

THE 20th March 1940

LEGISLATIVE ASSEMBLY DEBATES

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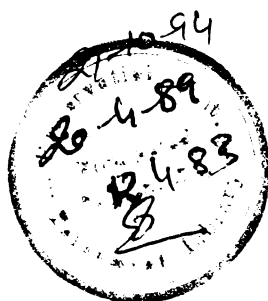
(6th March to 26th March, 1940)

ELEVENTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,

1940



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r 1940

Legislative Assembly

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LEGISLATIVE ASSEMBLY.

Wednesday, 20th March, 1940.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

REDUCED RATES OF FOOD AND REFRESHMENTS FOR RAILWAY EMPLOYEES.

462. *Maulvi Muhammad Abdul Ghani: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that food and refreshments are sold to railway employees at reduced rates or half rates of what they are sold at to the travelling public? If so, on which Railways and at what varying rates for the employees and the travelling public?

(b) Is it a fact that, on Assam Bengal Railway, European refreshment rooms sell food to railway employees at half the charges charged from passengers?

(c) Is such concession made to railway employees by the Indian refreshment rooms and the platform vendors?

(d) Is one anna a month charged as rent from the European caterers on Assam Bengal Railway for catering rooms?

The Honourable Sir Andrew Clow: (a) Generally speaking, Refreshment Room and Dining Car contractors have agreed to supply railway employees with food at rates lower than those sanctioned by the Administration for charge to the public. As regards the second part of the question, I understand that such contractors on all major railways give concessional rates which vary approximately between 10 and 33 per cent., according to the nature of the meal supplied but that on some items of refreshment no concessional rates are given.

(b) No.

(c) On the assumption that the question refers to the Assam Bengal Railway, the reply is in the negative.

(d) The Assam Bengal Railway charge a nominal rent of one anna per month.

Mr. Lalchand Navalrai: Why is it that this concession is made to them? Is it because they work as watch-dogs over them?

The Honourable Sir Andrew Clow: I do not think so. It is a long-standing concession, and I presume it has some relation to the fact that a good deal of custom is secured thereby.

Mr. Lalchand Navalrai: May I have a definite answer from the Honourable Member whether it is not a fact that this concession is given to them because they are the Inspectors over their food? Is the same concession being given to the other Inspectors also who actually inspect?

The Honourable Sir Andrew Clow: I do not think it is a concession confined to Inspectors.

Maulvi Muhammad Abdul Ghani: Is it not a fact that they are being given bribe?

The Honourable Sir Andrew Clow: Not when recognised rates are laid down.

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

MEMORIAL SUBMITTED BY THE TRAIN CLERKS OF THE NORTH WESTERN RAILWAY.

463. *Shaikh Rafuddin Ahmad Siddique: Will the Honourable the Railway Member be pleased to state whether he is aware that train clerks of the North Western Railway submitted to the General Manager, North Western Railway, memorials No. 12, dated the 3rd March, 1939, and No. 13, dated the 22nd September, 1939, and if so, what action was taken on those memorials?

The Honourable Sir Andrew Clow: As regards the first part, I have seen a copy of memorial No. 13 