirable that this principle should be applied by international agreement to the textile industry;

adopts this twenty-second day of June of the year one thousand nine hundred and thirty-seven, the following Draft Convention which may be cited as the Reduction of Hours of Work (Textiles) Convention, 1937 :

Article 1.

1. This Convention applies to—

- (a) persons employed in an undertaking which fulfils the condition stated in paragraph 2 of this Article, including persons employed in any branch of such an undertaking which branch does not fulfil that condition; and
- (b) persons employed in a branch of an undertaking which branch fulfils the condition stated in paragraph 2 of this Article, even though the undertaking does not fulfil that condition.

2. The condition referred to in the preceding paragraph is that the undertaking or branch of an undertaking is engaged wholly or mainly in one or more of the series of operations delimited in paragraphs 3, 4 and 5 of this Article in the course of the manufacture of any kind of thread, yarn, twine, cord, rope, netting or felt, or any woven, piled, knitted or lacework fabric from any one or more of the following materials: cotton, wool, silk, flax, hemp, jute, rayon or other synthetic fibre, or any other textile material whether of vegetable, animal or mineral origin.

3. The series of operations referred to in paragraph 2 of this Article begins—

- (a) in the case of cotton, with the reception of the bales of ginned cotton for breaking up and cleaning;
- (b) in the case of wool, with the reception of the raw wool for sorting and cleaning (excluding the process of anthrax disinfection);
- (c) in the case of silk, with the reeling of the silk from the cocoon or the steeping of the silk waste;
- (d) in the case of flax, jute and hemp, with the operation of retting, except where this operation is effected as work accessory to that of an agricultural undertaking;
- (e) in the case of rayon or other synthetic fibre, with the reception of the materials used in the chemical production of the fibre;
- (f) in the case of rags, with the sorting of the rags or the reception of the sorted rags; and
- (g) in the case of any other textile material, with the operation prescribed by the competent authority as corresponding to the operations set out above.

4. The series of operations referred to in paragraph 2 of this Article includes the operations of bleaching, dyeing, printing, and finishing and similar operations, and ends with the packing and despatch of the products specified in that paragraph.

5. The series of operations referred to in paragraph 2 of this Article includes the making in whole or in part of any garment or other article only in the following cases :

- (a) the case of hosiery manufacture; and
- (b) cases in which the garment or other article is made by the same process as the fabric thereof.

6. In any case in which it is doubtful whether an undertaking or branch of an undertaking fulfils the condition stated in paragraph 2 of this Article, the question shall be determined by the competent authority after consultation with the organisations of employers and workers concerned where such exist.

7. Where and so long as the principle of a forty-hour week is applied to persons to whom this Convention applies in accordance with the provisions of any international labour Convention other than this Convention, the competent authority may exclude such persons from the application of this Convention.

8. This Convention applies to persons employed in both public and private undertakings.

Article 2.

The competent authority may, after consultation with the organisations of employers and workers concerned where such exist, exempt from the application of this Convention—

- (a) persons employed in undertakings in which only members of the employer's family are employed;
- (b) classes of persons who by reason of their special responsibilities are not subjected to the normal rules governing the length of the working week.

Article 3.

1. For the purpose of this Convention the term "hours of work" means the time during which the persons employed are at the disposal of the employer and does not include rest periods during which they are not at his disposal.

2. Where at the date of the adoption of this Convention it is the practice not to regard time spent in the cleaning or oiling of machines as part of ordinary working time, the competent authority may permit any time not exceeding one-and-a-half hours in any week which is so spent to be disregarded in reckoning for the purpose of this Convention the hours of work of the persons concerned.

Article 4.

1. The hours of work of persons to whom this Convention applies shall not exceed an average of forty per week.

2. In the cases of persons who work in successive shifts on processes required by reason of the nature of the process to be carried on without a break at any time of the day, night or week, weekly hours of work may average forty-two.

3. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the processes to which paragraph 2 of this Article applies.

4. Where hours of work are calculated as an average, the competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the number of weeks over which the average may be calculated and the maximum number of hours that may be worked in any week.

Article 5.

The competent authority may, by regulations made after consultations with the organisations of employers and workers concerned where such exist, provide that the limits of hours authorised by the preceding Article may be exceeded to an extent prescribed by such regulations in the case of—

- (a) persons employed on preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking, branch or shift;
- (b) persons employed in occupations which by their nature involve long periods of inaction during which the said persons have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls;
- (c) persons employed in connection with the transport, delivery or loading or unloading of goods.

Article 6.

1. The limits of hours authorised by the preceding Articles may be exceeded, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking—

- (a) in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*;
- (b) in order to make good the unforeseen absence of one or more members of a shift.

2. The employer shall notify the competent authority without delay of all time worked in virtue of this Article and of the reasons therefor.

Article 7.

1. The limits of hours authorised by the preceding Articles may be exceeded in cases where the continued presence of particular persons is necessary for the completion of a bleaching, dyeing, finishing or other operation, or of a succession of such

operations, which for technical reasons cannot be interrupted without damage to the material worked and which by reason of exceptional circumstances it has not been possible to complete within the normal limit of hours.

2. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the operations to which and the conditions subject to which the preceding paragraph applies and the maximum number of hours which may be worked in virtue of that paragraph by the persons concerned.

Article 8.

1. Upon application by an employer, the competent authority may, after consultation with the organisations of employers and workers concerned where such exist, grant an allowance of overtime for specified classes of persons in exceptional cases in which overtime on one or more operations is necessary in order to enable the workers engaged in subsequent operations in the same undertaking to be employed up to the authorised limits of hours.

2. The competent authority shall determine, after consultation with the organisations of employers and workers concerned where such exist, the maximum number of hours of overtime which may be worked in virtue of paragraph 1 of this Article, so however that no such allowance shall permit of any person being employed for more than sixty hours of such overtime in any year or for more than four hours of such overtime in any week.

3. Overtime worked in virtue of this Article shall be remunerated at not less than one-and-a-quarter times the normal rate.

4. The competent authority may attach to the grant of an allowance of overtime such conditions as it deems expedient with a view to securing a progressive reduction in the amount of overtime.

Article 9.

1. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded subject to the conditions that—

(a) all time worked in virtue of this Article shall be regarded as overtime and shall be remunerated at not less than one-and-a-quarter times the normal rate; and

(b) no person shall be employed in virtue of this Article for more than seventy-five hours of overtime in any year.

2. In cases in which national laws or regulations apply the weekly limit of hours as a strict limit applicable to each week, the competent authority may permit not more than one hundred additional hours of overtime in any year to be worked, subject to the condition that such additional hours of overtime shall be remunerated at not less than one-and-a-quarter times the normal rate.

3. When granting permission in virtue of the preceding paragraphs, the competent authority shall satisfy itself that there will be no consistent working of overtime.

4. The competent authority shall only grant permission to work overtime in virtue of this Article in accordance with regulations made after consultation with the organisations of employers and workers concerned where such exist.

5. The regulations referred to in the preceding paragraph shall prescribe—

(a) the procedure by which permission may be granted to employers to work overtime in virtue of this Article; and

(b) the maximum number of hours for which the competent authority may grant permission and the minimum overtime rate to be paid for such hours.

Article 10.

In order to facilitate the effective enforcement of the provisions of this Convention every employer shall—

(a) notify in a manner approved by the competent authority, by the posting of notices or otherwise;

(i) the hours at which work begins and ends;

(ii) where work is carried on by shifts, the hours at which each shift begins and ends;

- (iii) where a rotation system is applied, a description of the system including a time-table for each person or group of persons;
 - (iv) the arrangements made in cases where the average duration of the working week is calculated over a number of weeks; and
 - (v) effective rest periods as defined in Article 3; and
- (b) keep a record in the form prescribed by the competent authority of all additional hours worked in virtue of Articles 7, 8 and 9 of this Convention and of the payments made in respect thereof.

Article 11.

Any Member may suspend the operation of the provisions of this Convention during any emergency which endangers the national safety.

Article 12.

During a period which shall not exceed two years from the coming into force of this Convention for the Member concerned, the competent authority may approve transitional arrangements in virtue of which—

- (a) the reduction of hours of work to the limits authorised by the preceding Articles may be accomplished by stages during the said period;
- (b) specified classes of workers or undertakings may be exempted from all or any of the provisions of the Convention during the said period.

Article 13.

The annual reports upon the application of this Convention to be submitted by Members under Article 22 of the Constitution of the International Labour Organisation shall include more particularly full information concerning—

- (a) decisions taken in virtue of Article 1, paragraph 3 (g);
- (b) exemptions made in virtue of Article 2, and any conditions subject to which such exemptions are made;
- (c) any recourse to the provisions of Article 3, paragraph 2;
- (d) determinations made in pursuance of Article 4, paragraph 4;
- (e) regulations made in virtue of Article 5;
- (f) determinations made in pursuance of Article 7, paragraph 2;
- (g) allowances of overtime granted in virtue of Article 8; and
- (h) the extent to which recourse has been had to the provisions of Article 9.

Article 14.

In accordance with Article 19, paragraph 11 of the Constitution of the International Labour Organisation, nothing in this Convention shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions to the workers than those provided for by this Convention.

Article 15.

In the event of the Conference adopting a further Convention determining such modifications of the provisions of this Convention as may be required to meet the case of countries to which Article 19, paragraph 3, of the Constitution of the International Labour Organisation applies, this Convention and the aforesaid further Convention shall be deemed to form one Convention.

NOTE.—Articles 16 to 22 are identical with Articles 10 to 16 of the Draft Convention fixing the minimum age for admission of children to industrial employment (revised 1937).

7. Draft convention concerning safety provision in the building industry.

The General Conference of the International Labour Organisation.

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twenty-third Session on 3 June 1937, and

Considering that building work gives rise to serious accident risks which it is necessary to reduce both on humanitarian and on economic grounds, and

Having decided upon the adoption of certain proposals with regard to safety provisions for workers in the building industry with reference to scaffolding and hoisting machinery, which is the first item on the Agenda of the Session, and

Considering that, in view of the desirability of standardising minimum safety provisions without prescribing requirements too rigid for general application, the most appropriate form for these proposals is that of a Draft International Convention accompanied by a Recommendation embodying a Model Code of Safety Regulations,

adopts this twenty-third day of June of the year one thousand nine hundred and thirty-seven the following Draft Convention which may be cited as the Safety Provisions (Building) Convention, 1937:

PART I.—OBLIGATIONS OF PARTIES TO CONVENTION.

Article 1.

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes that it will maintain in force laws or regulations—

- (a) which ensure the application of the General Rules set forth in Parts II to IV of this Convention; and
- (b) in virtue of which an appropriate authority has power to make regulations for the purpose of giving such effect as may be possible and desirable under national conditions to the provisions of, or provisions equivalent to the provisions of, the Model Code annexed to the Safety Provisions (Building) Recommendation, 1937, or any revised Model Code subsequently recommended by the International Labour Conference.

2. Each such Member further undertakes that it will communicate every third year to the International Labour Office a report indicating the extent to which effect has been given to the provisions of the Model Code annexed to the Safety Provisions (Building) Recommendation, 1937, or of any revised Model Code subsequently by the International Labour Conference.

Article 2.

1. The laws or regulations for ensuring the application of the General Rules set forth in Parts II to IV of this Convention shall apply to all work done on the site in connection with the construction, repair, alteration, maintenance and demolition of all types of buildings.

2. The said laws or regulations may provide that the competent authority may, after consultation with the organisations of employers and workers concerned where such exist, exempt from all or any of their provisions work of such a character that reasonably safe conditions normally obtain.

Article 3.

The laws or regulations for ensuring the application of the General Rules set forth in Parts II to IV of this Convention, and regulations made by the appropriate authority for the purpose of giving effect to the Model Code annexed to the Safety Provisions (Building) Recommendation, 1937 shall—

- (a) require employers to bring them to the notice of all persons concerned in a manner approved by the competent authority;
- (b) define the persons responsible for compliance therewith and
- (c) prescribe adequate penalties for any violation thereof.

Article 4.

Each Member which ratifies this Convention undertakes to maintain, or satisfy itself that there is maintained, a system of inspection adequate to ensure the effective enforcement of its laws and regulations relating to safety precautions in the building industry.

Article 5.

1. In the case of a Member the territory of which includes large areas where, by reason of the sparseness of the population or the stage of economic development of the area, the competent authority considers it impracticable to enforce the provisions of this Convention, the authority may exempt such areas from the application of the Convention either generally or with such exceptions in respect of particular localities or particular kinds of building operations as it thinks fit.

2. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation any areas in respect of which it proposes to have recourse to the provisions of the present Article and no Member shall, after the date of its first annual report, have recourse to the provisions of the present Article except in respect of areas so indicated.

3. Each Member having recourse to the provisions of the present Article shall indicate in subsequent annual reports any areas in respect of which it renounces the right to have recourse to the provisions of the present Article.

Article 6.

Each Member which ratifies this Convention undertakes to communicate annually to the International Labour Office the latest statistical information relating to the number and classification of accidents occurring to persons occupied on work within the scope of this Convention.

PART II.—GENERAL RULES AS TO SCAFFOLDS.

Article 7.

1. Suitable scaffolds shall be provided for workmen for all work that cannot be safely done from a ladder or by other means.

2. A scaffold shall not be constructed, taken down, or substantially altered, except—

- (a) under the supervision of a competent and responsible person; and
- (b) as far as possible by competent workers possessing adequate experience in this kind of work.

3. All scaffolds and appliances connected therewith and all ladders shall—

- (a) be of sound material;
- (b) be of adequate strength having regard to the loads and strains to which they will be subjected; and
- (c) be maintained in proper condition.

4. Scaffolds shall be so constructed that no part thereof can be displaced in consequence of normal use.

5. Scaffolds shall not be overloaded and so far as practicable the load shall be evenly distributed.

6. Before installing lifting gear on scaffolds special precautions shall be taken to ensure the strength and stability of the scaffolds.

7. Scaffolds shall be periodically inspected by a competent person.

8. Before allowing a scaffold to be used by his workmen every employer shall, whether the scaffold has been erected by his workmen or not, take steps to ensure that it complies fully with the requirements of this Article.

Article 8.

1. Working platforms, gangways and stairways shall—

- (a) be so constructed that no part thereof can sag unduly or unequally;
- (b) be so constructed and maintained, having regard to the prevailing conditions, as to reduce as far as practicable risks of persons tripping or slipping; and
- (c) be kept free from any unnecessary obstruction.

2. In the case of working platforms, gangways, working places and stairways at a height exceeding that to be prescribed by national laws or regulations—

- (a) every working platform and every gangway shall be closely boarded unless other adequate measures are taken to ensure safety;
- (b) every working platform and gangway shall have adequate width; and
- (c) every working platform, gangway, working place and stairway shall be suitably fenced.

Article 9.

1. Every opening in the floor of a building or in a working platform shall except for the time and to the extent required to allow the access of persons or the transport or shifting of material, be provided with suitable means to prevent the fall of persons or material.

2. When persons are employed on a roof where there is a danger of falling from a height exceeding that to be prescribed by national laws or regulations, suitable precautions shall be taken to prevent the fall of persons or material.

3. Suitable precautions shall be taken to prevent persons being struck by articles which might fall from scaffolds or other working places.

Article 10.

1. Safe means of access shall be provided to all working platforms and other working places.

2. Every ladder shall be securely fixed and of such length as to provide secure handhold and foothold at every position at which it is used.

3. Every place where work is carried on and the means of approach thereto shall be adequately lighted.

4. Adequate precautions shall be taken to prevent danger from electrical equipment.

5. No materials on the site shall be so stacked or placed as to cause danger to any person.

PART III.—GENERAL RULES AS TO HOISTING APPLIANCES.*Article 11.*

1. Hoisting machines and tackle, including their attachments, anchorages and supports, shall—

(a) be of good mechanical construction, sound material and adequate strength and free from patent defect; and

(b) be kept in good repair and in good working order.

2. Every rope used in hoisting or lowering materials or as a means of suspension shall be of suitable quality and adequate strength and free from patent defect.

Article 12.

1. Hoisting machines and tackle shall be examined and adequately tested after erection on the site and before use and be re-examined by national laws or regulations.

2. Every chain, ring, hook, shackle, swivel and pulley block used in hoisting or lowering materials or as a means of suspension shall be periodically examined.

Article 13.

1. Every crane driver or hoisting appliance operator shall be properly qualified.

2. No person under an age to be prescribed by national laws or regulations shall be in control of any hoisting machine, including any scaffold winch, or give signals to the operator.

Article 14.

1. In the case of every hoisting machine and of every chain, ring, hook, shackle, swivel and pulley block used in hoisting or lowering or as a means of suspension the safe working load shall be ascertained by adequate means.

2. Every hoisting machine and all gear referred to in the preceding paragraph shall be plainly marked with the safe working load.

3. In the case of a hoisting machine having a variable safe working load each safe working load and the conditions under which it is applicable shall be clearly indicated.

4. No part of any hoisting machine or of any gear referred to in paragraph 1 of this Article shall be loaded beyond the safe working load except for the purpose of testing.

Article 15.

1. Motors, gearing, transmissions, electric wiring and other dangerous parts of hoisting appliances shall be provided with efficient safeguards.

2. Hoisting appliances shall be provided with such means as will reduce to a minimum the risk of the accidental descent of the load.

3. Adequate precautions shall be taken to reduce to a minimum the risk of any part of a suspended load becoming accidentally displaced.

PART IV.—GENERAL RULES AS TO SAFETY EQUIPMENT AND FIRST AID.

Article 16.

1. All necessary personal safety equipment shall be kept available for the use of the persons employed on the site and be maintained in a condition suitable for immediate use.

2. The workers shall be required to use the equipment thus provided and the employer shall take adequate steps to ensure proper use of the equipment by those concerned.

Article 17.

When work is carried on in proximity to any place where there is a risk of drowning, all necessary equipment shall be provided and kept ready for use and all necessary steps shall be taken for the prompt rescue of any person in danger.

Article 18.

Adequate provision shall be made for prompt first-aid treatment of all injuries likely to be sustained during the course of the work.

NOTE.—Articles 19 to 25 are identical with Articles 10 to 16 of the Draft Convention fixing the minimum age for admission of children to industrial employment (revised 1937).

8. Recommendation concerning safety provisions in the building industry.

Formal preamble has been omitted.

Whereas it is desirable, with a view to intensifying the efforts being made by the Members of the Organisation to reduce the risk of accident in the building industry, to submit for their consideration model safety provisions and to arrange for an exchange upon an international scale of the experience acquired in the application of these provisions;

Whereas the Safety Provisions (Building) Convention, 1937, embodies a series of general principles which require to be supplemented by detailed safety regulations;

Whereas it is therefore desirable that Members of the Organisation which ratify that Convention should have at their disposal a Model Code of safety regulation which have been proved by experience to be calculated to reduce the risk of accidents; and

Whereas it is also desirable that such a Model Code should be available for the guidance of any Members which may be unable to ratify immediately the Safety Provisions (Building) Convention, 1937;

The Conference recommends that :

1. Each Member of the International Labour Organisation should give the fullest effect possible and desirable under national conditions to the provisions of, or provisions equivalent to the provisions of, the annexed Model Code.

2. Any members of the International Labour Organisation which have not ratified the Safety Provisions (Building) Convention, 1937, should communicate every third year to the International Labour Office on a voluntary basis a report indicating the extent to which effect has been given to the Model Code.

ANNEX.

MODEL CODE.

PART I : SCAFFOLDS.

Regulation 1.—Necessity for Scaffolding.

Suitable and sufficient scaffolds shall be provided for workmen for all work that cannot safely be done from a ladder or by other means.

Regulation 2.—Erection of Scaffolds.

A scaffold shall not be constructed, taken down or substantially altered except under the direction of a competent and responsible person and as far as possible by competent workers possessing adequate experience in this kind of work.

Regulation 3.—Quality of Materials.

1. All scaffolds and appliances connected therewith and all ladders shall be of sound material and be of adequate strength having regard to the loads and strains to which they will be subjected.
2. The wooden parts used for scaffolds, gangways, runs and ladders shall be of good quality, shall have long fibres, shall be in good condition, and shall not be painted or treated in a manner likely to hide defects.
3. Timber used for scaffolds shall have the bark completely stripped off.
4. Where necessary; boards and planks used for scaffolds shall be protected against splitting.
5. Metal parts of scaffolds shall have no cracks and shall be free from any corrosion or other defect likely to affect their strength.
6. Cast-iron nails shall not be used.

Regulation 4.—Inspection and Storage of Materials.

1. Scaffold parts, including scaffolding machines and ropes and cables, shall be examined by an experienced person on each occasion before erection and shall not be used on any occasion unless in every respect they possess the qualities required for their purpose.
2. Any rope that has been in contact with acids or other corrosive substances or is defective shall not be used.
3. All materials used in the construction of scaffolds shall be stored under good conditions and apart from any material unsuitable for scaffolds.

Regulation 5.—Supply and Use of Material and Maintenance of Scaffolds.

1. Sufficient material shall be provided for and shall be used in the construction of scaffolds.
2. (1) Every scaffold shall be maintained in good and proper condition and every part shall be kept fixed or secured so that no part can be displaced in consequence of normal use.
- (2) No scaffold shall be partly dismantled and left so that it is capable of being used unless it continues to comply with these Regulations.

Regulation 6.—Pole and Gabbard Scaffolds.

1. Pole standards and the legs of gabbard scaffolds shall be—
 - (a) vertical or slightly inclined towards the building; and
 - (b) fixed sufficiently close together to secure the stability of the scaffolds having regard to all the circumstances.
2. The stability of pole standards shall be secured—
 - (a) by letting the pole the necessary distance into the ground according to the nature of the soil; or
 - (b) by placing the pole on a suitable plank or other adequate sole plate in such a manner as to prevent slipping; or
 - (c) in any other sufficient way.
3. When two scaffolds meet at the corner of a building a pole standard shall be placed at the corner on the outside of the scaffolds.
4. (1) Ledgers shall be practically level and securely fastened to the uprights by bolts, dogs, ropes or other efficient means.
- (2) The ends of two consecutive ledgers at the same level shall be securely joined together at an upright except when special devices are used which ensure equivalent strength.
5. (1) Putlogs shall be straight and securely fastened to the ledgers.
- (2) If ledgers are not used the putlogs shall be fastened to the uprights and supported by securely fastened cleats.
- (3) Putlogs which have one end supported by a wall shall have at that end a plane supporting surface at least 10 cm. deep.
- (4) The dimensions of the putlogs shall be appropriate to the load to be borne by them.

(5) The distance between two consecutive putlogs on which a platform rests shall be fixed with due regard to the anticipated load and the nature of the platform flooring.

(6) As a general rule the said distance shall not exceed 1 m. with planks less than 40 mm. thick, 1.50 m. with planks less than 50 mm. thick, and 2 m. with planks at least 50 mm. thick.

(7) The requirements of paragraph 5 (6) of this Regulation shall not apply in the case of platforms used for carrying light building materials only, but in the case of such platforms the distance between the putlogs shall not exceed 2 m.

6. No plank used for a platform, shall be less than 30 mm. thick.

Regulation 7.—Ladder Scaffolds.

1. Ladder scaffolds shall be used only for light work requiring little material (renovation, painting and the like).

2. The ladders serving as the uprights of ladder scaffolds—

(a) shall be of adequate strength; and

(b) shall either—

(i) be let into the ground to the necessary depth according to the nature of the soil; or

(ii) be placed on sole plates or boards so that the two uprights of each ladder rest evenly on the base, and be suitably fastened at the feet to prevent them from slipping.

3. If a ladder is used to extend another, the two shall overlap at least 1.50 m. and shall be securely fastened together.

Regulation 8.—Stability of Pole, Gabbard and Ladder Scaffolds.

1. Every scaffold shall be sufficiently and properly braced.

2. Every scaffold shall, unless it is an independent scaffold, be rigidly connected with the building at suitable vertical and horizontal distances.

3. If the scaffold is an independent scaffold, at least one-third of the putlogs shall remain in position until the scaffold is finally dismantled and remain securely fastened to the ledgers or the uprights as the case may be.

4. All structures and appliances used as supports for working platforms shall be of sound construction, have a firm footing, and be suitably strutted and braced to make them stable.

5. Loose bricks, drain pipes, chimney pots or other unsuitable material shall not be used for the construction or support of scaffolds.

Regulation 9.—Cantilever or Jib Scaffolds.

1. Cantilever or jib scaffolds shall—

(a) be securely fixed and anchored from the inside;

(b) have outriggers of adequate length and cross section to ensure their solidity and stability; and

(c) be properly braced and supported.

2. Only solid parts of the building shall be used as supports for scaffold parts.

3. If working platforms rest on bearers let into the wall be bearers shall be efficiently braced, shall go right through the wall and shall be securely fastened on the far side.

Regulation 10.—Bracket Scaffolds.

No figure or bracket scaffold supported or held by dogs or spikes driven into the wall shall be used unless the brackets are of suitable strength, are made of suitable metal, and are securely anchored in the wall.

Regulation 11.—Heavy Suspended Scaffolds with Movable Platforms.

1. Heavy suspended scaffolds, shall comply with the provisions of this Regulation.

2. Outriggers shall be—

(a) of adequate strength and cross-section to ensure the solidity and stability of the scaffold;

(b) installed at right angles to the building face; and

(c) carefully spaced to suit the putlogs or deck irons.

3. The overhang of the outriggers from the building shall be such that the platform is fixed to hang not more than 10 cm. from the building face.

4. (1) The outriggers shall be securely anchored to the building by bolts or other equivalent means.

(2) Anchor bolts shall be properly tightened and shall securely tie down the outrigger to the framework of the building.

5. No counterweight shall be used as a means of securing the outriggers of such scaffolds.

6. Stop bolts shall be placed at the end of each outrigger.

7. The shackle serving to fasten the cables to the outriggers shall be placed vertically above the drum centres of the winches on the movable platforms. The eye of the cable shall be placed in the centre of the bent shackle bolt.

8. Suitable putlogs or deck irons shall be used to support the platforms and shall be suitably fastened so as to prevent displacement. Deck irons shall be adequately jointed by fish plates.

9. The cables or wire ropes used for suspension shall—

(a) have at all times a factor of safety of at least ten, based on the maximum load that the ropes may have to support, and

(b) be of such length that at the lowest position of the platform there are at least two turns of rope and each drum.

10. The scaffolding machines shall be so constructed and installed that their moving parts are readily accessible for inspection.

Regulation 12.—Light Suspended Scaffolds with Movable Platforms.

1. Light suspended scaffolds shall comply with the provisions of this Regulation.

2. The outriggers shall be of adequate length and cross-section and shall be properly installed and supported.

3. (1) The inside ends of the outriggers shall be firmly secured.

(2) When the outriggers are anchored by bags of ballast or other loose counterweights the bags or counterweights shall be securely lashed to the outriggers.

(3) The suspension ropes shall have a factor of safety of at least ten.

4. The maximum length of the platform shall be 8 m.

5. The platform shall hang on at least three ropes which shall be not more than 3 m. apart. No intermediate rope shall at any time be tauter than either of the end ropes.

6. The pulley blocks shall be fastened to the platforms by stout iron bands which shall be properly secured, shall be continued round the sides and bottom of the platform, and shall have eyes in the iron to receive the ropes.

7. Suspended scaffolds on which the workers sit to work shall be provided with devices to keep the platform at a distance of at least 30 cm. from the wall and to prevent the workers from knocking their knees against the wall if the scaffold swings.

Regulation 13.—Other Suspended Scaffolds.

1. A skip, large basket, boatswain's chair or similar equipment shall only be used as suspended scaffold in exceptional circumstances for work of short duration, and under the supervision of a responsible person.

2. When such equipment is used as a suspended scaffold—

(a) it shall be supported by ropes having a safety factor of at least ten based on the total load including the dead weight; and

(b) the necessary precautions shall be taken to prevent the workers from falling out.

3. When a skip or large basket is used as a suspended scaffold:

(a) it shall be at least 75 cm. deep; and

- (b) it shall be carried by two strong iron bands which shall be properly fastened, shall be continued round the sides and bottom, and shall have eyes in the iron to receive the ropes.

Regulation 14.—Transport and Storage of Materials on Scaffolds: Distribution of the Load.

1. In transferring heavy loads on or to a scaffold no sudden shock shall be transmitted to the scaffold.
2. The load on the scaffold shall be evenly distributed as far as is practicable and in any case shall be so distributed as to avoid any dangerous disturbance of the equilibrium.
3. During the use of a scaffold care shall constantly be taken that it is not over-loaded and that materials are not unnecessarily kept upon it.

Regulation 15.—Installation of Lifting Gear on Scaffolds.

1. When lifting gear is to be used on a scaffold—
 - (a) the parts of the scaffold shall be carefully inspected, and, if need be, adequately strengthened;
 - (b) any movement of the putlogs shall be prevented; and
 - (c) if possible the uprights shall be rigidly connected to a solid part of the building at the place where the lifting gear is erected.
2. When the platform of the lifting gear does not move in guides or when the load is liable to come into contact with the scaffold during hoisting or lowering, a vertical hoarding shall be erected to the full height of the scaffold to prevent loads from being caught in it.

Regulation 16.—Periodic Inspection of Scaffolds.

Scaffolds shall be inspected by a competent person—

- (a) at least once a week; and
- (b) after every spell of bad weather and every material interruption in the work.

Regulation 17.—Examination of Scaffolds before Use, especially Scaffolds constructed by other Contractors.

Every scaffold, whether or not it has been erected by the employer whose workmen are about to use it—

- (a) shall before use be examined by a competent person to ensure more particularly—
 - (i) that it is in a stable condition;
 - (ii) that the materials used in its construction are sound;
 - (iii) that it is adequate for the purpose for which it is to be used; and
 - (iv) that the required safeguards are in position; and
- (b) shall during use be maintained in good condition.

Regulation 18.—Working Platforms.

1. Every working platform which is more than 2 m. above the ground or floor shall be closely boarded or planked.

(2) (1) The width of the platform shall be adequate having regard to the nature of the work, and shall be such that at every part there is not less than 60 cm. clear passage free from fixed obstacles and deposited material.

(2) In no case shall the width of the platforms be less than :

- (a) 60 cm. if the platform is used as a footing only and not for the deposit of any material;
- (b) 80 cm. if the platform is used for the deposit of material;
- (c) 110 cm. if the platform is used for the support of any higher platform;
- (d) 130 cm. if the platform is one upon which stone is dressed or roughly shaped;

- (e) 150 cm. if the platform is used for the support of any higher platform and is one upon which stone is dressed or roughly shaped.
3. The maximum width of a platform supported on putlogs shall as a rule not exceed 160 cm.
4. Every working platform shall, if part of a pole or gabbard scaffold, be at least 1 m. below the top of standards.
5. Boards or planks which form part of a working platform or which are used as toe-boards shall—
 - (a) be of a thickness which is such as to afford adequate security having regard to the distance between the putlogs but is in no case less than 30 mm.; and
 - (b) be of a width not less than 15 cm.
6. No board or plank which forms part of a working platform shall project beyond its end support to a distance exceeding four times the thickness of the board or plank.
7. Boards or planks shall not overlap one another unless precautions such as the provision of bevelled pieces are taken to reduce the risk of tripping to a minimum and to facilitate the movement of barrows.
8. Every board or plank which forms part of a working platform shall rest on at least three supports, unless the distances between the putlogs and the thickness of the board or plank are such as to exclude all risk of tipping or undue sagging.
9. Platforms shall be so constructed that the boards or planks cannot be displaced in consequence of normal use.
10. Whenever possible a platform shall extend at least 60 m. beyond the end of the wall of the building.
11. Every part of a working platform or working place from which a person is liable to fall a distance exceeding 2 m. shall be provided—
 - (a) with a suitable guard-rail or guard-rails having a cross-section of at least 30 cm., fixed at least 1 m. above the platform or above any raised standing place on the platform and so that the vertical opening below any guard-rail does not exceed 85 cm.;
 - (b) with toe-boards which are of sufficient height to prevent the fall of materials and tools from the platform and in no case less than 15 cm. high and are as close as possible to the platform.
12. Guards-rails, toe-boards and other safeguards used on a scaffold platform shall be maintained in position, except that they may be removed for the time and to the extent required to allow the access of persons or the transport or shifting of materials.
13. The guard-rail and toe-boards used on a scaffold platform shall be placed on the inside of the uprights.
14. The platforms of suspended scaffolds shall be provided with guard-rails and toe-boards on all sides, subject to the reservations that—
 - (a) on the side facing the wall the guard-rail need not be at a height of more than 70 cm if the work does not allow of a greater height;
 - (b) the guard-rail and toe-boards shall not be compulsory on the side facing the wall if the workers sit on the platform to work, but in such case the platform shall be provided with cables, ropes or chains affording the workers a firm handhold and capable of holding any worker who may slip.
15. The space between the wall and the platform shall be as small as practically possible except where workmen sit on the platform during their work, in which case it shall not exceed 45 cm.

Regulation 19.—Gangways, Runs and Stairs.

1. Every gangway or run any part of which is more than 2 m. above the ground or floor shall be—
 - (a) closely boarded or planked; and
 - (b) at least 50 cm. wide.

2. The maximum slope of any gangway or run shall be 60 cm. per metre.
3. Where the gangway or run is used for the passage of materials there shall be maintained a clear passageway which—
 - (a) is adequate in width for transport of materials without the removal of the guard-rails and toe-boards; and
 - (b) is in any case of a width not less than 60 cm.
4. All planks forming a gangway or run shall be so fixed and supported as to prevent undue or unequal sagging.
5. When the slope renders additional foothold necessary, and in every case where the slope is more than 25 cm. per metre, there shall be proper stepping laths which shall—
 - (a) be placed at suitable intervals; and
 - (b) be the full width of the gangway, except that they may be interrupted over a breadth of 10 cm. to facilitate the movement of barrows.
6. Stairs shall be provided with guard-rails throughout their length.
7. Gangways, runs and stairs from which a person is liable to fall a distance exceeding 2 m. shall be provided—
 - (a) with a suitable guard-rail or guard-rails having a cross section of at least 30 cm. fixed at least 1 m. above the gangway, run or stair and so that the vertical opening below any guard-rail does not exceed 85 cm.; and
 - (b) with toe-boards which are of sufficient height to prevent the fall of material and tools from the gangway, run or stair and in no case less than 15 cm. high, and are as close as possible to the gangway, run or stair.

Regulation 20.—General Provisions concerning Platforms, Gangways, Runs and Stairs.

1. Every platform, gangway, run or stairway shall be kept free from any unnecessary obstruction, rubbish, etc.
2. Suitable precautions shall be taken to prevent any platform, gangway, run or stairway from becoming slippery.
3. No part of a working platform, gangway or run shall be supported by loose bricks, drain pipes, chimney pots or other loose or unsuitable material.
4. No working platform, gangway, or run shall be supported by an eaves gutter, a balcony or its coping, a lightning-conductor or other unsuitable parts of a building.
5. No working platform, gangway or run shall be used for working upon until its construction is completed according to these Regulations and the prescribed safeguards properly fixed.

Regulation 21.—Trestle Scaffolds.

1. There shall not be used any trestle scaffold which—
 - (a) is of more than two tiers; or
 - (b) exceeds a height of 3 m. from the ground or floor;
 - (c) is erected on a suspended scaffold.
2. The width of a trestle scaffold erected on a platform shall be such as to leave sufficient unobstructed space on the platform or the transport of materials or the passage of persons.
3. Trestles shall be firmly fixed so as to prevent displacement.

Regulation 22.—Ladders.

1. Every ladder used as a means of communication shall rise at least 1 m. above the highest point to be reached by any person using the ladder, or one of the uprights shall be continued to that height to serve as a hand-rail at the top.
2. Ladders shall not stand on loose bricks or other loose packing but shall have a level and firm footing.

3. Every ladder—

- (a) shall be securely fixed so that it cannot move from its top or bottom points or rest; or
- (b) if it cannot be secured at the top, shall be securely fastened at the base; or
- (c) if fastened at the base is also impossible, shall have a man stationed at the foot to prevent slipping.

4. The undue sagging of ladders shall be prevented.

5. Ladders shall be equally and properly supported on each upright.

6. Where ladders connect different floors—

- (a) the ladders shall be staggered; and
- (b) a protective landing with the smallest possible opening shall be provided at each floor.

7. A ladder having a missing or defective rung shall not be used.

8. No ladder having any rung which depends for its support on nails, spikes or other similar fixing shall be used.

9. Wooden ladders shall be constructed with—

- (a) uprights of adequate strength made of wood free from visible defects and having the grain of the wood running lengthwise; and
- (b) rungs made of wood free from visible defects and mortised into the uprights, to the exclusion of any rungs fixed only by nails.

10. Roofers' and painters' ladders shall not be used by workmen in other trades.

Regulation 23.—Fencing of Openings.

1. Every opening left in a floor of a building or in working platform for an elevator shaft or stairway, or for the hoisting of material, or for access by workmen or for any other purpose shall be provided—

- (a) with a suitable guard-rail or guard-rails having a cross-section of at least 30 cm², fixed at least 1 m. above the floor or platform, and so that the vertical opening below any guard-rail does not exceed 85 cm.;
- (b) with toe-boards which are of sufficient height to prevent the fall of materials and tools from the floor or platform and in no case less than 15 cm. high and are as close as possible to the floor or platform.

2. Every opening in a wall which is less than 1 m. from the floor or platform shall be provided—

- (a) with a suitable guard-rail or guard-rails, having a cross-section of at least 30 cm², and fixed at least 1 m. above the floor or platform; and so that the vertical opening below any guard-rail does not exceed 85 cm.; and
- (b) when necessary, with toe-boards which are of sufficient height to prevent the fall of material and tools and in no case less than 15 cm. high and are as close as possible to the lower side of the opening.

3. The fencing of openings shall, except in so far as its removal is permitted by the following paragraph, remain in position until it becomes necessary to remove it in order to complete the permanent enclosure.

4. The fencing of openings shall not be removed except for the time and to the extent required to allow the access of persons or the transport or shifting of materials and shall be replaced immediately after.

5. When work is done on or over open joisting, the joisting shall be securely boarded over or other effective measures shall be taken to prevent falls of persons.

Regulation 24.—Roof Work

1. No person shall be employed on any roof on which, by reason of the pitch, the nature of the surface, or the state of the weather, there is a risk of falling unless suitable precautions are taken to prevent the fall of persons or materials.

2. On glass roofs, or roofs covered with fragile materials, special precautions shall be taken to prevent the workers from inadvertently stepping on them and to facilitate the safe carrying out of repairs.

3. (1) Only experienced workmen who are physically and psychologically suitable shall be employed on extensive work on the outside of any roof which has a pitch of over 34° (2: 3) or is slippery.

(2) When persons are so employed—

(a) whenever possible the following facilities shall be provided :

(i) suitable guard-rails;

(ii) a suitable working platform, securely, supported and of a width of not less than 40 cm.; and

(iii) suitable, sufficient and properly secured ladders, duck ladders or crawling boards;

(b) whenever it is impossible to provide the facilities specified in sub-paragraph (a)—

(i) safety belts with ropes enabling the wearers to lash themselves to a solid structure shall be supplied to the workers and used by them; and

(ii) if the safety rope cannot be fixed to a solid structure a second person shall be provided to hold the rope in a secure manner.

Regulation 25.—Miscellaneous Provisions.

1. Any part of the premises where any person at work or passing is liable to be struck by materials, tools or other articles falling more than 3.5 m. shall be covered in such a manner as to protect such persons, unless other effective steps are taken to prevent falls of objects from such height.

2. Scaffold materials, tools, or other objects shall not be thrown down, but be properly lowered.

3. Safe means of access shall be provided to all working platforms and other working places.

4. Every working-place and other place to which access is required for any person and every means of approach thereto shall be efficiently lighted.

5. When necessary, special lighting shall be provided at all parts of scaffolds and structures where materials are hoisted.

6. During all construction, repair, alteration, maintenance or demolition of buildings, all necessary precautions shall be taken to prevent the workers from coming into contact with electric wires or equipment, including low-tension wires and equipment.

7. Protruding nails shall be knocked in or removed from all materials used in the construction of scaffolding or falsework.

8. No materials on the site shall be so stacked or placed as to cause danger to any person.

PART II : HOISTING APPLIANCES.

Regulation 26.—General Provisions.

1. Every part of the structure, working gear and anchoring and fixing appliances of every crane, crab and winch and of all other hoisting machines and tackle shall—

(a) be of good mechanical construction, sound material and adequate strength and substance and free from defect;

(b) be kept in good repair and in good working order; and

(c) as far as the construction permits be examined in position at least once in every week by the driver or other competent persons.

2. Adequate steps shall be taken to ascertain the safe working load of every hoisting appliance.

3. The maximum safe working load shall be plainly marked—

(a) upon every crab, winch and pulley block used in the hoisting or lowering of any load;

(b) upon every derrick pole or mast used in the hoisting or lowering of any load weighing 1,000 kg. or more; and

(c) upon every crane.

4. In the case of a crane fitted with a derricking jib, the safe working load at various radii of the jib shall be plainly marked upon it.

5. A crane, crab, winch or any other hoisting appliance, or any part of such appliance, shall not, except as permitted by the following paragraph, be loaded beyond the safe working load.

6. For the purpose of making tests of a crane or other hoisting appliance or gear the safe working load may be exceeded by such amount as the competent person appointed to carry out the tests may authorise.

7. During hoisting operations effective precautions shall be taken to prevent any person from standing or passing under the load.

8. No load shall be left suspended from a hoisting appliance unless there is a competent person actually in charge while the load is so suspended.

9. Every crane driver or hoisting appliance operator shall be properly qualified.

10. No person under 18 years of age shall be in control of any hoisting machine, including any scaffold winch, or give signals to the operator.

11. Under normal working conditions one person only shall be appointed as being responsible for the giving of all signals to the crane driver.

12. When any hoisting or lowering is performed by means of a crane and the crane driver or person operating the crane is unable to see the load in all its positions, one or more look-out or signal men shall be stationed so as to see the load throughout its travel and give the necessary signals to the crane driver or person operating the crane.

13. (1) For each operation to be performed there shall be a distinctive signal of such a character that the person to whom it is given shall be able to hear or see it easily.

(2) Where a sound, colour or light signal is used, it shall be made by an efficient device.

(3) Every signal wire shall be adequately protected from accidental interference.

14. Motors, gearing, transmissions, electric wiring and other dangerous parts of hoisting appliances shall be provided with efficient safeguards which shall not be removed while the machine or apparatus is in use. If the safeguards have to be removed they shall be replaced as soon as possible by the persons removing them and in any case before the machines and apparatus are again taken into normal service.

15. The driver of every crane or similar hoisting appliance shall be provided with a safe and covered stand, cab or cabin.

16. (1) Where reasonably practicable the driver's cab on every crane or other hoisting machine shall, before the crane or other hoisting machine is put into general use, be completely erected or adequate provision made for the protection of the driver from the weather.

(2) During cold weather the cabin of every power-driven crane or other hoisting appliance in use shall be adequately heated by suitable means.

Regulation 27.—Winches, Crabs and Pulleys.

1. Every part of the framework or every crab or winch, including the bearers, shall be of metal.

2. When wire ropes are used, the diameter of the pulleys or drums shall not be less than 400 times the diameter of the wires in the rope excluding the core of the rope.

3. When winch drums are grooved—

(a) the radius of the grooves shall be approximately the same as, but not less than, the radius of the rope; and

(b) the pitch of the grooves shall not be less than the diameter of the rope.

4. Winch drums shall be provided with flanges that prevent the rope from slipping off the drum.

5. Every crane, crab and winch shall be provided with an efficient brake or brakes and with any other safety device required to prevent the fall of the load when suspended.

6. On every crab or winch the control lever shall be provided with a suitable locking device.

7. On steam-driven lifting engines the lever controlling the link motion reversing gear shall be provided with a suitable spring-lock arrangement.

Regulation 28.—Suspension and Attachment.

1. All cables or ropes used on hoisting appliances for raising or lowering materials shall be long enough to leave at least two turns on the drum at every operating position of the appliance.

2. No rope shall be used over a grooved drum or pulley if its diameter exceeds the pitch of the drum grooves or the width of the pulley groove.

3. Wire ropes shall be such as to have a factor of safety of at least six under the maximum load. In calculating the dimensions of wire ropes the ropes shall be assumed to be under tensile stress only.

4. No chain or wire rope which has a knot tied in it shall be used for raising or lowering any load.

5. Every hoisting or derricking rope or chain shall be securely fastened to the barrel of the crane, crab or winch with which it is used.

6. Each temporary attachment or connection of a rope, chain or other appliance used in the erection or dismantling of a crane shall be adequate and secure.

7. Every rope used in hoisting or lowering or as a means of suspension shall be of suitable quality and adequate strength and in good condition.

8. Every chain, ring, hook, shackle, swivel and pulley block used for hoisting or lowering or as a means of suspension shall have been tested and be marked in plain figures and letters with the safe working load and an identification mark.

9. No gear used for attachment or as a means of suspension shall be loaded beyond its safe working load, except for the purpose of making tests.

10. Every chain, ring, hook, shackle and swivel used in hoisting or lowering or as a means of suspension which has been lengthened, altered or repaired by welding shall be adequately tested and examined before being again taken into use.

11. Every hook used for hoisting or lowering shall either—

(a) be provided with an efficient catch to prevent the displacement of the sling or load from the hook; or

(b) be of such shape as to reduce as far as possible the risk of such displacement.

12. The parts of hooks liable to come into contact with ropes or chains during the raising or lowering of loads shall be rounded.

13. Where double or multiple slings are used for hoisting or lowering purposes the upper ends of the slings shall be connected by means of a shackle or ring and not be put separately into a lifting hook: this requirement shall not apply when the total load lifted is less than one-half of the safe working load of the hook.

14. When bulky objects are being raised or lowered the maximum safe load of slings shall be determined with reference, not only to their strength, but also to the angle of the legs.

15. Sharp edges of a load shall not be in contact with slings, ropes or chains.

16. All chains, ropes, slings and other gear used for hoisting or lowering or as a means of suspension shall be periodically examined by a competent person and this person's findings shall be entered on a certificate or in a special register.

Regulation 29.—Cranes.

1. The stage for every crane shall be built of sound material and be of good mechanical construction having regard to its height and position and to the lifting and reaching capacity of the crane.

2. The platform of every crane shall—

(a) be close-planked or plated;

(b) be securely fenced according to these Regulations;

(c) be provided with safe means of access; and

(d) be of sufficient area—

(i) in all cases, for the driver or operator and signaller; and

(ii) in the case of a guy derrick crane, also for the operator of the slewing mechanism.

3. (1) Every fixed crane shall either be securely anchored or be adequately weighted by suitable ballast firmly secured to ensure stability.

(2) When a crane is weighted by ballast a diagram showing the position and size of the counterweights shall be posted up in the driver's cab.

(3) Every travelling crane shall be provided with a device for anchoring it to the rails or the crane track.

4. On every stage, gantry or other place on which a crane moves there shall in so far as practicable be maintained at every position of the crane an unobstructed passageway of a width of at least 60 cm. between the moving parts of the crane and the fixed parts or edge of such stage, gantry or place.

5. If at any time it is impracticable to maintain a passageway of a width of at least 60 cm. at any place or point, all reasonable steps shall be taken to prevent the access of any person to such place or point at such time.

6. All rails on which a travelling crane moves shall be of adequate section and have an even running surface.

7. The following requirements shall apply to every track of a travelling crane, whether resting on the ground or raised above the ground—

(a) the whole track shall be properly laid;

(b) all the supports shall be of sufficient strength and be maintained in good condition; and

(c) the ends of the track shall be provided with shoes or buffers.

8. All rails on which a travelling crane moves shall, unless other adequate steps are taken to ensure the proper junction of, and to prevent any material alteration in the gauge of, the rails—

(a) be jointed by fish-plates or double chairs; and

(b) be securely fastened to sleepers.

9. The track and turntable of every travelling crane shall be installed with the greatest care and in conformity with sound technical principles.

Regulation 30.—Examination of Cranes—Certificates.

1. No crane shall be used unless it has been tested and examined by a competent person acting for the inspection authority and there has been obtained from the person who made the test and examination a certificate thereof specifying the safe working load at various radii of the jib including the maximum radius at which the jib can be worked.

2. The examinations and tests required by this Regulation shall be repeated—

(a) at such regular intervals as are prescribed by the competent authority; and

(b) after all substantial alterations or repairs to the crane.

3. The safe working load at any radius specified in the most recent certificate—

(a) shall not be more than 80 per cent of the maximum load which the crane has stood at that radius during the application of the test; and

(b) shall not be greater than the working load indicated by the maker.

Regulation 31.—Derrick Cranes.

1. The maximum radius at which the jib may be worked shall be clearly indicated on every derrick crane.

2. When the jib is at the maximum radius there shall not be less than two dead turns of rope on the derricking drum.

3. The jib of a Scotch derrick crane shall not be erected between the back stays of the crane.

4. Every crane having a derricking jib shall be provided with an effective interlocking arrangement between the derricking clutch, and the pawl sustaining the derricking drum, except where—

(a) the hoisting drum and the derricking drum are independently driven; or

(b) the mechanism driving the derricking drum is self-locking.

5. Where the guys of a guy derrick crane cannot be fixed at approximately equal spacing, such other measures shall be taken as will ensure the safety of the crane.

6. The whole of the appliances for the anchorage of a crane shall be examined on each occasion before the crane is erected.

7. The erection of cranes shall be supervised by a competent person.
8. Each crane shall after each erection on a building site and before use be tested *in situ* for anchorage by a competent person.
9. Cranes shall be tested for anchorage by the imposition on each anchorage of the maximum uplift or pull exerted either—
 - (a) by a load of 25 per cent. above the maximum load to be lifted by the crane as erected; or
 - (b) by a less load arranged to exert an equivalent pull on the anchorage.
10. If the pull applied by the test to any anchorage is less than 25 per cent. in excess of the pull which would be exerted by the maximum safe working load, a loading diagram appropriate to the crane anchorage shall be affixed in a position where it can readily be seen by the crane driver.

Regulation 32.—Automatic Safe Load Indicators.

1. No jib crane whether having a fixed jib or a derricking jib shall be used unless it is fitted with an automatic indicator which—
 - (a) indicates clearly to the driver or person operating the crane when the load being moved approaches the safe working load of the crane at any inclination of the jib; and
 - (b) gives an efficient sound signal when the load being moved is in excess of the safe working load of the crane at any inclination of the jib.
2. The preceding paragraph does not apply to—
 - (a) any guy derrick crane;
 - (b) any hand crane which is being used solely for erecting or dismantling another crane; or
 - (c) any crane having a maximum safe working load of 1,000 kg. or less, but in all such cases a table showing the safe working loads at various radii of the jib shall be kept attached to the crane.

Regulation 33.—Various Rules concerning Crane Operation.

1. (1) A crane shall not be used otherwise than for direct lifting or lowering of a load unless its stability is not thereby endangered.
- (2) No load which lies in the angle between the back stays of a Scotch derrick crane shall be moved by that crane.
2. Where more than one crane or winch is required to lift or lower one load—
 - (a) the machinery, plant and appliances used shall be so arranged and fixed that no such crane or winch shall at any time be loaded beyond its safe working load or be rendered unstable in the hoisting or lowering of the load; and
 - (b) a person shall be specially appointed to co-ordinate the operation of the appliances working together.
3. When a load is thought to approach the maximum safe working load a trial shall be made by raising the load a short distance to ensure that the hoisting appliance can carry it safely.

Regulation 34.—Hoists.

1. Hoists (*i.e.*, lifting appliances provided with a cage or platform that runs in guides) used for raising and lowering materials shall satisfy the requirements of this Regulation.
2. (1) Hoist shafts shall be provided with solid walls or other equally effective fencing—
 - (a) at the ground level on all sides; and
 - (b) at all other levels on all sides to which access is provided.
- (2) The walls of hoist shafts, except at approaches, shall extend at least 2 m. above the floor, platform or other place to which access is provided.
3. Approaches to hoists shall be provided with solid gates or other equally effective fencing which—
 - (a) are at least 1 m. high; and
 - (b) close automatically when the hoist platform leaves the landing.

4. Approaches to hoists shall be adequately lighted.
5. The guides of hoist platforms shall offer sufficient resistance to bending and in the case of jamming by a safety catch, to buckling.
6. The platform shall be so constructed that safe transport is ensured.
7. On platforms for truck transport the trucks shall be efficiently blocked in safe position on the platform.
8. Counterweights consisting of an assemblage of several parts shall be made of specially constructed parts rigidly connected together.
9. The counterweight shall run in guides.
10. If two or more wire ropes are used the load shall be equally distributed between them.
11. Each suspension rope shall be in one piece.
12. The rope ends shall be fastened to the platform attachment by splicing and tight binding with steel wire, by sealing or by clamping with the aid of rope clamps; wherever possible, thimbles shall be used.
13. Drum anchorages of suspension ropes shall be adequate and secure.
14. Ropes shall be long enough to leave at least two turns on the drum when the cage or platform is at its lowest position, and be of such diameter as to have a safety factor of at least eight under the maximum load.
15. When wire ropes are used, the diameter of the pulleys or drums shall not be less than 400 times the diameter of the wires in the rope.
16. When winch drums are grooved—
 - (a) the radius of the grooves shall be approximately the same as, but not less, than, the radius of the rope; and
 - (b) the pitch of the grooves shall not be less than the diameter of the rope.
17. Winch drums shall be provided with flanges that prevent the rope from slipping off the drum.
18. It shall not be possible to reverse the motion of the hoist without first bringing it to rest.
19. It shall not be possible to set the hoist in motion from the platform.
20. Pawls and ratchet wheels with which the pawl must be disengaged before the platform is lowered shall not be used.
21. Where the person operating the hoist cannot see clearly every position of the platform, arrangements shall be made for effective signals to be given to the hoist operator by a responsible person who can see the platform at each position.
22. (1) When the platform is at rest the brake shall be applied automatically.
- (2) During loading and unloading the platform shall be blocked by catches or other devices in addition to the brake.
23. Hoists shall be provided with devices that stop the winding engine as soon as the platform reaches its highest stopping-place.
24. Above the highest stopping-place a clearance shall be provided high enough to allow sufficient unobstructed travel of the cage or platform in case of overwinding.
25. (1) No hoist shall be used unless it has been tested and examined by a competent person and a certificate of such test and examination has been issued by that person in the prescribed form.
- (2) Such test and examination shall be repeated—
 - (a) at such regular intervals as are prescribed by the competent authority; and
 - (b) after every substantial alteration or repair and every re-erection.
26. (1) The above provisions apply only to hoists used for raising or lowering materials.
- (2) No hoist shall be used for the conveyance of persons unless—
 - (a) such use has been authorised by the competent authority; or
 - (b) the hoist complies with the conditions laid down for the installation and operation of lifts used for the conveyance of persons in industrial undertakings.

27. The following notices shall be posted up conspicuously and in very legible characters;

(a) on all hoists :

(i) *on the platform* : the carrying capacity in kilograms or other appropriate standard term of weight; and

(ii) *on the winding engine* : the lifting capacity in kilograms or other appropriate standard term of weight;

(b) on hoists authorised or certified for the conveyance of persons :

on the platform or cage : the maximum number of persons to be carried at one time;

(c) on hoists for goods only :

on every approach to the hoist : "Goods Hoist! Use by persons prohibited."

Regulation 35.—Miscellaneous Provisions.

1. Precautions shall be taken to safeguard the workmen examining or lubricating a crane or hoist.

2. No person shall be lifted or carried by a crane except on the driver's platform or ride in a barrow hoist or in a hod hoist.

3. Every part of a load in course of being hoisted or lowered shall be adequately suspended and supported so as to prevent danger.

4. (1) Every receptacle used for hoisting bricks, tiles, slates or other material shall be so closed as to prevent the fall of any of the material.

(2) If loose materials or loaded wheelbarrows are placed directly on a platform for raising or lowering, the platform shall be closed in.

(3) Materials shall not be raised, lowered or slewed in such a way as to cause sudden jerks.

5. In hoisting a barrow, the wheel shall not be used as a means of support unless efficient steps are taken to prevent the axle from slipping out of the bearings.

6. When a special ginpole is used, it shall be secured by ropes in such a way that it cannot knock against the scaffolds.

7. Jibs for hoisting materials shall not be attached to standards or extension poles.

8. When no jib but only a rope pulley is used the latter may be attached to a cross-beam if the cross-beam—

(a) has sufficient strength and is fixed to at least two standards or extensions in the way prescribed for ledgers; and

(b) does not at the same time serve as a ledger for the scaffold.

9. If a hoisting appliance or any part thereof moves along a scaffold, adequate measures shall be taken to prevent persons on the scaffold from being struck by the appliance or any part of it.

10. The hoisting of loads at points where there is a regular flow of traffic shall be carried out in an enclosed space, or if this should be impossible (e.g., in the case of bulky objects), measures shall be taken to hold up or divert the traffic for the time being.

11. Adequate steps shall be taken to prevent a load in course of being hoisted or lowered from coming into contact with any objects in such a manner that part of the load or object may become displaced.

PART III.—SAFETY EQUIPMENT AND FIRST AID.

Regulation 36.—Safety Equipment.

1. Where necessary the employer shall provide the workmen with a sufficient number of respirators, goggles and safety belts of approved types.

2. Safety belts shall have life lines of sufficient length and strength.

Regulation 37.—Rescue Equipment.

When work is carried on in proximity to any place where there is a risk of drowning, all necessary equipment shall be provided and kept ready for use, and all necessary steps taken for the prompt rescue of any person in danger.

Regulation 38.—First-Aid Equipment.

1. On every place where building work is carried on, adequate provision, such as first-aid boxes or cupboards readily accessible and clearly marked, shall be made for the prompt treatment of all injuries likely to be sustained in the course of the work.

2. Such first-aid boxes or cupboards shall be placed under the charge of a responsible person who shall preferably be trained in first-aid.

PART IV.—MISCELLANEOUS.*Regulation 39.—Communication of Regulations to Workers.*

Copies of these Regulations or such extracts thereof as may be prescribed by the competent authority shall be handed to the workers or conspicuously posted up and maintained at suitable places.

Regulation 40.—Duty of Employers to comply with Parts I to III.

It shall be the duty of the employer to comply with Parts I to III of these Regulations.

Regulation 41.—Co-operation of Workers and other Persons with the Employer.

1. Every person employed and every person in or upon the work shall co-operate with the employer in carrying out these Regulations.

2. Every person employed shall forthwith remedy or report to the employer or foreman any defect that he may discover in the plant or appliances, or any action by any person liable to cause an accident.

3. No person shall interfere with, displace, take away, damage or destroy any of the plant or safeguards required by the foregoing Regulations without the authority of the employer or his responsible foreman.

4. Every person employed shall make proper use of all safeguards, safety devices or other appliances furnished for his protection and shall obey all safety instructions pertaining to his work.

5. Every worker shall take the necessary precautions for his own safety and for the safety of any other person on the site and abstain from any action which might endanger him or other persons.

6. No employed person shall go to or from his workplace otherwise than by the safe means of access and egress provided.

9. Recommendation concerning inspection in the building industry.

Formal preamble has been omitted.

Whereas the Safety Provisions (Building) Convention, 1937, and the Safety Provisions (Building) Recommendation, 1937, contain provisions relating to labour inspection;

Whereas the Conference adopted at its Fifth Session (1923) a Recommendation concerning labour inspection;

Whereas it is nevertheless desirable that as regards the building industry the attention of Members should be drawn to certain other provisions not included in the above-mentioned Convention and Recommendations;

The Conference recommends that each Member of the International Labour Organisation should take the following principles and rules into consideration as regards inspection in the building industry;

1. All work in connection with the construction, repair, alteration, maintenance and demolition of buildings of all kinds should be subject to inspection.

2. The authority responsible for inspection (hereinafter called the inspection authority) should be a public body and should have all powers necessary to ensure that the laws and regulations in force are strictly applied.

3. Inspectors should have previous technical training and have passed examinations covering all suitable technical and administrative matters which should ensure that they are competent to supervise effectively the enforcement of the safety regulations for the workers employed in the building industry.

4. In order to ensure effective collaboration between the inspection authority and the head of the undertaking, national laws or regulations should make the head of the undertaking responsible—

(a) for providing for constant and adequate supervision of the work so as to ensure compliance with the safety provisions in force;

- (b) for taking all other practicable steps necessary to prevent accidents, and in particular for not employing on work likely to involve risk of accidents any person whom he knows to be deaf, of defective vision, or liable to giddiness;
- (c) for informing the inspection authority, in conformity with the national laws or regulations, of the commencement of all building operations undertaken by him; and
- (d) for reporting to the competent authority, in accordance with the national laws or regulations, accidents occurring in the undertaking.

10. Recommendation concerning co-operation in accident prevention in the building industry.

Formal preamble has been omitted.

Whereas it is considered that in addition to the Safety Provisions (Building) Convention, 1937, the Safety Provisions (Building) Recommendation, 1937, the Inspection (Building) Recommendation, 1937, and the Prevention of Industrial Accidents Recommendation, 1929, it is desirable to make specific recommendation concerning the prevention of accidents in the building industry by means of safety organisations;

The Conference recommends that each Member of the International Labour Organisation should take the following principles and rules into consideration in connection with accident prevention in the building industry :

1. There should be established safety organisations within the industry to secure the collaboration of all concerned in effecting a reduction in the number and severity of accidents with particular regard to accident risks for which there are no statutory requirements.

2. In order to render this collaboration effective there should be set up within each undertaking, where it is possible, a special safety organisation including representatives of the employer and the persons employed.

3. It would also be desirable to have direct collaboration between the competent inspector, the employer and the representatives of the persons employed in the undertaking in the form and within the limits fixed by the inspection authority.

4. Safety propaganda in the building industry would be more effective if there were constant co-operation between the inspection authority and all the organisations concerned; safety organisations (joint or separate) of employers and workers; trade unions and employers, associations; associations of architects or engineers; standards association, etc.; accident insurance institutions (public, semi-official or private).

5. (1) Periodical meetings should be held by representatives of the organisations mentioned in the preceding paragraph and representatives of the inspection authority together with representatives of any other public bodies concerned.

(2) The purpose of such meetings should be to examine jointly the methods that might be taken to improve accident prevention in the building industry.

6. The inspection authority should promote accident prevention by collaborating with all parties concerned in the necessary propaganda, which might take such forms as safety education by training courses, demonstrations, meetings, lectures and films; the distribution of manuals, pamphlets, magazines or publications reproducing or analysing accident statistics; and the distribution of posters and notices which should as far as possible be illustrated.

11. Recommendation concerning vocational education for the building industry.

The Conference,

Recalling that at its Twelfth Session (1929) it adopted a Recommendation concerning the prevention of industrial accidents, one part which deals with vocational education;

Considering that, in view of the risk of accident, vocational education is of special importance in the case of the building industry;

Recommends that technical and vocational school curricula relating to the building industry should include theoretical and practical instruction concerning—

- (a) the materials used for the construction of scaffolds and the principles of erecting and maintaining scaffolds;
- (b) the construction and maintenance of the hoisting appliances used in the building industry;

- (c) the organisation and supervision of safety measures on building sites; and
- (d) the safety regulations for building work.

Statement.

The following statement gives particulars of the course which the Government of India propose to follow in respect of the Draft Conventions and Recommendations adopted by the Twenty-third Session of the International Labour Conference held at Geneva in June 1937:—

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| <p>I. (a) Recommendation concerning international co-operation in respect of public works.</p> <p>(b) Recommendation concerning the national planning of public works.</p> <p>II. (a) Draft Convention fixing the minimum age for admission of children to industrial employment (revised 1937).</p> <p>(b) Recommendation concerning the minimum age for admission of children to employment in family undertakings.</p> <p>III. Draft Convention concerning the age for admission of the children to non-industrial employment (revised 1937).</p> <p>IV. Draft Convention concerning the reduction of hours of work in the textile industry.</p> | <p>I. (a) The Government of India propose to inform the International Labour Office that they are not convinced that international co-operation is essential to effective action in respect of advance planning of public works but that they will be prepared, if the Committee contemplated in the Recommendation is set up, to consider the question of co-operation with it and to examine, in consultation with provincial Governments, the possibility of supplying such statistics as may be wanted.</p> <p>(b) The Recommendation is one which contemplates administrative rather than legislative action and the Government of India propose to forward the Recommendation to the Provincial Governments.</p> <p>II. (a) The possibility of ratifying the Draft Convention is under examination. Fresh legislation would be required for this purpose and if ratification is contemplated, legislative proposals will be made in the Central Legislature.</p> <p>(b) No action is required in respect of the Recommendation as the Indian laws do not contain special provisions for family undertakings.</p> <p>III. No Resolution will be moved by Government. The subject was considered by the Legislative Assembly in 1933 in connection with the Minimum age (non-industrial employment) Convention, 1932, of which this is a revision. It was then decided that the Convention should not be ratified. The evolution of the Convention with its special Article 9 for India is set out in paragraphs 38 and 39 of the Report of the Delegates of the Government of India. The Convention prevents employment of children under 13 in (a) shops, offices, hotels or restaurants; (b) places of public entertainment; and (c) any other non-industrial occupation to which the provisions of the Convention may be extended by the competent authority. The Government of India do not believe that all-India legislation on the comprehensive lines indicated by the Convention is called for in existing Indian conditions. In their opinion young children employed in unregulated small power factories and workshops have prior claim to protection. The Convention will, however, be forwarded to Provincial Governments for consideration.</p> <p>IV. The Draft Convention is an application of the general principle of the 40 hours week which has been rejected by the Legislative Assembly and no Resolution will be moved by Government.</p> |
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- V. (a) Draft Convention concerning safety provisions in the building industry.
- (b) Recommendation concerning safety provisions in the building industry.
- (c) Recommendation concerning inspection in the building industry.
- (d) Recommendation concerning co-operation in accident prevention in the building industry.
- (e) Recommendation concerning vocational education for the building industry.
- V. A resolution on the subject was moved in the Legislative Assembly on the 25th March 1938 and adopted with an amendment.

MOTIONS FOR ADJOURNMENT.

GOVERNMENT OF INDIA'S INDIFFERENCE TOWARDS RENEWAL OF THE SALT IMPORT DUTIES ACT.

Mr. President (The Honourable Sir Abdur Rahim): I have received a notice of a motion for the adjournment of the House from Mr. Amarendra Nath Chattopadhyaya, who wishes to move the adjournment of this House for discussing "an urgent, definite, recent matter of public importance, *viz.*, the Government of India's indifference towards renewal of the Salt Import Duties Act providing for an import duty on foreign salt including its protective duty which was extended up to April 30 this year."

I should like to be satisfied by the Honourable Member if that can form the subject-matter of an adjournment motion, *viz.*, the failure of Government to bring in any Bill. It has been pointed out by the Speaker of the House of Commons (Volume 108, H. C. Deb., 5 s., 1339) that if that were allowed, a motion for adjournment would be moved every day if particular Honourable Members desired a certain legislative measure to be introduced in the House and which was not introduced by the Government.

Mr. Amarendra Nath Chattopadhyaya (Burdwan Division: Non-Muhammudan Rural): Sir, during the last few years . . .

Mr. President (The Honourable Sir Abdur Rahim): I do not want a speech. I want to know what the Honourable Member has to say with regard to the ruling of the Speaker of the House of Commons, with which I entirely agree.

Mr. Amarendra Nath Chattopadhyaya: Sir, it is a protective duty, and every one interested in the industry has been watching whether this legislation which was forthcoming will come on or not, and as it did not come on, I wish to move this motion; of course I cannot say anything with regard to the legality or the constitutional point of view.

Mr. President (The Honourable Sir Abdur Rahim): I rule that the motion is out of order.

FAILURE OF THE GOVERNMENT OF INDIA TO TAKE PROPER ACTION ON THE REPORT ON THE CAUSE OF THE BIHTA RAILWAY ACCIDENT.

Mr. President (The Honourable Sir Abdur Rahim): I have received another notice of a motion for adjournment from Mr. A. C. Datta, who wishes to "move a motion for the adjournment of the business of the

Assembly for the purpose of discussing a definite matter of urgent public importance, *viz.*, the failure of the Government of India to take proper and adequate action on the Report, findings and recommendations of the Honourable Mr. Justice Thom on the cause of the railway accident near Bilta on the East Indian Railway on the 17th July, 1937."

I have received also another notice to the same effect from Mr. Sami Vencatachelam Chetty.

The Honourable Sir Thomas Stewart (Member for Railways and Communications): Sir, I have no formal objection to put forward but with your permission I would make a suggestion for the consideration of the Honourable the Mover. Government are most anxious that there should be an ample opportunity for a free and full discussion of this most important report. They are doubtful, however, whether, in the short time that has elapsed since the publication of the report, all Members have had a reasonable opportunity of studying this complicated document. Again, they are doubtful whether, in the course of an adjournment motion, there is that ample opportunity for a full and free discussion that they consider desirable, and they are prepared—if the Honourable the Mover does not press his motion—to allot a day early in the Simla Session for the discussion of this Report.

Mr. Sami Vencatachelam Chetty (Madras: Indian Commerce): I have no objection to that.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I feel that though the matter is of such paramount importance to the lives and property of the people of this country, the subject covered by the question is so very wide that I entirely agree with the Honourable the Communications Member that it is not possible to do justice to a matter like this in the course of a few hours' discussion on an adjournment motion; and, therefore, I am quite satisfied with the assurance that a larger opportunity will be given to this House for the discussion of this matter and that one entire day will be devoted to it. At the same time naturally, there is a very strong feeling as regards the continued use of this dangerous engine, and, therefore, I should like to have some assurance from the Honourable Member on these points. Firstly, I want to know—with regard to the Government communicate stating that they have issued instructions to Railway Administrations regulating the speed limits to be observed under certain conditions—what definite orders have been issued as regards the use of these engines, and especially on the mail or passenger trains, and if so, under what conditions as to speed, and secondly, whether it would not be advisable to discontinue the use of XB engines in mail and passenger trains until the expert committee has reported. I hope I shall get a satisfactory assurance from the Honourable Member, and in that view of the matter I am quite prepared to withdraw my motion.

The Honourable Sir Thomas Stewart: Sir, I am unable to say here and now what are the orders that have been issued, and I have been considering in what way I may impart the information to the Honourable Member. If he will put a question on paper, I shall answer it as a short notice question tomorrow morning.

MESSAGES FROM THE COUNCIL OF STATE.

Secretary of the Assembly: Sir, two Messages have been received from the Council of State. The first message runs follows:

"With reference to the provisions of sub-rule (4) of Rule 36 of the Indian Legislative Rules, I am directed to inform you that the Council of State has, at its meeting held on Friday, the 8th April, 1938, agreed to the Bill further to amend the Trade Disputes Act, 1929, for certain purposes, as further amended by the Legislative Assembly at its meeting held on the 6th April, 1938."

Sir, the second Message reads as follows:

"I am directed to inform you that the Council of State at its meeting held on the 8th April, 1938, agreed without any amendment to the following Bills which were passed by the Legislative Assembly at its meetings held on the 31st March, 4th April, and 6th April, 1938 :—

1. A Bill further to amend the Indian Tariff Act, 1934, for a certain purpose;
2. A Bill further to amend the Delhi Joint Water Board Act, 1926, and
3. A Bill further to amend the Child Marriage Restraint Act, 1929."

THE MOTOR VEHICLES BILL.

APPOINTMENT OF CERTAIN MEMBERS TO THE SELECT COMMITTEE.

The Honourable Sir Thomas Stewart (Member for Railways and Communications): Sir, I beg to move:

"That the name of Mr. Akhil Chandra Datta be added to the list of members of the Select Committee on the Bill to consolidate and amend the law relating to motor vehicles and that Mr. S. N. Roy be appointed to that Committee in place of the Mover."

Sir, when the motion for the constitution of the Select Committee was originally made, it was not known that the Honourable the Law Member and myself would not be available. The absence of the Law Member, who would have been the *ex-officio* Chairman of the Committee, has left us in the position that there is on the Committee at the present time no member of the Panel of Chairmen. For that reason, we have thought it fit to ask the Honourable the Deputy President, and he has very kindly agreed, to serve on the Committee.

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

"That the name of Mr. Akhil Chandra Datta be added to the list of members of the Select Committee on the Bill to consolidate and amend the law relating to motor vehicles and that Mr. S. N. Roy be appointed to that Committee in place of the Mover."

Mr. F. E. James (Madras: European): Sir, before you put that motion to the House, may I ask the Honourable Member whether he is in a position to give the House any information as to the programme relating to the sittings of the Select Committee on the Motor Vehicles Bill and as to the probable date when the Report of that Select Committee will be made available to the House?

The Honourable Sir Thomas Stewart: Sir, I can give no absolute assurance at the present moment, but I feel fairly confident that the meetings will be called towards the end of the first week in July.

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

“That the name of Mr. Akhil Chandra Datta be added to the list of members of the Select Committee on the Bill to consolidate and amend the law relating to motor vehicles and that Mr. S. N. Roy be appointed to that Committee in place of the Mover.”

The motion was adopted.

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

Mr. President (The Honourable Sir Abdur Rahim): The House will now proceed with the further consideration of the motion that the Bill further to amend the Indian Income-tax Act, 1922, be referred to a Select Committee.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadan Rural): Mr. President, in order to be able to regulate the further discussion of this matter—the motion for the Select Committee and the amendment before the House,—I feel it advisable to place before you and the House the conversations I have had with the Honourable the Mover of this Bill, so that, for all practical purposes, the discussion before the House will largely be confined to the issues arising out of the clauses of the Bill itself. Sir, in moving the amendment which was moved on behalf of our Party for circulating the Bill for opinion by the 15th September our intention and object was that we should get some time after the sittings of the Simla Session were over to study the opinions obtained in order that we may be prepared for the work on the Select Committee. I believe that the Honourable the Mover is now in a position to state that the Select Committee, if now appointed, will not be called upon to meet and commence its work before the middle of October. Having regard to that assurance, we are agreeable that a Select Committee may now be appointed. That, Sir, is our position, and I would like to know what the Honourable the Mover has got to say. I will also add one word more. So far as the discussion on the motion is concerned, we desire, having regard to the number of our Members and others who desire to take part in it, that it should continue, as was intended, till tomorrow afternoon and that, in order that there should be no short-circuiting of such discussion, I, with your permission, hope to wind up the debate some time tomorrow afternoon.

The Honourable Sir James Grigg (Finance Member): Sir, I am glad to be able to confirm that the arrangement outlined by the Leader of the Opposition is acceptable to Government. I would like to make it clear that there has never been on my part any desire to rush the Bill without adequate opportunity being given for the expression of public opinion and if that impression has unfortunately been conveyed, I apologise for my share in it. Then, Sir, I quite appreciate the desire of Members of this House that they should have an opportunity of studying the opinions which may be obtained before the Select Committee actually meets. The doubt in my mind as to the actual time of the Select Committee was, as I have explained to the Leader of the Opposition, a doubt whether from the middle of October to the beginning of November or the early days of November, when the special Session would have to meet, there was sufficient time to dispose of the Bill in the Select Committee. I am glad to be able to say that the Leader of the Opposition has assured me that it

[Sir James Grigg.]

is his desire that the meetings of the Select Committee should not be unduly prolonged and that he thinks that there is every possibility of the Select Committee being finished in time to allow a special Session to meet in the first half of November. For my part, I am very glad and grateful to all Parties in the House that this Bill is now assured of consideration with the maximum amount of co-operation and with no more controversy than is involved by the very nature of the proposals.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): May I, Sir, with your permission, ask a question from the Honourable the Finance Member? Will this Bill be circulated by executive order as has already been proposed?

The Honourable Sir James Grigg: The assurance that I gave to the Leader of the Independent Party that the Bill would be circulated by executive order until the 15th of August stands.

Mr. President (The Honourable Sir Abdur Rahim): Further discussion of the Bill will now proceed.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, after the very conciliatory statement made by the Honourable the Mover of this Bill, it is necessary that all avenues for improving this Bill and thereby improving the Income-tax Act ought to be explored. In that spirit, I would like to make one or two more submissions regarding the omissions that have been made in the present Income-tax Bill. I was referring the other day to an exception being created in favour of non-domiciles. After that I referred to the power given under section 60 (1) of the present Act to the Governor General in Council to exempt from the scope of taxation any class of income or any class of persons. Sir, under section 60 (1) nearly fifty kinds of income have been exempted. This I have found from the Income-tax Manual prepared and sent round to the Income-tax Officers with instructions. These exemptions range from those in favour of the Ruling Chiefs to leave, pension and various other kinds of income that ought normally to be taxed at the source. In the General Purposes Committee, while dealing with this source of income-tax, you and your other colleagues remarked that this exemption ought not to be allowed. If this exemption under section 60 is not allowed in the case of pensions and leave salaries, then an income to the tune of nearly 50 lakhs would accrue to the Central Government. There would be a saving of nearly 50 lakhs which the Government are at present losing under the exemption section. This is a source of income which ought not to be lost. There is another ground also under which this power to exempt under section 60 (1) ought not to stand. In no country of the world is the executive government clothed with power to exempt any class of persons on any class of income without any restraint whatever from the scope of any particular tax. This power is likely to be abused. The Honourable the Mover of the Bill has not stated till now why he has not touched section 60, sub-section (1), though he has attempted to enlarge the scope of section 60 (2) by adding something more to the range of exemptions that might be given under section 60(2). I pause for an answer. I would now say that it is dangerous to clothe the executive with that power or to continue that section to stand on the Statute-book. If any improper use is intended,

then this section ought straightaway to be removed. Whatever exemptions are to be given may be incorporated in the body of the Act itself. Another provision, which if amended properly would yield us an enormous amount of income, is the double taxation relief in section 49 of the Act. In addition to what my Honourable friend, Mr. Manu Subedar, said, I would refer in support of the contention that double taxation relief to those who pay in the United Kingdom and India ought not to be allowed any longer, I would quote the words of the General Purposes Retrenchment Committee. On page 13, para. 4, sub-para. 8, the Committee say:

"In our opinion the existing convention between India and the United Kingdom for the grant of relief from double income-tax does not secure to Indian revenues the full benefit which they would get if the convention were, in practice, really reciprocal. The disadvantage to Indian revenues results from the fact that as against the scores of companies which are controlled from the United Kingdom but operate mainly in India there are few concerns controlled in India and operating in the United Kingdom. We recommend that action should be taken as early as possible to ensure that the double income-tax relief convention with the United Kingdom does not operate, in practice, to the disadvantage of India."

Sir, in practice it operates to the disadvantage of India in this manner. I have here the report of the Central Board of Revenue on Income-tax returns for 1935-36 and on page 23, refunds under section 49 are to the tune of nearly one crore and 20 lakhs in 1936. Of these the refunds to companies amount to one crore 16 lakhs 95 thousand 742. Then refunds to other assesseees, 2 lakhs 17 thousand; to Indian States, 89 thousand; Ceylon, 11 thousand. Thus, Sir, refunds to companies alone constitute a major portion of this list under the head refunds. I am sure that of these companies very few will be Indian companies. As against the amount we are losing, we are getting about 2 lakhs. Is this reciprocity? We do not want reciprocity in this manner. A national of this country if he pays income-tax in Japan does not get double taxation relief. Exception is created only in favour of the United Kingdom. The United Kingdom national gets relief from double taxation, not only in his country but also in this country. Our national does not get relief from our country if he pays taxation in any country other than United Kingdom. So far as our nationals are concerned, we are not having any advantage. As regards United Kingdom, if we take the question of reciprocity, as against one crore 16 lakhs, we are having about 2 lakhs possible. I am not able to get the exact figures. It may be ten lakhs or five lakhs. Even this amount that we are getting is very very small or insignificant as compared with the amount that we give away. If this double taxation is avoided, we will get at once one crore or even more. That would be a really substantial addition to our income. Instead of trying to close up small loopholes, you must try to bring these men into the category of taxpayers. I, therefore, expect that section 49 would be repealed. I expect that while the Bill is before the Select Committee suitable modifications will be made so that section 49 might be repealed. Under the three heads, that I have mentioned, we will get about three crores a year. That is the removal of the qualification of domicile, the removal of exemptions under section 60 (1) both as regards leave and pensions. We might be handicapped in that, so far as Government pensions are concerned. The Government of India Act, 1935, exempts those pensions from income-tax. But why should pensions given by local bodies and others be freed from income-tax under section 60 (1). Whoever can possibly approach the Governor General or the Governor General

[Mr. M. Ananthasayanam Ayyangar.]

in Council his pension and leave salary can be exempted. There is absolutely no principle behind it. If the loopholes under these sources are closed and if suitable amendments are made in the Act, I am sure our income will get augmented to the tune of nearly two to three crores.

Another point which I wish to refer is the provision roping in the wife's income for the purpose of taxation. Hitherto the wife's income has been excluded for the purpose of taxation. Now it is sought to be included in the husband's income for the purpose of calculation. A wife in India does not generally have separate sources of income. She is always struggling to get some money for her own use, and this attempt on her part ought not to be curtailed or curbed even at the outset. Let her have some income of her own. We have not yet got in India the Divorce Act. If a husband should illtreat the wife, the wife suffers silently and she continues under the same roof. Very rarely they live apart. I, therefore, submit that the wife ought to be allowed a certain portion of income without being put to the necessity of paying tax thereon. Under the present measure, the income of the wife is sought to be clubbed with that of the husband and tax is levied on the aggregate income. Not even a proportion of the income of the wife is allowed tax free. I submit that the wife's income should be wholly exempt from income-tax. As the Bill stands at present, you do not allow even exemption to the extent of Rs. 500. Now exemption is given for all those who earn for the first Rs. 500. I suggest that at least the same relief should be given to the wife's income from other sources also.

Then as regards trusts and the income accruing to trusts by carrying on any particular business, I would say this is an innovation involving hardship. Exception is made in the case of business income where the business is the primary concern of the trust. I am yet to see any religious or charitable trust in India whose primary object is to carry on business. I know of a number of small temples in my part of the country—small inns too—which on account of the slender resources at their disposal in order to augment their revenues run some subsidiary business. I know of a small temple which runs a soda factory and thus is able to add to its income. Under this Bill the Honourable Member is seeking to impose a tax upon the activities of that soda factory also because it cannot be said that the running of a soda factory is the primary object of the temple. This provision is intended to give relief only to missionaries of the West who come to this country and who run industrial schools and whose sale proceeds are utilised for the purpose of the mission. I submit that only in regard to such charitable trusts alone this exemption would operate. Therefore, having regard to the generality of the temple and charitable institutions in this country, it ought not to be insisted that the business conducted by such institutions ought to be the primary object in order to get exemption from taxation.

As regards maintenance charges, even in the case of irrevocable settlements, so long as the assets continue to belong to the settor, it has been stated here in this Bill that even such income is taxable. Take the case of a maintenance grant to a widow of a junior member of a family by a senior member. The property still continues to belong to the senior member and as time goes on more securities are assigned in which case if you take the provisions of this present Bill, even income over which this man has no control in his own life time or during the

life time of the widow is sought to be taxed. I would like that some exception should be made in the case of *bona fide* maintenance charges.

Lastly, under this head I would refer to the unfortunate distinction that is still continued in this Bill between an unregistered firm and a registered firm. In effect on account of some provisions of this Bill the difference has been removed. It is open to the Income-tax Officer to tax an unregistered firm as a unit or tax the members if he finds that the one course or the other course would yield larger revenues to the exchequer. That ought not to be done. If the partners have no independent means of income that would place in the hands of Government an opportunity to tax their joint income on the basis that it is a partnership. If they have a larger income it is open to the Income-tax Officer to ignore that joint entity or as a unit and treat them as individuals and tax them on the higher basis. That would make an invidious distinction between a registered and unregistered firm. I would like to say that it may be made obligatory upon every firm to get registered, or even if it is not registered the same conditions might prevail and no distinction need be made between a registered firm and an unregistered firm.

Then as regards the procedure, I have certain observations to make. In the matter of procedure, with due respect to the Honourable the Mover's desire to close up all loopholes, I would say that some of the provisions look like the provisions of the Draconian Code. It may be proper to ask erstwhile assesseees to submit their returns even without a notice of demand. I admit that if a man is an assessee this year he need not be asked once again next year as to what his income is. It may be made obligatory upon him to send in his return, even without his being asked whether that income for the next year is taxable or not. But in case of persons who have not been assessed to income-tax at all, an obligation is cast upon them under this Bill to read the various sections of the Code, to find out under what section he is entitled to exemption. If it is valid exemption he is not liable to tax, but if it not a valid exemption he will be penalised for not having returned his income. He has to decide for himself and there are such difficulties. I would, therefore, say that instead of making it obligatory upon every individual, whether he is already an assessee or not, to send in a return of his income, the moment in the Gazette of India or in any newspaper the Income-Tax Officer makes a publication that by a particular date he must submit his return, let a prospective assessee be not get penalised if he does not send a return without notice. It is not as if the same standards ought to be applied to this country as are applied in the West. In England every man may be more or less educated and knows his duties; and even before the collection agent gives any notice, we find in the papers that last year or in the year before last a number of assesseees ran up to the Income-tax Officer of their own accord and voluntarily paid up their income-tax. That may come sooner or later but the

The Honourable Sir James Grigg: Very much later.

Mr. M. Ananthasayanam Ayyangar: I am glad to find that the Honourable Member also takes note of the present conditions here. It may not, therefore, be possible to educate the whole country and expect that there would be a rush towards the counter of persons who are assesseees

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and who would voluntarily pay their income-tax. Therefore having regard to the realities of the situation here it is not right to expect that they should come of their own accord and take notice of notifications in newspapers and gazettes; they will not do it and it is not right to penalise them for not sending in their returns.

Then my next submission is as regards the penalty. In case a person does not send in his returns there is sufficient penalty today. The penalty is that it is open to the Income-tax Officer to assess him to income-tax on any amount that he likes. But that does not *ipso facto* mean that he is not liable to pay or he has sufficient income. Neither the one nor the other follows. Therefore, it is now open to the Income-tax Officer to impose any amount of tax, even though this man has no taxable income and on account of his laches in not sending in his returns he is not entitled to exemption. That is the present penalty. What is the need to impose an additional penalty by way of twice the income-tax? It is an extraordinary provision and will work great hardship.

Thirdly, if on account of any sufficient cause or just cause a man is prevented from sending in his returns at the proper time, there must be an exception created in his favour. Hitherto under the present Act the exception is there. If a man is prevented by reasonable cause from submitting his return, it is open to him to go to the Income-tax Officer and submit an application to have the income-tax revised. That wholesome provision has been taken away, probably for the reason that it will encourage improper applications. When that has been taken away, it is not right that the assessee should be straightaway penalised for not having sent in his returns. A qualification ought to be made that in cases where the failure is due to reasonable or sufficient causes, his failure ought not to be penalised.

Then as regards the six years' rule, losses are allowed to be carried over for a period of six years. Likewise it is provided that if there is a mistake in imposing income-tax on a particular person that mistake can be corrected within six years. Whatever provision may be made regarding carrying over of losses within six years, if an order has been passed levying a particular amount of income-tax, this ought not to be allowed to be disturbed after a period of three years. Six years is too long a period. If the assessee is allowed to carry over business losses, that period ought to correspond to the period within which it ought to be open to the Income-tax Appellate Assistant Commissioner or even the Commissioner to review his order; and these six years may be restricted to three years, and three years may be allowed both ways and carrying over of losses also may be allowed for three years and there may be a provision that wherever any income escapes assessment, that income may be brought in within three years by rectification. Six years is too long.

Then, Sir, there are some curious provisions against lawyers. It is open to a lawyer to practise before Income-tax Officers and appear for an assessee. But an extraordinary right is conferred on the Commissioner to debar a lawyer from practising before him. I do not know why the Honourable the Finance Member has got such a soft corner for lawyers. Lawyers are now within the disciplinary jurisdiction of Bar Councils in various places and the Bar Councils can take disciplinary action against them for misconduct. It is open to the Commissioner to report any misconduct on the part of a lawyer to the Bar Council. Instead of doing that,

the Commissioner constitutes himself into a Bar Council or even a body of High Court Judges and tries to dispose of the case whether he misbehaved himself in that case or not. If he should come to the conclusion after inquiry that the lawyer misbehaved in respect of that particular income-tax matter it is open to him to say that he should no longer practise before him. I say whatever may be done with respect to other classes of persons who can appear as agents of assessee before Income-tax Officers, this clause with regard to lawyers ought not to be allowed to stand and this right ought not to be conferred on the Commissioner.

Then there is one other provision. It is open to the Income-tax Inspector to come straight into my house after sunrise and before sunset, station himself there, ask for any number of documents to be brought in and inspect them. I have no objection to his inspecting but he should have no right of entry to my house; even in the present Act there is a right to inspect and it is open to Income-tax Officers to call for particular documents, take notes and make inspection. It is said that proceedings before the Income-tax Officer shall be proceedings as if they were proceedings under the Civil Procedure Code. They have been abused in most cases. I have known an Income-tax Officer who went straight into the house of a merchant and asked him to open his iron safe and produce document after document. Sir, this is not a power normally exercised even under the Civil or Criminal Procedure Code. Even if a man commits a heinous crime or a theft, even if it is a cognisable offence, the police officer goes about very carefully. He would not enter on mere suspicion the house of another person. I can understand an Income-tax Officer asking an assessee to produce accounts for his inspection, but certainly he is not entitled to enter the house of a prospective assessee, even if he is not an assessee already, and break open his iron safe, pull out his books and ask him to produce all his accounts. This is worse than the Penal Code provisions. It is worse than military law, so much so, the way in which some of the Income-tax Officers are behaving at present with the assessee shows that they have been raised to the position of a Field Marshal. This is not at all fair. I would say let us be humane. After all, we pay only for comforts to be got by us. We are all anxious to contribute our mite for maintaining law and order in this country, but let there not be maintenance of law and order by imprisoning people in their own houses. This is really an extraordinary position.

Lastly, Sir, I do not know why when the Mover is anxious to get additional source of income, he is creating an additional source of expenditure. Under section 5 he has created Income-tax Inspectors, and he has divided Income-tax Commissioners into two categories. If that does not involve any further increase in personnel, I have no quarrel. Let there be purely a judicial officer under the control of the Board of Revenue, but under this guise I am sure a number of superfluous officers will be added and a lot of additional expenditure will be involved. As regards the Income-tax Inspectors, I do not know why they should have such inspectors. Under the Neimeyer award, fifty per cent. of the income-tax goes to the provinces, and therefore they have a direct interest in the collection of income-tax. Therefore, I ask why should not a large portion of this collection work be handed over to the provinces themselves. It is open to the Central Government to direct the Provincial Governments to act as their agents for the collection of income-tax. Under section 124 (2), it is open to a Federal Legislature by an enactment to impose such obligations upon Local Governments to collect income-tax. Therefore, I ask, having regard to the

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allocation of income under this head between the Centre and the provinces, whether the collection agency could not be safely left in the hands of the Provincial Governments. If necessary, a small portion of the expenditure might be given to them under that head. Therefore, I say it is not necessary to increase the establishment,—rather I would suggest it should be curtailed. Thus, Sir, I have suggested various methods by which the income could be augmented without the provisions of this Bill being worked too harshly. Having regard to the changed circumstances, I support the motion for the Select Committee.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, in view of the statements made by the Honourable the Leader of the Opposition and by the Honourable Member in charge, and in view of the fact that very luckily a settlement has been reached on the question of time table,—on the merits of the question I do not see any difference,—I beg leave of the House to withdraw my motion for circulation.

Mr. President (The Honourable Sir Abdur Rahim): Has the Honourable Member the leave of the House to withdraw the motion?

Several Honourable Members: Yes, yes.

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

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Sir, as there is now only one motion before the House that the Bill be referred to a Select Committee, I with the rest of the Honourable Members support the motion, but in doing so I wish to draw the attention of the Honourable Member in charge to a few points in the Bill which have struck me as rather curious. This Bill, among other things, pays special attention to the income of a wife and minor children. This question was discussed in Chapter III, section 1, of the Income-tax Inquiry Report of 1936. The Committee started by saying that their attention had been drawn to the extent to which taxation was avoided by a nominal partnership between husband and wife and minor children, and that in some parts of the country avoidance of taxation by this means had attained very serious dimensions. According to the Committee, the obvious remedy for this state of affairs, so far as husband and wife are concerned, is the aggregation for assessment of their incomes, but the Committee, felt that such a course would involve aggregation in quite a different class of cases,—for instance where the wife's income arises from sources quite unconnected with that of the husband. The Committee then proceeded to illustrate the absurdity or iniquity of the principle at present applied by taking four cases. (1) where the income of A is Rs. 4,000, his wife having no income, (2) where the income of B is Rs. 4,000, his wife too having an income of Rs. 1,800 from employment or profession, (3) C with an income of Rs. 4,000, his wife getting Rs. 1,800 from investments, and (4) D with an income of Rs. 5,800, his wife getting no income. The Committee pointed out that while B, C, and D are equal in ability to pay, they pay different amounts, B and C whose wives have incomes and paying the same as A whose wife has no income. The Committee finally proceeded to recommend that the income of a wife shall be deemed to be for income-tax purposes the income of the husband, but then they felt that where the income of a wife is derived from her personal exertions and is unconnected

with any business of her husband, her income from her personal exertions up to a certain limit say of Rs. 500 should not be so included. The Committee next felt that aggregation for purposes of assessment might have the result of throwing an undue proportion of the joint taxation burden upon one spouse or the other, and to meet this, it was suggested that either spouse should have the right to claim separate assessment, and that the tax chargeable on each should be that proportion of the tax assessable on the joint income that the income of the spouse bears to the aggregate of the said income. This part of the Report, when examined closely, will show that in their desire somehow to rope in the income of the wife and to tack it on to the income of the husband for purposes of income-tax, the Committee were driven from absurdity to absurdity. They felt that when the income of the wife has really nothing to do with the income of the husband and is derived either from personal exertions or from a profession which she is following, they could not in reality connect it with the income of the husband and yet they desired to do so, so they proposed a concession by pointing out that in attending to any profession, her attention to household matters to that extent might be diverted and some extra labour might have to be employed, and therefore they decided to make an allowance of Rs. 500 on that account. In their proposal that the two incomes should be aggregated and then taxed, they felt that this would lay an additional burden on the income of either spouse. Then they cut a *via media* and gave them the option of getting separately assessed, the rate at which they will be assessed will be determined by considering the two incomes together as the income of the family. This is really going from one absurdity to another. It is quite clear that in dealing with what they thought was a fraud being committed on the Income-tax Department, the Committee took a very incomplete view of the facts. For instance, it is a well known fact that Muslim ladies very often possess personal property which has nothing to do with the property of their husbands, and have personal income which has nothing to do with the personal incomes of the husbands. A lady having inherited property gets income. Then that income is invested, perhaps, in Government securities or in any other form of investment, and from the investment she gets an income. This income, as regards the source and the way in which it is received, is quite unconnected with the income of the husband, and yet for the purpose of income-tax it is said that it should be tacked on to the income of the husband. I instanced the case of Muslim ladies, but I know that among the Hindus also there is such a thing as *stridhan* of Hindu ladies. That is their special property, quite independent of any property which the husband may own or possess, and as far as ownership is concerned, that is, the power to enjoy, the power to dispose, in fact all that is connoted by the term ownership,—so far as that is concerned, it is absolutely independent of any property owned or possessed by the husband. If the income of such property is allowed to be tacked on to the income of the husband, then there would be quite as much logic, it would be quite as rational as, if the income of a lady, instead of being tacked on to that of the husband, is aggregated with that of her father or brother, even her neighbour, because the husband is as much a nobody to the income of the wife in such a case as any neighbour or any other relative of the lady. Clause 17 of the Bill proposes section 17(1) which reads as follows:

"17. (1) Where two persons are husband and wife, the tax payable by either spouse on his or her total income shall be an amount bearing to the total amount of the tax including super-tax which would have been payable on the sum of the two

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total incomes had such sum been the total income of one individual the same proportion as the total income of such spouse bears to the sum of the two total incomes :

Provided that any income of the wife derived from her personal exertions and unconnected with any business carried on by her husband shall, unless it exceeds five hundred rupees, and in that case to the extent of five hundred rupees, be excluded from her total income for all the purposes of this section."

I submit that this proposed section 17(1) is too sweeping in its terms and has really failed to take into consideration all the various sources from which a lady who happens to be the wife of a certain person derives her income. Let her be considered as the owner of certain property receiving certain income from such property or recipient of certain income from certain sources. Let her be considered in that capacity and if then her income comes within the assessable limit, let it be assessed, and the rate at which it is to be assessed should be determined by her own income alone and not by aggregating it with the income of another person even if that other person be her husband. I may also add this, while talking on this point. Suppose a lady receives payment on account of dower from her husband. That is her independent property. She stands with reference to the dower in the capacity of a creditor; the husband is in the capacity of a debtor. If the husband makes payment to the wife on account of her dower, surely, he pays her something to which she is entitled. It is not in any way income derived from the husband. So, there would be no reason in aggregating her dower with the income that the husband may have and putting the two things together and determining the rate of income-tax and thus charge income-tax from the wife on the amount of dower that she has received. Therefore, I submit that the proposed section 17(1) should either be entirely deleted or be so amended as to exclude all cases except perhaps those cases which have been haunting the imagination of the Income-tax Inquiry Committee, namely, that in certain cases colourable or nominal partnerships are shown in account books as between the husband and wife. Possibly such cases may exist, and except in such cases, all the income of the wife must be considered separately both from the point of view of assessability and from the point of view of the rate at which it should be assessed.

Mr. L. C. Buss (Nominated Non-Official): Mr. President, those Members of the House who take an interest in Gilbert and Sullivan will perhaps remember the little scene in the second act of "Ruddigore" which takes place in the picture gallery of Ruddigore Castle, and in which Sir Ruthven Murgatroyd, disguised as Robin Oakapple, tries to persuade his ghostly ancestors that he has lived up the family reputation for being a bad Baronet, and in doing so informs them that on Tuesday he made a false income-tax return. The House may remember that the ghosts of the four previous Baronets reply one after the other: "That's nothing", "Nothing at all", "Everybody does that", "It's expected of you".

I do not know whether my Honourable friend, the Finance Member, has searched the pages of Victorian opera bouffe for evidence of the moral delinquency of the tax-payer, or whether he regards us all as living embodiments of the traditions of bad Baronets, hence the introduction of his Bill, but nonetheless I make him a present of that piece of literary evidence, and I propose, in order to keep abreast of the times in which the tax-payer is

asked to be generous, to cap it with another quotation. "To tax and to please, no more than to love and to be wise, is not given to men". For my part I am disposed to agree with Burke, and I daresay it is redundant for me to warn the Honourable Member that he must not expect his popularity in this House not to suffer a reasonable decline in the course of the debates on this Bill.

Sir, the House will not expect me, at this stage, to comment in any detail on the specific provisions of the Bill. It is true we have had the Report of the Enquiry Committee in our hands for some time, but that volume contained recommendations and proposals while this Bill suggests what should be the law, and that is a very different thing. During the past week we have not had time to do more than make a very cursory examination of the Bill. It is a very technical Bill and much more time and a much closer examination will be required in order to estimate fully the effect of the various changes that are proposed to be made in the income-tax law. But I may say this. On such examination, as we have made, I should like to congratulate the Honourable Member and his Department on the speed with which they have produced a very complicated Bill, as I understand that when the Report of the Enquiry Committee became available just over a year ago a considerable amount of time was left for the Chambers of Commerce and other Associations to make representations before the Government began to form their conclusions on the Report for the purpose of drafting a Bill.

Sir, it will be within the recollection of the House that the European Group have consistently urged that if by tightening up the administration of existing taxation, fresh taxation can be avoided, then that is obviously the right policy to pursue, and in so far as the Bill has that object it has our general support. There is, however, one principle that I feel it is necessary to lay down in that connection. In our opinion all policy in respect of taxation must be regulated largely by what is the normal case. By that I mean it would not be right to impose a large number of additional restrictions and limitations on the general body of tax-payers just because there might be one or two bad cases of evasion here or there. Unless the loop-holes in the law are of such a nature that tax-dodging is not only easy, but is also widespread, we should agree with the utmost reluctance to the imposition of further inquisitions and restraints.

There are one or two other general principles of taxation to which I shall refer in order that the House shall know the frame of mind in which the European Group will approach the specific proposals in the Bill. In his speech the other day the Finance Member referred to the observations of the President of the Federation of Indian Chambers of Commerce and Industry to the effect that revision of the Income-tax Law might lead to a permanent set-back in the development of indigenous industries. I do not wish to enter into that particular dispute, but I should like to say this. We believe that taxation should be the very minimum, required to meet the minimum of national expenditure because, we believe, that money in the free disposition of the individual has a greater utility, and also performs a service to the State which cannot be overlooked. Money saved and invested provides the sinews of commerce and industry, but money cannot be saved, and still less can it be invested, if there is not an adequate margin over expenditure. It is, therefore, of the greatest importance that taxation, and this is particularly true of income-tax should not make too great an inroad on that margin and so diminish the essential supply of

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capital. What is a fair and adequate margin of income over expenditure is, no doubt, a matter on which the opinion of the individual and the opinion of the Finance Member will differ. I feel it therefore necessary to give a warning of this further danger. Money will not flow freely into hazardous and enterprising forms of investment,—forms of investment which may ultimately prove to be of great economic value to the community,—unless the margin over expenditure is sufficiently great to justify the risks that have to be taken. Whenever the margin is small or is unduly encroached upon by excessive taxation you may take it as a general rule that there is always a tendency for capital to stagnate since it will flow mainly into safe forms of investment such as Government securities. To the extent to which that is true industry is deprived of the possibilities for expansion of which it might otherwise avail itself.

Before I proceed further I should like to set beyond the possibility of doubt the attitude of the European Group towards the specific motion now before the House. We have all along made it clear,—and this was the object of Sir Leslie Hudson's questions a year ago,—that we must have time to consider the Bill and estimate its practical consequences. By that I do not mean time merely to examine the Bill in our room along the corridor, but time to consult with and hear the opinions of the interests that will be affected by these proposals now that they have been translated into a definite piece of suggested law. As I said a moment ago it is one thing to consider the proposals of an enquiry committee and quite another thing to consider the strict letter of a law from which there may be no recourse and by which we shall have to abide or suffer the penalties. The two considerations that have been uppermost in our minds have been these. In the first place there must be adequate time for consideration and in the second place the Honourable Member's programme in regard to the Bill must not be unnecessarily obstructed. We are prepared to accept the compromise suggested by the Honourable Member, Mr. Jinnah, last Thursday, which was accepted by the Finance Member, and I understand from what the Leader of the Opposition has said this morning, by him also, that his motion should be agreed to now and in the meantime the Bill should, by executive order, be circulated for opinion by the 15th August next. That at least ensures that the meetings of the Select Committee will not commence until after the middle of August and that between now and then no further proceedings will be taken on the Bill in this House. The Honourable Member mentioned the other day the importance from his point of view of the Bill being passed into law by the 1st April next. In so far as that may be possible we shall endeavour to help him, but we are bound to look at the matter from an angle rather different from that of the Finance Member, and while we are prepared to bear our just burdens we must be satisfied that they are just and equitable and in our attempt to secure that we should prefer not to be unduly rushed. But having said that I should like to add that we have heard no arguments which we regard as convincing for throwing out the Honourable Member's motion for a Select Committee coupled as it is with the special undertaking in regard to circulation which he has given.

Let me pass from that point, Sir, to a few brief comments on the Bill itself. Listening to the speech of the Finance Member, in moving his motion last Thursday, I thought he did less than justice to the extensive changes which his Bill makes. A great many new provisions as well as

revisions of the existing law are laid down in the Bill, but the Honourable Member disposed of them in a few brief sentences in which he classified them as provisions designed to prevent tax-dodging. If the law as it stands today does not require tax to be paid on income or money received in certain circumstances, I do not see how we can be accused of tax-dodging if we do not pay tax on that income. The Honourable Member seemed to me inclined to overwork the phrase tax-dodging. What he is really doing in his Bill is to extend the field of taxable income. Income received in certain circumstances under the present law is not liable to tax. To the extent to which clause 4, for example, removes such income from the field of exemptions it extends the taxable field. The Finance Member spreads his net wider than he did before and brings into it income not previously taxable.

I should like to refer to one or two other points in the Bill as instances of the extensive nature of the changes that are proposed to be made. That they are extensive will, I think, hardly be denied since the Honourable Member himself estimates that they will increase the yield of income-tax by some seven or eight per cent. The Bill includes, for example, a new definition of dividends and that definition includes any distribution out of accumulated profits made on the liquidation of a company to its shareholders. Then again, in clause 10 a new formula has been devised for the purpose of assessing allowance in respect of depreciation, so that it shall not exceed the written-down value instead of the original cost. That is an important change which may have far reaching effects and while it may appear to be sound in principle we ought to be very careful to see that it does not result in heavier taxation.

Turning to clause 15 it will be observed that the maximum amount of allowance in respect of life insurance is to be limited to Rs. 6,000. Under the existing law the maximum amount of allowance is limited to one-sixth of the total income of the tax-payer. I am not going to discuss that point now, but the introduction of this rigid maximum of a fixed sum may well be found to operate as a discouragement to thrift. Then again in clause 17 the separate incomes of a husband and wife are to be assessed as if they were a single income, and, under this arrangement, whenever the wife's earned income exceeds Rs. 40 a month it will become taxable. That also is a substantial change in the incidence of taxation and may bring into the Honourable Member's net a number of small or part-time wage earners who happen to be married women.

I also notice that in clause 18 the Honourable Member has decided to extend the practice of treating as unpaid collectors of Government taxes all employers and companies and persons responsible for paying interest, and they may henceforth be required to collect not only income-tax but super-tax as well, and not only that, but in certain circumstances, and if ordered to do so by the income-tax officer, they may be required to collect tax at a rate applicable to the world income of the persons to whom they are making payments. Coupled with that provision is the proposal in clause 20 under which companies in the future will be required to undertake a lot of additional work in submitting returns of the names and addresses of persons to whom they have paid interests of Rs. 200 and upwards annually instead of the minimum of Rs. 1,000 as required by the existing law. These and similar points will have to be considered carefully in the Select Committee.

With regard to the new arrangement proposed in clause 25 relating to the carrying forward of past losses as a set off against profits I may say at once that we agree that such an arrangement is desirable. But there again

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it will be necessary to estimate the practical effect of the proposal. The Bill will also enable the income-tax officer to collect tax on income which has escaped assessment over a period of six years instead of one year as at present. That is not perhaps unreasonable, but it is a substantial change and a provision which has retrospective effect to such an extent needs to be very carefully considered.

The Honourable Sir James Grigg: I am sorry the Honourable Member is wrong. It won't have any retrospective effect; there will be no question of going beyond the assessments which we are now entitled to open.

Mr. L. C. Buss: You won't go back to 1933?

The Honourable Sir James Grigg: No, no.

Mr. L. C. Buss: Sir, I have dealt with some of the important amendments which the Bill seeks to make, and I should like now to bring to the notice of the Finance Member a point which arises in connection with his remarks concerning the exemption of agricultural income. It is some relief to our agricultural constituents to know that the agricultural income of the tax-payer is not to be taken into account in fixing the amount of tax payable on his other income. There is, however, this point. The present exemption from income-tax of income brought into British India which is derived from agriculture and which accrues or arises in an Indian State from land on which any payment, whether in money or kind, is made to that State will, I understand, hit a considerable number of people in South India whose means are very limited and to whom this provision will be a hardship. Moreover, in some States the annual payments on land are considerable. Coffee planters who have to send their crops from Mysore to the West Coast, for curing purposes, and who are passing through very difficult times just now, will be affected badly. I hope the Honourable Member is not going to be adamant on this point. The amount of revenue he will get will be comparatively small while the number of persons whose only source of income is the sale of their coffee crop will be comparatively large.

There is another point which is not dealt with in the Bill, but which I should like to put to the Honourable the Finance Member who will be familiar with the arguments advanced in favour of it. It relates to the exclusion of holding companies from participating in the benefits of super-tax exemption conferred upon investment companies. This is a point which has been consistently urged by the business community over a number of years. It is a concession which seems to me to be justified on the merits and equity of the case. By Notification No. 47 of December, 1933, the Government exempted from super-tax so much of the income of any Investment Trust Company as is derived from dividends paid by any other company, which has paid or will pay super-tax in respect of the profits out of which such dividends have been or will be paid. It seems to me an obvious injustice to exempt from double super-tax Investment Trust Companies, a form of company which is new to India and which is not very numerous, while the older holding companies who have contributed largely to Government revenues in the past continue to bear the burden of double taxation.

Sir, the Honourable Member informed us that if his Bill becomes law he will take steps to cancel the Notification under section 60 of the Act which exempts from taxation leave pay and salaries drawn abroad. The

Honourable Member did not say whether such a cancellation would be complete or only partial. May we take it for granted that such a cancellation will apply impartially to all those who normally would come within the scope of the notification?

There is another matter in the same category of points which the Honourable Member referred to but which are not specifically dealt with in the Bill. The Honourable Member let it be inferred that he will deal in the Finance Bill next year with the question of replacing the existing "step" system of income-tax in India by the "slab" system as recommended by the Enquiry Committee. It will be within the recollection of the House that when the Finance Bill was under consideration in the House a few weeks ago I specifically referred to this matter and expressed the hope that when this change takes effect he will bear in mind the remaining third of the surcharge on income-tax when he calculates the new scale. I should like to repeat that hope and in doing so to add this further point. It is true that when the Finance Bill comes before us we shall have an opportunity of examining the new scales of income-tax and making suggestions, but Finance Bills in this House have a habit of being certified, and we may find ourselves in the same position next year. I should like, therefore, to express the further hope that the change-over from the "step" to the "slab" system will not be looked upon by the Honourable Member as a convenient opportunity to increase, by variations in the rates here and there, the yield of income-tax. We believe that the "slab" system is a fairer and more equitable way of assessing income-tax but, as I say, I hope the Honourable Member, who has come down so heavily on the artful dodgers of income-tax, will not himself fall from his eminence of rectitude and succumb to the temptation of using the confusion which the change-over will cause as a dodge to increase the income-tax. (Hear, hear.)

Mr. President, before I sit down I must refer to the general argument which the Finance Member put before us in justification of his Bill. It was an argument which he expanded in considerable detail, and it was an argument which is bound to tell in this House, namely, that the Bill if passed into law will release further funds for the Provinces for social reform and reconstruction. The Honourable Member stated that in the initial period the Provinces would get, as a result of this Bill, three crores from income-tax instead of two crores as at present. That is a very tempting argument and I don't think any of us would wish to put ourselves in the position of having been responsible for depriving the Provinces of the further funds which we know they need. But there is another side to the picture, and telling as the Honourable Member's argument is, I think it is important that we should not lose a true sense of perspective. The Centre in the matter of taxation cannot be divorced from the Provinces. The income-tax payer who provides the Finance Member with his thirteen or fourteen crores a year is also the person who bears his proportion of the taxes levied by the Provincial Government. During the past few months there have been several additions to provincial taxes. Laws have been passed relating to new taxes on professions, trades and callings, the sales of tobacco and other commodities and so forth. All these mean more and more money from the tax-payers and the additional crore or so which this Bill will take from the pocket of the tax-payer must not be regarded as the only addition to the burdens which the tax-payer is being called upon to bear at the present time. This is precisely the point to which I referred a few weeks ago on the Finance Bill, namely, that we should like some-

[Mr. L. C. Buss:]

guidance as to the incidence of taxation, both Central and Provincial, to enable us to judge with more accuracy the equity and fairness of the proposals of my Honourable friend.

Sir, the tax-payer is a very useful member of society. He is not, and never has been, over-represented in this House, and while the case for additional taxation is always put with enthusiasm and seldom goes by default, the case of the tax-payer who has to foot the Bill is often given a very scant hearing. The Honourable Member in his speech referred to the probability that we were running into another economic depression. The effects of additional taxation cannot, therefore, be lightly dismissed, for it must be remembered that the inescapable danger of excessive taxation lies in the fact that it takes most from those whose capital is being most effectively and most usefully employed. If the Honourable Member fears about an economic depression have any reality we must think not once, but twice and three times before we take any steps which will diminish the opportunities of building up reserves of capital to help us through that crisis if it comes.

Nonetheless we recognise that the Honourable Member has his difficulties to meet, and we should like to help him as far as we can, and it is in that spirit that I beg to support the motion to refer the Bill to a Select Committee.

Mr. N. M. Joshi (Nominated Non-Official): Mr. President, I rise to support the motion that the Bill be sent to the Select Committee.

I do not wish to speak on the detailed clauses of this Bill. I wish to content myself by making a few general observations regarding the subject included in this Bill. At the outset, I would like to support the remark made by my Honourable friend, Mr. Ananthasayanam Ayyangar, that the Government should have brought forward a Bill to consolidate the Income-tax Act instead of an amending Bill. If the Bill had been a consolidating Bill, the Assembly would have got a better scope for making changes in the present Income-tax Act. The Bill being an amending Bill, that scope is extremely limited. Moreover, a consolidating Bill is much better from the point of view of understanding. After all, we are not all lawyers and income-tax experts. We want a simple Bill, and a consolidating Bill is a more simple Bill for a layman to deal with. I would make one suggestion to the Government of India in order that an ordinary Member may be able to understand the provisions of this Bill better. I would suggest that they should print side by side the clauses of the Bill, the sections of the Original Act and the paragraphs of the Committee of Inquiry, so that when a Member attempts to study the Bill, it will be easy for him to understand it. I would bring to the notice of the Honourable the Finance Member that he is likely to get a better support from the knowledge of his Bill than from the ignorance of his Bill. Then, Sir, I would like to say this. Although some Members may complain that the Government of India is bringing forward this measure only a year after the Report of the Committee of Inquiry and that they had not sufficient time to consider this subject, I would say that the Government of India has been very indifferent to the subject of income-tax and they have been extremely slow in taking action. In the year 1926, a report was made by the Taxation Inquiry Committee. A large number of the recommendations which are included in this Bill were dealt with by the Taxation Inquiry Committee and the Government

of India slept over that report from 1926. The Taxation Inquiry Committee came to some important conclusions regarding the rates of income-tax and regarding the administration of the Income-tax Act. The Taxation Inquiry Committee found out that our indirect taxation had reached such a point that the burden of taxation was shifting from the richer classes to the poorer classes to a great extent. Unfortunately the Government of India is not interested in the transference of the burden of taxation from the richer classes to the poorer classes and, therefore, they slept over the report of the Taxation Inquiry Committee since 1926. Then, Sir, the Taxation Inquiry Committee made several suggestions which are now endorsed by the new Committee of Inquiry. The Government of India should have given attention to the proposals of the Taxation Inquiry Committee with the result that several of the reforms which they propose to make now would have been made long ago. Then, I want to make another remark. Although I am prepared to give credit to the Honourable the Finance Member for having brought forward an Income-tax Bill, when his predecessors failed to do so for several years, still I cannot much admire the political judgment of the Honourable the Finance Member. During the two previous years, the Honourable the Finance Member reduced the surcharges on income-tax on the ground that his predecessor had given a pledge that, when the finances of the Government of India would permit, he would give first preference to the removal of the salary cut and then to the removal of the surcharges. I feel, Sir, that the Honourable the Finance Member was not justified, considering the financial condition of the Government of India, to remove these surcharges. If the Honourable the Finance Member had political foresight, he would have known that, although there were some apparent surpluses in his budget, there was going to be a constitutional change; there was also going to be a change in the world and, therefore, he should not have made haste in reducing the surcharges.

Then, Sir, I would like to say that this Income-tax Bill contains provisions, firstly, for bringing into the scope of the Income-tax Act some new classes of income. In this connection, I would like to point out to the Government of India that although the Government of India Act does not give power to the Government of India to tax the pensions of certain classes of Government servants when received outside India, there are Government servants whose pensions can be taxed even under the present Government of India Act though they may be received outside India. It is not enough that the Government of India should bring the leave salaries within the scope of the Income-tax Act. They must remove the exemption given to certain classes of Government servants, who are generally highly paid Government servants, as regards their pension. Then, there are the employees of the commercial firms who enjoy the pensions outside the country. I do not know why they should be exempted from the payment of the income-tax. Then, Sir, the Government of India have made two classes of people for assessing them for income-tax on their incomes outside India. One class they call 'residents' and another class they call 'domiciled people'. I do not know whether there is any real ground for making this distinction between the two classes of people. The class of people who are

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included among the residents live in India for over 30 years and 40 years and they are as much domiciled in this country as the other domiciled people. I do not know, therefore, why any distinction should be made between residents and domiciled people. As a matter of fact, the Enquiry Committee did not make that difference while the Government of India goes out of its way to make discrimination in order that some class of

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people should be exempted from paying Indian income-tax on certain classes of their incomes.

Sir, the income-tax is based upon the citizen's ability to pay taxes and the fact whether his income is derived from his transactions in India or whether his income is in India or outside India does not determine his ability to pay. His ability to pay depends upon his whole income, whether that income comes out of India or comes from India. I, therefore, feel that there is absolutely no justification for making any distinction between residents and the domiciled. The Honourable the Finance Member stated that there must be distinction between residents and domiciled people in order that there should be no discouragement for capital coming to India and that there should be no encouragement for capital being exported out of India. I think his fears are thoroughly unjustified. The income-tax of a country does not prevent capital entering. People will bring capital here, if there is sufficient scope for making profits and the income-tax is levied on the profits made. I have absolutely no doubt that even if foreign capital is taxed, foreign capital will continue to come to India. Moreover, we Indians are not very anxious that foreign capital should come to India in spite of the fact that the Honourable the Finance Member has told us that the interests of the masses will suffer if foreign capital does not come to India. I do not know whether the interests of the masses have gained much by the foreign capital coming to this country. But I know this that every rupee of foreign capital that comes to this country forges an additional link to the political fetters of this country. Most of the safeguards that are introduced in our constitution are due to the fact that we have a European Group in this Legislature and a European population in this country. I, therefore, feel, Sir, that foreign capital should not enter this country. We shall prefer that. It is, therefore, wrong to make any discrimination between the people who reside and the people who are domiciled. Moreover, if people work in our country and make profits in our country why should not encouragement be given to get domicile here. They will not and they do not want domicile in this country. On the other hand the Honourable the Finance Member gives them encouragement to become mere residents, birds of passage, and go back to their country taking away all the profits. We want people to come to our country and if they make profits here, they should settle down here. But the Honourable the Finance Member gives them encouragement not to stay here but to leave our country. We, therefore, cannot support the argument of the Honourable the Finance Member.

Then, Sir, the Honourable the Finance Member tells us that capital has come to this country on certain conditions, namely, with the knowledge that the incomes made in foreign countries will be exempted. If you once accept that argument where is the limit? Every new taxation, every new proposal of the Government of India will make some change in the conditions under which industry and trade are carried on in this country. If at every time a change is made, the argument is to be used that vested interests have been created; then, Sir, no new reform is possible in this country at all. Therefore, the argument that capital was invested in this country under certain conditions and, therefore, those conditions should not be changed, is absolutely hollow.

There are one or two items which the Honourable the Finance Member ought to have included in order that there should be more revenue for the Government of India and Provincial Governments. The Taxation Enquiry

Committee has pointed out that the planters in this country have been very lightly taxed. I shall read two lines from the Report of the Taxation Enquiry Committee:

"In view of the system on which much of the land under plantation is held, it seems to the committee that these assesses may be deemed fortunate in securing the benefit of the exemption."

There are several other classes of incomes which are still lightly taxed and which still escape paying income-tax and the Government of India should take steps to bring them all in. In this connection, I would like the Government of India to realise the effect of their policy in exempting people who do not reside in this country and who want the advantages of trading in this country and escape taxes. Sir, if once the Britishers try to exempt themselves from taxation and if the Britishers in India become a privileged class, they may enjoy their privilege for some time, but I am quite sure that their privileged place in this country will not be to their ultimate good. We Indians are not expected or cannot be expected to like people to hold privileges in our country. If they want our goodwill, certainly they must agree to surrender their privileges some time. The earlier they do so, the better for them.

Sir, this Bill has also made provision for preventing what the Honourable the Finance Member called legal avoidance. In this connection, I would like to say one word about what my Honourable friend, Babu Baijnath Bajoria, said in his speech. He said that the present proposals of the Finance Member are discouragement to the joint family system. Sir, people who want the joint family system cannot have it both ways. If they want to have the advantage of the joint family system to reduce expenditure, then certainly they must take the disadvantages of the joint family system in the matter of taxation. Moreover, I am not one of those people who admire the joint family system, I feel the sooner the joint family system comes to an end the better for the people of India.

Then, Sir, I would like to say one word about the proposal to throw the responsibility on the citizen to declare that his income is liable to income-tax. Sir, I do not believe there is much force in the statement that there are many income-tax payers who are illiterate. In my judgment, there are very few illiterate people who are income-tax payers. However, Sir, I would like that the Government of India should take steps, in order to avoid the unpopularity of this taxation to bring home this responsibility to the citizens by some gradual steps.

Sir, I would now like to say one or two words about the slab system. There is no doubt that it is a good system and much better than the step system, but I should like the Government of India to consider whether it is enough merely to introduce the slab system without changing the rates. The Taxation Inquiry Committee considered this question and they pointed out that certain incomes are taxed at a very low rate. They said that incomes between £1,000 and £10,000 are very lightly taxed. I want to know what steps the Honourable the Finance Member is taking to remove what I may call the inequality or low taxation on certain classes of income. We all know that the Government of India are very solicitous about people having this income because most of the important functionaries of the Government of India and in the higher services are people whose incomes range between £1,000 and £10,000. It is for that reason that the rate for assessing these incomes is kept specially low. The Taxation Inquiry Committee has pointed that out. What the Government of India are doing

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is a wrong thing and they stand exposed. Is it not time, Sir, that the Government of India should correct their mistaken or deliberately wrong policy?

Sir, before I close I should like to say a word or two on the general questions. The Honourable the Finance Member has dealt with the questions raised by the President of the Federation of Chambers of Commerce. My Honourable friend, Mr. Buss, also discussed the question as to whether the present Bill is likely to affect adversely the trade and industry of this country. In the first place, Sir, the income-tax in our country as compared with the income-tax in other countries, e.g., Great Britain, is much lighter. In spite of that fact trade and industry is flourishing in Great Britain and there is no difficulty in getting capital. Then why should there be difficulty here in getting capital for trade and industry when the tax is much lighter? Secondly, the additional incidence provided by this Bill will be extremely small as compared to the total income from income-tax. Therefore, there is absolutely no fear that trade and industry will suffer or will be adversely affected by this Bill. Moreover, when people tell us that if money is not taken away from them by way of taxation there will be plenty for investment in trade and industry. But what is the guarantee that the Government of India does not take, say Rs. 1,000 or Rs. 5,000 from a particular man that that man will invest that money in a trade or industry? It may be that the man will squander the money in some kind of luxury; and, therefore, it is much better that the Government of India should take the money instead of its being squandered. I feel that the Government of India should take as much money as they can get from people who can afford to pay. They should take money according to the ability to pay, and if trade and industry require money and if the Government of India have taken a surplus amount, certainly that amount may be invested in trade and industry by Government. I, therefore, feel that there is absolutely no substance in the argument that the present Bill is going to affect our trade and industry adversely. Moreover, even if the income-tax is not tightened, as the Bill proposes to do, there is no guarantee that there will be more investment in trade and industry.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member, if he wishes to continue his speech, may do so after Lunch.

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

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

Mr. N. M. Joshi: Mr. Deputy President, when the Assembly adjourned for Lunch, I was pointing out that the new Bill was not likely to affect adversely the investment of capital in the trade and industry of this country. Sir, the income-tax falls upon the profits, and there is no reason why, so long as an industry is making profits, there should be any discouragement for the investment of capital in the trade and industry of this country. Moreover, Sir, we are living in times when capital is not very scarce. There is enough capital, and Government is getting money now at cheaper and cheaper rates, and I am quite sure, Sir, that if people have confidence in industrialists and those who engage themselves in trade, they will get enough capital.

Sir, the Honourable the Finance Member in order to secure support from some Parties in this House for his Bill tried to make out that this Bill would provide the much needed finance for the Provincial Governments. Sir, I have no doubt that this argument has got great force behind it. At the same time, the Finance Member does not quite realise the political situation in this country. The Ministers in the provinces, especially in the Congress Provinces, may need money, and I have no doubt they do need money. If you have heard their speeches, as I have heard, many of them have expressed their regret that they could not undertake many essential schemes for the development of the country for want of money, but, Sir, these Ministers, especially the Congress Ministers, are not quite free people. There is the Congress High Command, there are the dictators and super-dictators, and the Ministers can only ask for money if they are permitted to do so. Therefore, it is much better if the Finance Member makes his appeal to those high quarters instead of to the Members of some of the organized Parties in this House. Judging on merits, I have absolutely no doubt in my mind that the Ministers in the provinces do need money at present very badly. On account of the changes in the constitution and the establishment of the new regime, demands are made on all these Ministers for undertaking several schemes. People want education to be developed, public health to be improved. At one time it was suggested that we should have self-supporting education, but that myth is now exploded. Therefore, it is clear that if the Ministers want to undertake schemes for development, they will need money, and this Bill may provide them with at least a portion of the money which they need. My friend, Mr. Buss, suggested that the Government should make an inquiry into the incidence of taxation from time to time. I am in favour of such an inquiry not only from time to time, but I would suggest that the Government of India should publish a report on the incidence of taxation every year. I would make one more suggestion to them, and it is this, that whenever they publish a report on the incidence of taxation, they should take into consideration and also make an investigation into the ability of the people to pay taxation. The incidence of taxation is to be judged by the ability of the people to pay, and, therefore, Government should find out what incidence falls upon people who have absolutely no ability to pay, what is the proportion of the incidence that falls upon people who have got sufficient and perhaps more than sufficient ability to pay.

Before I sit down, I would like to deal also with one other remark made by Mr. Buss. He said that the right policy for India is that we should have minimum of taxation and minimum of expenditure. I feel, Sir, it is not a right policy. What India needs today is development and very fast development, and you cannot make bricks without straw. If you want the country to be developed, we shall require money. What India, therefore, needs is a policy of securing as much money as we can by a right method of taxation and spending the money as wisely as we can. On account of the changes in the constitution we can trust that the Ministers in the provinces will be able to devote the money which may be placed at their disposal for good purposes, and I have no doubt that public pressure will be exerted to see that the money which is placed at their disposal is wisely spent. Therefore, we have to see that the Government of India and the Provincial Governments take steps to secure the money which they need by methods of taxation which will fall upon people according to their ability to pay.

Mr. Brojendra Narayan Chaudhury (Surma Valley *cum* Shillong; Non-muhammadan): Sir James Grigg has been in this country for nearly four years. Since he has been in this country he has been intending to bring in a comprehensive measure of Income-tax Bill on an equitable basis. In four years he has produced a draft Bill which is before us. I welcome the draft so far as it goes, but I had expected from a great Finance Member like Sir James Grigg that he would bring in a measure which would be based on an equitable principle. The most important or the fundamental principle which we have to bear in mind is the personal ability of the assessee to pay tax. Personal ability of the assessee to pay depends primarily upon the family expenditure which he has to incur. Our income-tax system in this country, unlike the system which prevails in the United Kingdom and in the Dominions, takes no note whatsoever of the family's essential expenditure. This point has been discussed by the Committee, the expert Committee as it is called,—it was only a departmental committee, a Committee, I may say, composed of only clerks of Inland Revenue Department,—I am not using the word “clerks” in any disparaging sense,—the Vacha Committee are indeed experts in their own field; I submit that some of the recommendations which they have made are beyond the jurisdiction of departmental experts. It requires state financiers, it requires statesmen, it requires economists to come to proper decisions on incidence of taxation because those recommendations require a consideration of the social habits and the domestic structure of the peoples concerned. The Vacha Committee tried to tackle this question of the ability to pay and the allowance that should be made for family, by saying that the limit of taxation of Rs. 2,000 in this country amply provides for family expenses. Such a recommendation has put the Honourable the Finance Member on the horns of a dilemma. If he says that this Rs. 2,000 allowance is on the scale of a family of husband and wife, then he has to admit that the sum of Rs. 2,000 is quite insufficient for a joint family, of, say, six brothers and six wives. On the other hand, if he says that this Rs. 2,000 is the scale for a family of six brothers and six wives, I would say that he is unduly lenient to single-blessedness or to a single pair. Let the Honourable Member take courage and try to put the income-tax system on a scientific basis by adopting the personal allowances for the assessee, his wife and children and other dependants, if not all the dependants, at least the legal dependants. This system prevails in most civilised countries. I know that the Honourable the Finance Member does in his heart feel that our system is not satisfactory but he has not got the courage to tackle it, because he knows that this country consists of large number of big joint families, and if the system I propose is accepted, his income from the smaller assesseees would come down and consequently in order to make up for the loss he would have to assess the rich mercantile community, European and Indian, at a much higher rate. He has a soft corner in his heart for that community, particularly for foreign capital which is invested in this country. The result is that there are complaints, loud complaints whenever it is proposed to aggregate the agricultural income when calculating the rate at which the assesseees should pay.

In this House we have heard loud complaints against assessing the undivided Hindu family in the aggregate. The other day my Honourable friend, Mr. Bajoria, gave expression to it. This protest is not for the first time. When the flat rate of income-tax was in vogue, the same rate for all incomes, big or small, before the year 1916, there was no complaint because it did not matter much whether the family was big or small. But

since the grading of the income-tax in 1916, I see that the Hindu joint family system has been sought to be penalised. Protests have been heard in Central Legislature that if six Muhammadan—rather let me say, non-Hindu—brothers are joint in property and in mess, according to our income-tax law they will be assessed separately, but the moment they declare that they profess the Hindu faith they will be taxed jointly and sometimes the tax is three times as heavy. I ask Honourable Members in this House, is it not going back upon the so-called assurances of the Queen's Proclamation that no subject to His Majesty, shall be penalised by reason of the profession of his religion?

As soon as the Vacha Committee proposed to aggregate the agricultural income with the other assessable income there was an outcry, particularly in Bengal. I cannot distinguish between income derived from agriculture and that from other sources so far as income-tax is concerned. There was a similar outcry that the permanent settlement was being encroached upon, when income-tax was first levied just after the Mutiny. I see no point in that, but at the same time I recognise that there is reasonableness behind this objection to aggregating the agricultural income with the other incomes under our present system. The real reason is this: Most of the joint families in this country have more or less agricultural income, and when the agricultural income is aggregated with the other income, they will find that their income-tax is disproportionately raised, raised to such a level which they are unable to pay and which will press hard upon them. So, if the Honourable the Finance Member will adopt the British system and the system that prevails in other countries, of making full allowance for the personal expense of the assessee, wife and children, it will take away the main, real objection, e.g., inability to pay, against aggregating the agricultural income and against the injustice which is being done to Hindu joint families. Therefore, let the Honourable Member take courage and alter the income-tax system in the way I have suggested. The excuse which he gave the other day for not accepting the recommendation of the Vacha Committee in the matter of aggregating the agricultural income is lame. He said that because all the provinces have not yet decided, or shown any intention whatsoever to levy in the near future a tax on agricultural income, therefore, he is not able to collect income-tax on agricultural income at the Centre. What does it matter if one or two provinces do or do not levy income on agricultural income? I do not see any difficulty in the collection of tax on other income at the Centre by aggregating the agricultural income with the other income. The real reason is to be found elsewhere. The Provincial Governments loudly protested and contended that it would be *ultra vires*. I am not quite sure whether the Honourable Member has consulted the Law Member or his legal advisers whoever they may be, as to whether the proposal to aggregate the agricultural income is *ultra vires* or not. Another reason is to be found in the presence of the European Group over there. In the provinces of Assam and Bengal there is no talk whatever of taxing the agricultural income because it is not liked by the European blocs in the Assam and Bengal Legislatures on whose votes the present Ministries rely. As soon as a tax on agriculture income is levied, I know that it will fall mainly on the planters of Assam and Bengal. At present they are paying income-tax on only 40 per cent. of their income, which is the income from manufacture and sale of tea. The balance of sixty per cent. goes unassessed. To Assam, we could get rupees thirty lakhs as agricultural

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income-tax out of which twenty lakhs would be paid by the European Planters. Our Finance Member will not displease the mighty European Group in the House by aggregating entire 100 per cent. income from tea.

We have heard that a high grade of income-tax is detrimental to industry because it prevents the growth of capital. This view has been expressed by Honourable Members of this House who are representatives of the mercantile community. Suppose a merchant has an income of one and a half lakh rupees, it is a fishy point to say whether after 40 per cent. of his income has been taken away as tax as proposed there will be left any willingness on the part of the individual to save. If he is of saving habit, there is no reason why he should not save as much of the balance as possible. If he be spendthrift he will spend the last pie left. If Government are really suspicious that the rate and incidence of the tax on mercantile income discourages growth of capital, then the best system would be to impose a moderately high rate on the higher incomes and at the same time to levy a higher consumption tax on luxuries such as high priced motor cars. But before we agree to taxation, we must see that all possible retrenchment has been effected. Taxation and retrenchment go together. From the attitude taken up by the Honourable the Finance Member in this House the other day when the Resolution on retrenchment of expenditure was moved, it appears to me that he is only for taking the House into confidence so far as small administrative details are concerned, but he is not willing to take the House into his confidence where questions of policy are concerned. We see the same mentality in this Bill. In 1935, he said in his Bombay statement that the object of the inquiry is only administrative overhaul. There was no formal announcement of the terms of reference to this Committee. The report of the Committee (Introduction para. V) says that it is "to report upon both the incidence of the tax and the efficiency of administration". True, we want an inquiry into the incidence of taxation but this part of the inquiry should not be entrusted to "clerks"—I use the word in no disparaging sense. I mean narrow experts—in the Inland Board of Revenue but should be undertaken by statesmen and financiers. He is unwilling to consult others regarding the income-tax in all its aspects.

What we want is a Bill which will consolidate the whole law of income-tax. Clause 17 deletes section 17 of the Act providing for marginal relief which becomes unnecessary in case of the adoption of the slab system of rates. As regards the merits of the slab system and the step system, much can be argued on behalf of each. It is argued that adequate marginal reliefs will cure the anomalies of the step, and that the slab cannot entirely eliminate anomaly though it is much reduced. Honourable Members will find from the graph at the end of the report that the slab is not an even curve, much less an incline which alone can be perfect system of grading. What I want to suggest is that a minimum amount should be left free and the balance of the income will be assessed at the rate of so much pice per rupee—increased for every additional rupee by a very small fraction of pie, say 1/2000ths to 1/3000ths till a maximum rate is reached. In that case there will be no anomaly. This system of an "incline plane" prevails in some countries of the Union of South Africa. These are considerations for the Finance Bill not now. Now, I come to clause 22 which prescribes compulsory return of income. It says:

"The Income-tax Officer shall on or before the 1st day of May in each year give notice either by publication in the press or by publication in the prescribed manner,

requiring every person whose income exceeds the maximum amount which is not chargeable to income-tax to furnish within such period not less than thirty days as may be specified in the notice a return in the prescribed form," etc.

Now proviso to clause 32 says:

"(a) in the case referred to in clause (a) (i.e., persons who have failed to furnish returns) if such person proves that he has no income liable to tax, the penalty imposable under this sub-section shall be a penalty not exceeding fifty rupees."

Suppose there is a person who believes that he is not liable to income-tax and does not furnish a return to the Income-tax Department but the Income-tax Department suspects that he is liable. On enquiry it is found that he is not liable, even in that case they may fine him to the extent of Rs. 50. He knows that he is not liable to income-tax and, therefore, does not furnish return and still he can be punished for his being right and correct, and this to atone for the sins of the Income-tax Officer, viz., the

3 P.M. officer's undue suspicions. I think it is the Income-tax Officer who should be punished for undue suspicion and not the assessee. Here there is something absurd on the very face of it. I could understand this provision for the imposition of a fine for omission if every person in this country, every citizen, even a labourer and a street beggar, is required to file a return.

Sir, my friend, the Honourable Mr. Manu Subedar, and my friend, Mr. Ananthasayanam Ayyangar, and many other Honourable Members of this House have pointed out how the foreign income invested in this country is being treated favourably and how Indian income from investments abroad is being discriminated against. The Honourable the Finance Member says that he does not want to discourage foreign capital being invested in India. His fear is that when that is taxed high it will fly away. Sir, speaking for myself and in fact for all who come from general constituencies, I say we are labouring under a difficulty. My friend, Mr. Manu Subedar, expressed his opinion more as representing mercantile opinion. As regards the Vacha Committee's Report it is only the mercantile community that has expressed its opinions and no others. Though this heavy volume of 500 pages has been flung on our face they do not contain any opinion outside the mercantile community. No opinion from professions, bar, medical, etc., and none from country gentlemen of the General Constituencies, except the Amritsar Bar. Now, therefore, I have to give my personal opinion only. We are not to be scared away by the canard that if foreign capital is gradually exported from this country, that would be bad; it would not fly away. If it did we should welcome it. Sir, during the years 1920-22 when the exchange rate was so high that the rupee could fetch 2s. 10d., I know a lot of European people in this country transferred their resources to England and those Indians who purchased shares from European holders gained much. In 1932, before the control of export of tea I know many European gardens were sold and Indian planters bought these. So I would not be scared away by this threat of the flight of foreign capital; we would rather welcome it.

Then there is another point. The Finance Member says that we require more capital for this country and should discourage Indian capital going out of the country. Now, what is the reason why Indian capital is being invested abroad and not invested within the country? Has he looked to that aspect of the matter? It is because the best fields of investment have already been occupied and secured by foreign capital, and it is, therefore, that our Indian capitalists are obliged to send out their capital abroad. I need only take two instances from my part of the country—tea and jute.

[Mr. Brojendra Narayan Chaudhury.]

Now both these kinds of concerns are more than fully owned by foreign capital. There is no vacant field for Indian capital to enter. If we enter they kill us by unfair competition, *e.g.*, shipping. So, if you want the foreign capital of Indians invested abroad to come back to this country you should see that the foreign capital invested in this country, so far as it lies in your power, through taxation, is gradually withdrawn; and I should, therefore, think that he ought to accept the suggestions thrown out by Honourable Members of this House to give no concessions and allowances to mere residents.

Now, as regards appeals, the Vacha Committee recommended a tribunal as the ultimate court of appeal. I know from my experience in this Session that eminent lawyers on both sides, the opposite and my side, of the House do not agree to a tribunal. They are enamoured of High Courts with which they are connected. But, in this case where the question of assessment is concerned, I should think that a tribunal is the best body. The High Court Judges are strong in law and in legal knowledge but with regard to assessments a mixed court with businessmen having experience of assessment in various spheres of life is the best thing. But the Honourable the Finance Member has rejected that proposal.

If it is not too late, I would ask him to reconsider all the recommendations made by the Vacha Committee together and not legislate piece-meal. The Honourable the Finance Member has accepted forty eight of those recommendations, he has rejected nine, and on five or six he has reserved his decisions. I say the Honourable Member ought now to say what decision he has come to with regard to the five points on which he holds his decision in abeyance. If it is not too late, I would implore him to bring in a comprehensive Bill so that we might thresh out the subject matter of income-tax from every standpoint without being unduly hard on the undivided Hindu joint family, without being unduly favourable to foreign capital invested in this country or to the foreign income of residents. Let him alter this Bill into a comprehensive consolidating Bill so that we might bring in any amendments we think proper and have them considered by the House, and in that way I say the Honourable the Finance Member would go away when his time comes from this country with the reputation of great financier and a real benefactor of this country.

Maulvi Abdur Rasheed Chaudhury (Assam: Muhammadan): Sir, the Statement of Objects and Reasons is so short that very few of us could make out what are the reasons for introducing this Bill. We find from the introduction of the Vacha Committee Report that throughout the recommendations they wanted to secure the fairest treatment for the honest taxpayers and to strengthen the Department against all legal avoidance. We shall see for the present whether the honest taxpayers are getting the fairest treatment in this amended Bill. We will also see whether the Department is getting strengthened so far as the legal avoidance of taxation is concerned.

Sir, I agree with the Leader of the European Group when he complained that the Finance Member's statement in the introduction of the Bill was not exhaustive. He did not touch many aspects of the question. He did not touch the economic condition of the people. He did not say what will be the effect of the amending Bill so far as the trade and industry of the country are concerned. A statement of this nature

would have been helpful to understand the principle of this amending Bill. The Bill is to be judged whether the people concerned have got the capacity to pay any more taxes. From the annexures enclosed to the Simon Commission's Report it has been shown that the average income of an Indian is Rs. 110 per annum. This was before the depression set in. We know the effect of the depression on the income of this country. It can be safely taken now that the average income of an Indian is not more than Rs. 60 or Rs. 70 per annum, that is to say, the masses are eking out an existence with something like an earning of Rs. 5 a month. Such being the case, it can be easily judged that there cannot be any savings in this country and it can be easily said that there is no wealth in this country.

Now, Sir, I really sympathise with the Finance Member because of the bad plight he is in so far as India's finances are concerned. In his speech while introducing the Finance Bill he showed how he depleted almost all the sources of reserve in bringing out a small surplus of 7 lakhs of rupees. He has now no available sources of income with which to balance the budget and so he is anxious to have new sources of income by hook or by crook. Let us see whether in this desperate condition he is throwing his net in the right direction or in the wrong direction. The sources of income, as I have said, are almost dry in this country. Lord Macaulay, speaking in the House of Commons in 1883, remarked that the net revenue of India was the largest in the world with the exception of France. That is to say, India in 1883 was the richest country in the world except France. Where has that wealth gone now and why is it that the Finance Member is in need of money? That is the question that needs to be examined. We find from the report of the Macmillan Committee that in 1933 Britain's foreign investment was four thousand million pounds, and of this one-fourth was invested in India. That is to say, the Indian investment of Britain was one thousand million pounds or something like 1,300 crores of rupees. All these investments are bringing in interest and dividend at the rate of 5 per cent. and not less. By these investments, therefore, Britain is taking away from India something like 65 crores a year. Let us see whether this stands alone. According to some other calculation, the annual drain of money from India is 161 crores.

The Honourable Sir James Grigg: Whose calculations are these?

Maulvi Abdur Rasheed Chaudhury: I am quoting from Berry and Jata's Indian Economy. Now, Sir, that is not all. We are paying in the shape of invisible imports a very huge sum in comparison with this 65 crores of rupees of foreign investment. The British and foreign shipping take away 35 crores a year; exchange and other commission of foreign banks, 21 crores; business gain and salaries of persons of British nationality engaged in industries such as coal, jute, tea, 40 crores; and, as I have said, the interest on investments comes to 65 crores. So, the total comes to 161 crores. This is exclusive of Home remittances, etc., this with the above makes 220 crores a year.

The Honourable Sir James Grigg: It is all wrong.

Maulvi Abdur Rasheed Chaudhury: No, Sir, a country like India has got its annual income of 2,500 crores only and out of this income 161 crores are going out of the country every year.

The Honourable Sir James Grigg: It is not.

Maulvi Abdur Rasheed Chaudhury: Yes, it is going out. I am not speaking from my memory but I am quoting from an authority. So, you can easily imagine that with a huge drain of 161 crores a year no wealth can remain in this country.

Now, Sir, I find that the Government machinery in this country has not been organised for the purpose of producing wealth and accumulating wealth in this country. The official review "India in 1922-28" expressed clearly that the country is not at present organised for the production and accumulation of wealth. This is the policy which is responsible for the poverty of India. Between 1833 and 1933, in the course of 100 years, India has been drained—how many crores, you can easily calculate at the rate of 161 crores per annum. This has made the country poor and this is the policy of the Government which is responsible for the poverty of this country. Let us see whether in this amending Bill, the Honourable the Finance Member is taking into consideration to tax any of these invisible incomes or the interest and dividends in the shape of foreign incomes. I would have been glad if the Honourable the Finance Member had shown his greatness by bringing in a Bill which would be equitable and just to all alike—Indians, Europeans, foreigners, whoever they may be.

Coming to the Bill, what do we find? The most glaring thing which attracts notice is the exemption section, that is section 60 has not been amended. Of course, the Honourable the Finance Member gave assurance, which I could call only lip assurance, that if this Bill is passed in substantially the same form as he has presented, he would consider whether he would tax some of the exempted sources of our revenue under section 60, that is whether he could tax the salaries and leave allowances paid outside India. My Honourable friend, the Finance Member, himself said that this source would bring in something like 16 lakhs. I ask him first of all why did he not incorporate it in the body of the Bill.

The Honourable Sir James Grigg: It is not necessary. I explained it.

Maulvi Abdur Rasheed Chaudhury: I dare say it is necessary. If you had brought it in the body of the Bill, the House would have been given an opportunity to look into the changes that might be contemplated hereafter. The House would thereby have some control over it. So far as the pension paid in Britain is concerned, that is exempt from taxation under section 272 of the new Government of India Act which we are all condemning and which we would like to replace by a new Act suitable to us. The pension paid by non-official bodies, mercantile people, can be made subject to income-tax. According to the Honourable the Finance Member that source might bring in something like nine lakhs. In order to get this Bill passed substantially in the same form as he has presented, he has promised to give an income of about 25 lakhs. That is a very good assurance and a very good promise. We all appreciate that. Now let us see by asking us to pass this Bill in substantially the same form, what amount do we lose in the shape of exemption from income-tax. I take section 53, relief from double income-tax. This item has been so fully dealt with by my Honourable friends, Mr. Manu Subedar and Mr. Ananthasayanam Ayyangar, that I do not want to deal with in any detail. But I must add that why in this 20th Century, when everybody has got his political consciousness, why a discrimination is made

between Indian and non-Indian. According to the Honourable the Finance Member this discrimination has cost India something over 1 crore and 84 lakhs a year. Now, Sir, the Honourable Member is trying to squeeze out of the dry source of India more money leaving others untouched. He tells us that by the amending Bill he would bring in another crore to be given to the provinces, that is he would give three crores instead of two crores. I find that the refund of this double income-tax system will give him an income of one crore and 84 lakhs. Why does he not bring in that tax under the Bill? If the Honourable Sir James Grigg wants to be big, I think he should rise to the occasion.

The Honourable Sir James Grigg: And repudiate obligations.

Maulvi Abdur Rashid Chaudhury: He should bring in a just measure based on equitable principles affecting everybody, Indian, European and foreigner whoever he may be in the same way without any discrimination. He does not do that. He gives double income-tax relief to Englishmen. How does this affect India? An Indian if he pays double income-tax, say in India and in Zanzibar, he cannot claim any relief, under the double income-tax relief system. But if a European pays income-tax for his income in England he is allowed relief in India. As my Honourable friend, Mr. Manu Subedar, said, taking care of one's child is the primary duty of the father and not of anybody else. If the Europeans suffer anything by the double income-tax, it is the duty of the British Government and not of the Government of India to give them relief. We in India cannot get any such relief from our Government but such relief is given to the Europeans who pay double taxes here and in their country. This is a gross anomaly in this 20th century and Government should think of amending this clause or omitting this clause altogether so that the bitterness between the Indians and Europeans may not get enhanced.

Then, Sir, another discrimination which at once comes to notice, however cursory a reading you may give to the Bill, is the definition of "resident" and "domicile". This Inquiry Committee defined "resident" in a very just way, as follows:

"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."

This was the definition as recommended by the Committee but the Finance Member has given a different definition in the Bill to "domicile" and "resident":

"a Hindu undivided family, company, firm or other association of persons is resident in British India unless the central control and management of its affairs is situated wholly without British India."

By this "unless" he exempts the British companies from assessment to income-tax. As a concrete example, I will take the agency houses in Clive Street, Calcutta. All these are controlled from London. You do not make them resident for the purposes of income-tax although they are conducting their business in India for 50, 100 or 200 years. I ask whether it is just. Does it show any courage on the part of the Finance Member to exempt British companies from taxation in this way? Let me point out, as I said before, what this is costing India: I said before that British investment in India is fetching 65 crores a year. He is making these 65 crores free from income-tax. If this was assessed to income-tax like other incomes accruing in India, this itself would have given him something like 6½ crores.

The Honourable Sir James Grigg: Sir, the Honourable Member is telling what he knows to be untrue when he says that this 65 crores is free of income-tax. It is fully charged to income-tax and then gets double income-tax relief in both countries.

An Honourable Member: Is that word "untrue" Parliamentary?

The Honourable Sir James Grigg: "Inaccurate", then.

Maulvi Abdur Rasheed Chaudhury: Interest on sterling loan is not assessed to income-tax. I have authority for every word that I am saying and for every figure I am quoting. By the new definition of "resident" he is exempting 65 crores of rupees from being assessed to income-tax.

Now, Sir, in the Statement of Objects and Reasons the Finance Member has told us that he has incorporated in the Bill those of the recommendations which they have accepted but he did not tell us that they were going to distort any of the recommendations of the Inquiry Committee. The Inquiry Committee recommended that section 8 of the original Act should be amended in such a way that interest on some kinds of securities may be brought under taxation. I find that the Honourable the Finance Member has not touched that question at all and he has not brought in any amendment to section 8.

The Honourable Sir James Grigg: The Honourable Member is again speaking inaccuracies,—shall we say?

Maulvi Abdur Rasheed Chaudhury: No. From the legal point of view the Honourable the Finance Member has not done anything to make this Bill better than what it was. I now come to some of the provisions of this Bill. I must say that most of the provisions have been touched upon by previous speakers and it will be simply wasting the time of the House if I go on to touch on everything. I will take only the question of depreciation and I will show how the honest taxpayers are not getting fair treatment from the Finance Member. Let us see what they are going to do in case of depreciation. Under the existing system there is a scale according to which depreciation is given to machinery, buildings and other things. Let me take machinery first. It is a known fact that owing to wear and tear machinery requires frequent overhauling. It was to give some relief to the owners of factories that this system of depreciation was introduced. What we find is that they are introducing a new method so far as the allowance to depreciation is concerned. It is said they would take up the written off value of the machinery in order to give the depreciation on it. This is a novel procedure, because it was not in existence before, but in the Report of the Inquiry Committee I find that this new procedure has been suggested in order to bring this principle in line with what is in vogue in Britain. The question of introducing uniformity between the two countries is very difficult. Conditions in the two countries are entirely different,—one is an exploiter and another is exploited, and so the policy of the exploiter country is quite different from that of the exploited country.

Again, Sir, the burden of income-tax in Britain generally falls on the savings of the people, but here no discrimination is made between savings and actual earnings of the people. Again, in Britain, the trade and industrial systems have been so systematically organised that the Board of

Trade there keeps such a watchful eye over the trade and industries that it is possible to develop their industries to a very successful extent, but no such thing exists here. Here we have our Trades Associations, Chambers of Commerce and other bodies, but they have no effective voice in shaping the policy of the Government in regard to trade and industries. In Britain a word from a Member of the Board of Trade can do away with the Government overnight, but here Chambers of Commerce and other bodies can go on crying hoarse for years without producing any effect whatsoever on the Government. These are the differences between India and England.

Let me now come to the question of depreciation. The Honourable the Finance Member probably thinks that he is the wisest of all the Finance Members who ever came out to this country. That is why he wants to discard all the existing arrangements, believing that all those arrangements were made by people who were far inferior to him in intellect. Now, an allowance of 5 per cent. is made for machinery every year for wear and tear, that the machinery requires overhauling every year and also it requires replacements of parts. That is why depreciation is allowed at the rate of 5 per cent. It is something like helping the owners of factories in keeping their machinery in proper working order. In a poor country like India factory owners cannot purchase new machinery, and the older the machinery becomes the greater the repairs it needs. Now, for instance, some machinery is purchased, say, for Rs. 5,000 this year. When this Bill becomes an Act in 1939, they will take the value of the machinery in 1938 at Rs. 5,000 and deduct the depreciation for one year. It means that if depreciation is allowed at 5 per cent. then the allowance annually granted will come to something like Rs. 250 per annum, and in 20 years time the depreciation will cease. But, Sir, the factory owner will have to use the machinery for years, and as I have said, the older the machinery becomes the greater the repairs will it need. Out of his own capital he will have to buy the machinery, and he will not get any allowance after 20 years, and so he will have to keep it in working order out of his own capital. This is another form of taxing capital and not taxing the income. Now, I ask, is it right to tax capital in assessing income-tax? What fault have these factory owners committed to be penalised in this manner? Is it because that they have been honestly submitting their income-tax returns and paying the income-tax every year that they are going to be penalised in this way? It was not at least the intention of the Inquiry Committee, it might be the intention of the Government of India,—but it was not the intention of the Inquiry Committee . . .

Mr. Deputy President (Mr. Akhil Chandra Datta): May I point out to the Honourable Member that he has now spoken for nearly more than three quarters of an hour. Although there is no time limit, the Honourable Member should know that there are other Honourable Members who are also anxious to take part in the debate. The other Honourable Members will be grateful to him if he finishes soon.

Maulvi Abdul Rasheed Choudury: Very well, Sir, I shall finish in a few minutes. Coming now to the assurance given by the Finance Member that if this Bill is passed as it is framed by the Government, he would consider the question of taxing some of the sources of income falling under exemption under section 60 of the existing Act. Sir, truth is bitter, but we have to speak it out here. This assurance reminds me of a similar assurance which was given by the late Sir Basil Blackett when he piloted

[Maulvi Abdul Rasheed Choudury.]

his Coinage and Paper Currency Amendment Bill in 1927. He then assured the House that the ratio of 1s. 6d. was then a transitory measure, and that so long as it would remain in force, he would keep the price of gold at Rs. 21-8-10. What has become of that assurance? The 1s. 6d. ratio still exists but what is the price of gold now? It is Rs. 34 now. Therefore, Sir, our experience of these assurances has made us somewhat sceptic, and we do not like to believe in such assurances nowadays. If the Finance Member is really sympathetic towards rural reconstruction for which he is showing so much solicitude, I should like him to embody that in this Bill. But if it remains a verbal assurance it can be withdrawn any time; that makes a difference. Then, Sir, the Finance Member has not fixed any limit to the amount of taxable income. Income below Rs. 2,000 is exempt from income-tax; he has not said anything yet that he will keep this limit for assessing the tax. Then, again, he has not said anything about the rate of tax which he will introduce in the next Finance Bill.

One word more and I will finish. The income-tax returns of 1933-34 reveal that at present there are 5,65,000 who have got an income of Rs. 1,000 and over. The same returns show that out of this number 2,21,000 and odd have got an income of less than Rs. 2,000, and only 2,93,000 people have got an income of more than Rs. 2,000 and only over 300 men have more than one lakh. In giving our assent to this Bill we will have to see that the new income-tax that is going to be assessed does not strangle our industries. Of course, it is not the blame of India. As I have said before, we have lost our wealth, we have lost our income, we have lost everything, and Government did not raise a little finger to help in the regeneration of our industrial concerns. Without the help of Government we are trying our very best, we are trying hard, we are struggling to regenerate our lost industries.

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

Now, we want some heavy industries to be established in each provinces, and for that we require money. I have shown that only a little over 300 people in this country have got an income of a lakh of rupees or more. I should like that the Government should not deal such a heavy blow that we may not get any money for the industrial regeneration of our country. I tell you that for the next fifty years India is determined to prosper industrially whether Government helps her or not. We won't tolerate any interference of Government in the industrial regeneration of the country.

Rai Bahadur Seth Bhagchand Soni (Ajmer-Merwara: General): Mr. President, in supporting the motion for circulating the Income-tax (Amendment) Bill for eliciting public opinion. . . .

Mr. President (The Honourable Sir Abdur Rahim): That motion is not before the House; it has been withdrawn. The motion before the House is for reference to a Select Committee.

Rai Bahadur Seth Bhagchand Soni: . . I wish to make a few observations on this important Bill which affects vitally the trade and industry of the country as well as our social structure. I am not opposed to the

Bill as a whole, but several clauses require closer examination and study for which we have not had an ample time. We would be able to discuss them in detail later on when the time comes.

Sir, the Bill is the result of the recommendations made by the Income-tax Enquiry Committee whose report was published last year. It is designed to secure the fairest possible treatment of the honest income-tax payer and at the same time to strengthen the Department in dealing with fraudulent evasion. In what manner and how far the Bill provides for these subjects is yet to be seen.

The Bill provides to rope in more income which has heretofore been exempted or not liable to taxation or has been liable to lesser rates of tax. In this, foreign income of residents in British India comes first. At present foreign income is assessable only when it is received or brought into British India. The Enquiry Committee has suggested that exemption of such income has afforded an opportunity for fraudulent evasion and legal avoidance and thus indirectly afforded encouragement for investments abroad. I may mention here that several big firms in India have been doing business in the Indian States as well as in British India. Our Marwari community have mostly migrated from the Native States in Rajputana for business in British India and established their business here as well as in their original places. How far can we say that their investments are never made from such motives? It is true that no tax is payable in many States and if a new business is established in such places, it may be said that the object was to avoid tax which would be payable if the business is done in British India. Inclusion of foreign income when it is neither brought nor received in British India will be a very great hardship and entail numerous difficulties.

Sir, the other important change in the law for making any evasions impossible or quite difficult relates to the making of returns. It is proposed to require every person who has an income liable to tax to make a return without waiting for Income-tax Officers to demand it, subject to a penalty in case of failure. This is said to be the law in the United Kingdom. The assessee's obligation to make a return will be a real hardship in the case of a very large number of small traders and professional men living in villages and smaller towns. Such persons whose incomes are near about taxable limits will find it very difficult to comply with such requirements and particularly when this class of people is mostly illiterate and hardly keeps any accounts. The proposal of giving power to inspectors to enter the premises of the assessee and seize account books for examination by Income-tax Officers is very drastic and will lead to difficulties and complications. The assessee will be harassed and worried by such actions of inspectors. It is very likely that the assessee's business may be obstructed by such acts and there is no guarantee that on flimsy grounds the inspectors may not get such authority to enter the premises. I do not know if such powers are exercised by tax officers even in the United Kingdom. I would point out that instead of facilitating the work it may cause unnecessary troubles and obstructions. The time limit for assessment of escaped incomes is also being increased to six years instead of the present period of one year. It will be another hardship on the assessee and they will have to keep their account books for such a long period. I am unable to see why this limit should be so increased, even beyond the limitation period for ordinary accounts and loans.

[Rai Bahadur Seth Bhagchand Soni.]

The slab system for computing income-tax is a very complicated and intricate one. It is gratifying to know that a large number of assesseees will get more relief by this system at the cost of richer assesseees. The effect of increasing the burden of taxation on already highly taxed class of business community will be the stifling of industrial and commercial activities. The Honourable the Finance Member might offer temptations to the provinces for larger shares from income-tax collections at the Centre and thus try to secure the support of Local Governments, but I represent a constituency where no such temptation is offered and, therefore, I find myself unable to support the entire views of the Honourable the Finance Member on this subject.

Now, Sir, all Parties are agreed that the Bill should be passed before

4 P.M.

the end of this financial year and I think the Finance Member would be feeling no difficulty to get his object achieved. A certain agreement has already been reached between the Government and the Parties that the Bill should be circulated by an executive order for the purpose of eliciting public opinion, and now that this question has been settled I think there should be no difficulty. With these words, I resume my seat.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot—Non-Muhammadan Rural): First of all, let me welcome the first lady Member who has ever entered the portals of this House.

Let me also pay a compliment to the Finance Member for the least provocative speech that he ever delivered, when he moved that this motion be taken into consideration. Before going further, I would like to say that he could have saved himself the homily that he delivered at the end of his speech. He knows that we have been called the repudiators of debts in the provinces and he also knows that we are the people who fight the vested interests wherever they are, from the British Government to the lowest zamindar and knowing that as he does it comes ill from him to say that we will stand in the way of this Bill being passed, consistent with national interests. We can assure you that we will support every amendment that is sought to be made in this Bill provided, let it be understood, that it should be consistent with the national interests. I do not propose to go into very much details. There are two sections here which require deletion and not amendment. It was very kind of him that at the outset he promised with all the grace with which he abounds that the Government of India will withdraw the two notifications under section 60 if this Bill is passed without any alterations. May I point out to him that section 60 is something iniquitous, the like of which is not found in the Finance Act of any other country. I must say to the good sense of the members of this Income-tax Inquiry Committee that they themselves have stated in their report as follows:

"Representations have been made to the effect that the power given to the Governor General under this section is inconsistent with the principles of the Government of India Act, 1935, and out of harmony with the practice in other countries in taxation matters and should be abolished, leaving any exemption to be specifically enacted."

May I know from the Honourable the Finance Member what he proposes to do over this matter?

The Honourable Sir James Grigg: I have announced that in my first speech.

Mr. T. S. Avinashilingam Chettiar: I am afraid the Finance Member does not hear and even if he hears he does not understand. Let me quote from his speech. He said:

"Honourable Members will find no specific mention in the Bill of the question of taxation of leave, pay and salaries drawn abroad. These pays or allowances 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."

What I want to impress on this House is that that the whole section must go and for a very good reason. No Government on earth has the power which has been conferred upon the Government of India under section 60. It is stated in that section:

"The Central Government may, by notification in the Gazette of India, make an exemption, reduction in rate or other modification, in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons."

Virtually they can nullify the Act itself and they have used the section rather generously. I would like to show how this section 60 has been used. I would refer you to page 165 of the Income-tax Manual where exemptions of all kinds have been given. I need not refer to the question of the exemption of salaries, pensions and so on. One exemption reads as follows:

"Such portion of the income of a member of His Majesty's Naval, Military or Air Forces, British or Indian, or of the Royal Indian Marine as is compulsorily payable by him under the orders or with the approval of Government for payment to a mess, wine or band fund."

Then come:

"The allowances attached to the Victoria Cross, the Military Cross and so on."

Then the interest on Mysore Durbar securities is exempted. I find on page 168 about 28 items where such exemptions have been given under this section and not only this. The house rents of certain people which are otherwise liable to tax are also exempted. Considering the way in which these exemptions have been used under section 60, we can say that this power should never have been conferred and even if it is conferred it is high time that it is taken away.

Before I go to the next point I would like to say one thing. Sir James Grigg was so solicitous about getting money for the provinces. He said: "Oh, look here. You are all people who won't co-operate. If you don't co-operate, where is the money for the provinces to come from". I believe he is sincere. May I tell him, if he is sincere, that there are several ways by which he can get the money. I would like to refer to page 408 of the Opinions. There in Appendix A, Abstract from the representation submitted by the Committee of the Federation, dated, Cawnpore, 27th November, 1935. There they have calculated how much income-tax will accrue to the Government of India if pensions are taxed. Many times during the question hour I was told that this question is a matter that is concluded by the Government of India Act and we know what is the meaning of this conclusion. If we can get the sanction and if we can put up this fight, this section will not any more exist. I know it was a concluded thing that Great Britain would not recognise the Abyssinian conquest by Mussolini, but what is happening today? They have driven out Eden and they are treating with Mussolini, and yesterday's paper reported that they are going to recognise the conquest of

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Abyssinia by Mussolini. If the Government of India are really honest, if they really feel that they can fight for the rights of the people of this country, if they can fight with His Majesty's Government and amend the Government of India Act, 1935, let them do so. May I ask Sir James Grigg if he has that honesty?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member must not use that expression in relation to any individual Member of the House.

Mr. T. S. Avinashilingam Chettiar: May I know whether Sir James Grigg, as representing the Government of India, has the honesty, and can he come forward with the assurance and say that he can put up a fight for the amendment of section 272 of the Government of India Act? Sir, it has been shown by calculations which have not been disputed that 80 lakhs of rupees will accrue to the Government of India by taxing pensions

The Honourable Sir James Grigg: I have denied that figure over and over again.

Mr. T. S. Avinashilingam Chettiar: Sir, mere denial without giving actual figures themselves is a funny habit with the Government of India, and it is the most easy thing in the world to adopt that attitude. What is the correct figure? Is that an attitude which is worthy of any Government? I would like to know the correct figure,—whatever it may be,—it may not be 50 lakhs or 40 lakhs—are they, I ask, prepared to take up this matter and fight with His Majesty's Government over this matter? We have had occasion to put questions as to why exemptions have been given and quite recently we have had occasion to put a few questions whether the Government can calculate the amount of loss sustained by the Government of India by this exemption of tax-free sterling securities, but they said, "no"; and not only that, when we ask why cannot they calculate it, they say, "it depends upon where the recipient of the interest is and we have not been able to calculate how many are in England and how many are in India". Sir, that is not a fair way of dealing with things; they must face things and they must be able to say, "we are paying so much by way of this concession". This is what the conquest by England has meant for India.

Now I would like to refer to section 49 which is sought to be amended. We think that section 49 does a lot of harm to this country. However, I shall not dilate upon this subject. I would like only to point out that they have tried to improve upon that section. I now refer to clause 53 on page 27 of the Bill:

"Where a shareholder has received a dividend from a company which has obtained the relief granted by sub-section (1), he shall be deemed in respect of such dividend himself to have obtained the relief granted by sub-section (1) at the rate at which such relief has been granted, in respect of income-tax only, to the company for the financial year preceding the year in which the dividend was paid; and, if the rate at which he is so deemed to have obtained relief exceeds the rate applicable to him under the provisions of sub-section (1), any excess shall be recovered from him either as an addition to the tax payable by him on any assessment made on him under section 23 or section 34 or by setting it off against any relief due to him under section 48."

By this they seek to give relief also for dividends paid by European concerns to Europeans in this country which till now were not exempt . . .

Mr. A. H. Lloyd (Government of India: Nominated Official): They were exempted; we want to limit the relief.

Mr. T. S. Avinashilingam Chettiar: It is clear that there was at least a doubt expressed with regard to dividends relief to be claimed under section 49 and they are trying to improve the section to this effect. As far as I can see, they are trying really to tighten up their revenue where Indians are concerned, but where European interests are concerned I do not see any effort made in this clause to tighten up the revenue. That is unjust.

Sir, there was an argument mentioned by the Honourable the Finance Member in his speech that capital won't come into this country if this relief were not given. May I know the interest that they get in England? I am told it is near about one per cent. May I know the interest that they get in India? It is about three per cent. When the difference is so much, it is not relief of double income-tax that is bringing British capital into India but because there is scope for a large amount of profit in this country and that is the reason why they come to this country. Take China or the Argentine. They are not British possessions. They do not get double income-tax relief there but still there is as much British capital invested in China as in India, and in Argentine there is a lot of British capital invested, but in those places they do not get double income-tax relief. I say, it is iniquitous that that section should continue. I shall not go into any more details before sending this Bill to a Select Committee, but I would suggest that clauses 60 and 49 should go.

Mr. Lalchand Navarai (Sind: Non-Muhammadian Rural): Sir, I am happy in joining hands with my Honourable friend who spoke last in welcoming a lady Member to this House. Sir, she has broken the ice and the door is now open to her sisters to come into this House and it is a happy augury.

Then turning to the Honourable the Finance Member I am pleased to see that he is sitting very easy today in his seat. He has got a right. I should think, not only to recline but even to sleep soundly in the seat where he is sitting. Sir, I am glad to see that he has after all taken a leaf from the book of the Leader of the House, and to that is due his success today. It is not due to the manner of his own dealing with this House or using expressions here which should not come from him. Sir, I would have personally preferred regular circulation in the usual manner in which it is done and not a circulation by an executive order as is being proposed. On the surface, it would seem, especially to the Honourable the Finance Member, that there is no difference between a regular circulation and a circulation through the executive order. But I must say that I find a great difference in the circulation before the Select Committee is appointed and a circulation after the Select Committee is appointed. I think this is also evident to the Honourable the Finance Member, but this time he has been successful in making an agreement and thus winning his point. The difference is this. Usually, when a Bill is sent for circulation, the opinions are printed in the form of a paper book and they are placed before the House for consideration. The Members then study those opinions and then quote the instances of hardships on the floor of the

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House and offer suggestions in order that, if the Bill goes to the Select Committee, the discussion in the House over those opinions and other matters may be a guide and a lead to the Members who have to decide the destiny of a particular Bill. Now, if you circulate a Bill by executive order, the disadvantage is this that those opinions, when they are received, will not come before us in this House. They may be circulated amongst us but they cannot be discussed threadbare on the floor of the House. In that case, those opinions will be taken advantage of only by a few Members who constitute the Select Committee, but they will have the disadvantage of not having heard the views of the House on those opinions. However, it will be simply weeping over spilt milk if I were to say that this manner of circulation should not be accepted. I bow to the agreement that has been reached between the Opposition and the Treasury Benches. But I must give one or two warnings with regard to the way of circulation and the opinions that should be secured.

I hope the Honourable the Finance Member fully knows that the system of getting circulation by executive order or otherwise is to ask the several Provincial Governments to have the Bill circulated and secure opinions of certain associations or certain persons whom they may wish to offer their opinions. I am open to correction by the Honourable the Finance Member when I say that the Provincial Governments do not ask everyone concerned to send their own opinions. They have certain forms in which they ask the District Magistrates, the Bar Councils and certain other associations but they do not ask anybody and everybody who is interested in a Bill like this to send his opinion. I would like to be enlightened on the point whether, when certain individuals or associations who are concerned with the Bill send their opinions, they are incorporated in the paper book that is placed before us? If not, I would request the Honourable the Finance Member to see that they are so incorporated in the paper book. Sir, this Bill is a very important Bill. I know that every taxation Bill is important. But, when we look at this Bill, which he is pleased to call an amending Bill, we find that there are even new sections put in. Some sections of the present Act have been eliminated and if one were to critically examine the Bill, one would find that almost all sections in one way or the other require an amendment. Therefore, I submit that this is the most important Bill and a wider circulation should be ordered. Even by the executive order which is now being proposed, I submit that the Honourable the Finance Member would be pleased to ask the Provincial Governments to have a very wide circulation of this Bill. My reason for making this request is this. If you look at the Bill, you will find that it affects the nationals, it affects the foreigners, it affects the trustee, it affects the trust, it affects the husband, it affects the wife and I do not know what not. Therefore, I submit that an important Bill like this should be very widely circulated. What I mean is this. There are certain associations which are not registered from the point of view of the Government. But they are institutions inasmuch as they have got their chairman and members. These associations are concerned with this Bill and if they send any memoranda, they should not only be considered by the Finance Member in his chambers but those opinions should be incorporated in the paper book and placed before the Select Committee. I may give an example. My Honourable friend the Finance Member knows fully well that he earns quite a lot in the shape of income-tax from a body of persons known as Sind-work merchants. Now, these

merchants remain in Sind and they have their dealings outside as well. They have their branches all over the world and their profits are being taxed here. If the Honourable Member will take out the figures, he will see how much income-tax they pay. These people have got their association. They asked for certain papers and certain information from the Government and the reply was sent to them that their association was not registered. Now, Sir, they are very much interested in this Income-tax Bill and, therefore, they should be asked to send their memoranda which should be very carefully considered and incorporated in the papers that are to be placed before the Select Committee.

The next point that I would like to mention in the interests of the Members of the Select Committee is this. It will be observed that this time the Honourable the Finance Member has very easily got his Select Committee. He must remember that his predecessor was not so fortunate. In 1931-32, a Bill with similar provisions,—if not all sections at least some important sections—a very important section in this Bill is with regard to profits being charged according to the accrual system or according to the remittance system as is being done now—a Bill with such provisions, with very little variation here and there was brought before the House in 1931-32. This House then rejected that measure. They did not even send it to the Select Committee.

The Honourable Sir James Grigg: This is a more democratic House.

Mr. Lalchand Navalrai: I am only saying this to show that the Honourable the Finance Member is more fortunate than his predecessor. I want the Bill now before the House to be rejected in the same way, but we cannot do so as we have come to some agreement thereby agreeing to send the Bill to the Select Committee. I want the Select Committee to remember this point that a Bill with similar provisions was once before rejected by this House and the reasons were because of the rigour of that Bill. The same reasons still hold good. (Interruption.) Anyway let us see if the Select Committee does not stultify itself.

While going through the Bill, I want the Select Committee to have before it the Bill which was rejected in 1931-32 and it must see whether the conditions have changed at all with respect to this Bill.

Now, Sir, the Honourable the Finance Member was saying that he had got so many opinions which had all been printed. May I point out to the Honourable Member that those opinions were received at a time when the Special Enquiry Committee Report was published and those opinions will not avail us now. Was it known to the persons who sent their opinions then that the Bill to be introduced by the Government would be like the present one? They did not know at that time. What the Government was going to do, they were not aware of. I, therefore, submit that the present Bill should be before the country and it should be given publicity as widely as possible and opinions invited from all those who are affected by this measure. My humble submission is that since the Honourable Member has changed his mood, he should see that the Bill is circulated to all associations which are interested, so that it may not be complained of later on that such and such association which is affected by this Bill was not consulted.

I would like to point out to the House that this Income-tax law is constantly being subject to amendments now and then. We are really tired of the changes that are brought before the House for its approval.

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This Income-tax Act was passed in 1922. May I ask the Honourable Member how many times the Income-tax Act has been amended after that? It has been amended more than 20 times and since 1931-32, it has been amended nearly six times. Now that the Honourable the Finance Member wants this House to go through this measure again in the name of amending the Act and to consider so many sections, is it not fair to expect the Government to scrap the whole Act and bring forward a new Act incorporating all the changes and come to a conclusion once for all. I am not sure if the Honourable the Finance Member will not come forward again in the next Session of the Assembly with another small amending Bill amending one or two sections only. I think this course ought to be avoided and a consolidating Bill should be considered. I am saying this because this is also a point on which the House could reject this Bill even after it has emerged from the Select Committee. It is left to the House on these two grounds—namely that a former Bill of this nature was rejected by the House and that a consolidating measure has not been brought—to reject this Bill. What is the use of considering the question every now and then. I submit this Bill purports to make very drastic changes and so far as the changes are concerned the rigour of them will be felt only by those who have to pay taxes. As my Honourable friend several times said, the people are not willing to allow our hand to be put into their pockets. That is true. But there ought to be fairness, there ought to be some limit of charging people with income-tax. The Honourable Member is luring us with the prospect of helping the Provincial Governments to develop the nation-building departments. That is all very well. Money is no doubt required by the Provincial Governments. But how to help them?

The Honourable Sir James Grigg: By putting salt on your tail.

Mr. Lalchand Navalrai: As I have already submitted, be sympathetic.

Mr. S. Satyamurti (Madras City: Non-Muhammadian Urban): Sind wants the Sukkur barrage debt to be written off.

Mr. Lalchand Navalrai: Why not? The whole country is benefited by this barrage. Why should it be paid back? Any way that is a different question. At any rate, I submit that no doubt the provinces require money for the development of their nation-building departments. I have got full sympathy with that. But by correct ways. You are giving out with one hand and taking away with the other. Well, you say "You have your nation-building departments and so forth. I pay you for them, but I say, you are not paying anything to the people but are extracting from them and giving something out of it.

Mr. F. E. James (Madras: European): Where then will you get your money from?

Mr. Lalchand Navalrai: From abroad. The Sind merchants do trade in foreign countries and bring their money here. The point is that you are now putting a bar over that method of earning also.

I will not take up any more time of the House in discussing the Bill in detail. I will briefly deal with a few points. I must naturally take section 4 first. To me it appears to be disadvantageous and difficult.

First there is the unfairness of Indian merchants being charged on the accrual system. It is well known that at present the money that comes in is being taxed but the only thing is that it is on the remittance basis. When money is brought in, they pay the tax and when they again bring money it is taxed. But now it is proposed that they should be charged on all profits even including securities,—profits that they make abroad as well as in India. There are several difficulties but I will put two only. The first is with regard to the double tax. It is very easy to say that the U. K. gives a refund and there is only one tax so far as the U. K. and India are concerned. But what about the other foreign countries who do not give any return or refund with regard to the tax paid there, nor does the Government of India? Is it fair? Double tax is considered to be very bad and it is equitable to get relief on it, and that is why so far as the U. K. and the Government of India are concerned they have decided to give equitable relief.

The Honourable Sir James Grigg: You agree to that, don't you?

Mr. Lalchand Navalrai: Let us first agree with regard to foreign countries. If you help us there, you can ask that question.

So far as the other question is concerned, that is also very unfair, and that is with regard to the bar or restriction over the export of currencies from outside. When in several countries there are restrictions over the export of currencies to India, what will you be charging them for? They have their money there and they are not allowed to bring it here; and like the German marks they may pass a law at any time as a result of which the money will have no value. Such difficulties may arise here also. Only after Government have given us relief from these foreign Governments can they ask us to consider whether or not we should be charged on the accrual basis. But there are no accruals so far as India is concerned. I, therefore, submit that these two questions at least have to be considered by the Select Committee; and if they feel that there is justice and equity in the arguments based on these points, they should not allow this section 4 to be amended as suggested.

Then, Sir, with all my respect for the European Members of this House, I must say that there should be no [invidious distinction as to the income-tax. Money earned by Europeans on securities outside, unless it is brought into India, is not being charged according to this Bill, but so far as Indians are concerned, everything is being charged. I cannot understand the reason for this step-motherly treatment towards Indians whose salt the Treasury Benches eat every day.

Mr. N. M. Joshi: Do you want both to be taxed or both to go scot-free?

Mr. Lalchand Navalrai: I am against the accrual system and in the case of both of them, the charge should be on the remittances.

These are some of the difficulties and there are some to which I will make a passing reference. With regard to the slab system, in the first place it was very difficult to understand what this system is and we had to consult some experts about it. For instance, if the amount is Rs. 2,000 it is to be charged at the four pies rate. That will be charged up to Rs. 5,000. But now for the first Rs. 1,500 there will be no charge, and

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then the man who pays Rs. 2,000 and over will have to pay Rs. 500 or 600, the balance of Rs. 2,000. But there is some sting in it and the sting is this. Has the Honourable Member said what incidence he will fix? At what incidence after Rs. 1,500 the amount will be charged? The Honourable Member himself was unable to tell us whether by this system there will be an increase, or what the increase will be. The Honourable Member said he cannot say now because he has not fixed the incidence. This is putting the cart before the horse, asking us to accept the position without knowing what the incidence will be and whether we will be the gainers or the Treasury Benches will be the gainers or some party will be the gainers. We cannot accept the policy without knowing what the position will be. That is also a point for the Select Committee to consider.

Then, with regard to compulsory returns, the Finance Member has not been just at all. There is a penalty in the present Act for non-submission of returns in the shape of arbitrary assessment by the Income-tax Officer, which is often done in actual practice; but still further punishment is being provided for in the shape of twice or thrice the income-tax itself. This is not fair. Apart from that, how are these general circulars and notifications served on the people? He is sitting here giving an order or the Income-tax Officer will give an order. But the procedure is this. The Income-tax Officer writes on a quarter sheet of paper, and places it on the board outside his office, and on that sheet of paper he writes saying that such and such a time on such and such a date all returns should be submitted to him. Or if the officer is kind enough, he will send that notification to one or two local papers. Now, I ask how will people in the whole province come to know that that particular date and time has been fixed for submitting the income-tax returns, because if they do not submit their returns by the time specified they will be penalised. In the face of admitted illiteracy in this country and also on account of the various disabilities of women, it is really very unfair that notices of this kind should be considered sufficient as having complied with law.

Then, Sir, coming to the question of penalty that is being put on my brethren, I mean the lawyers

An Honourable Member: Leave them alone.

Mr. Lalchand Navalrai: Yes, you will also be affected. Coming to my brethren the lawyers, it will surely be *infra dig* on the part of the Commissioner to rusticate a lawyer who appears before him. At present even in the Judicial Courts, it is not the Judge himself who decides upon the conduct of a lawyer, but it is the Bar Tribunal to which the case is sent, it is the Bar Council consisting of members of the Bar which sits together and comes to a conclusion as to whether the conduct of a certain lawyer is unprofessional or not. Here you are giving the power to the very man before whom lawyers have to appear. With what independence then can a lawyer tell the Commissioner that he is wrong? Even if the lawyer uses the word "wrong", the Commissioner will treat him as having committed unprofessional conduct simply because he used the word "wrong". Therefore, to give such wide powers in the hands of the Commissioner is very hazardous indeed.

An Honourable Member: It will give some employment to some lawyers; large numbers are unemployed now.

Mr. Lalchand Navalrai: I know it does not pinch you, but if the Commissioner were to turn you out if you happen to appear before him as an agent, you will know what it is. Therefore, it should be some other authority which should deal with this matter, and not the Commissioner himself.

Then with regard to the question of machinery, what is the improvement that the Honourable Member has suggested to decide whether a tax is just or otherwise? In this very House it has often been said that it is wrong to give the power of a judge to the very prosecutor. That is to say, the Income-tax Officer makes out a case against an assessee; then an appeal is filed with the Assistant Commissioner, as if he is not a servant of the same Commissioner

The Honourable Sir James Grigg: The Honourable Member is wrong. The Appellate Assistant Commissioners are being placed directly under the Central Board of Revenue.

Mr. Lalchand Navalrai: That is only a grandfather.

That is no improvement or change at all. The appeal will then lie with the Commissioner himself. Then the same power is given to the Commissioner also, and then it will be for the Commissioner to decide whether he should refer the question of law to the High Court or not. Sir, we wanted a tribunal. Have you given us that tribunal which we have been asking for? No. Therefore, you are entitled to have no more income-tax than what you are getting now, for which also we want relief. My friend says that no decent lawyers in the Punjab appear before Income-tax Officers in appeal and other cases, because of the summary manner in which they are treated by Income-tax Officers, which is derogatory to their status in life. Anyway I do approve of one system. I remember, Sir, that in the time of the Honourable Member's predecessor, Sir George Schuster, I was responsible for suggesting that this section which allow every happeny tuppenny man to appear before an Income-tax Officer was entirely wrong. For one thing, those people were not independent, because they generally depend upon the Income-tax Officer; many a time, it is not wrong to say, they go hand in hand with the Income-tax Officer. He becomes an interested party by handing over the assessee to the Income-tax Officer. We do not want such persons. In that Bill, which was then enacted, there was one section which restricted this representation to accountants and lawyers. But there was some agitation, and the predecessor of the Honourable Member succumbed to it. But then what happened? That section was kept in abeyance, and I now see that some provision has been made in order to see that those income-tax experts as they are called, though they are far from experts, may continue to live long. But so far as the other amendment is concerned with regard to passing certain tests or examinations and also with regard to lawyers, it is really an improvement upon the old measure.

Then with regard to the tribunal, I should think it will be only fair that instead of making an appeal lie with the Commissioner of Income-tax, you should substitute a judicial tribunal. That will give greater confidence to

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the people. At present, the departmental officers are interested in extracting as much money as they can from the poor assesses and, therefore, they cannot be expected to be fair always; they have some interest in showing large collections. What is the fundamental British law? Look at the Criminal Procedure Code and several other laws? Whenever there is a case in which the judge himself is personally interested, that case is not tried by him, and it is sent to some one else, and that is a policy which is very fair and equitable, because all such matters in which the trying judge is interested should be sent up to an impartial person, so that when the judgment is given it may not be said that it was unfair or partial as the trying judge himself was interested in a particular thing.

Therefore, I would ask the Finance Member that he should not hustle or make haste in this matter. He should not have what is called the American hustling. Then, as he has taken upon himself to get the opinions, I hope that he will see that that is done properly. Of course, there are the Congress Provincial Governments now and they and other Governments should try to see that all persons whose opinions should be taken be invited to give their opinions. Also if anybody comes forward with an opinion it should be accepted, put on paper and sent here for consideration. I won't take up any more time of the House. I have finished.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 12th April, 1938.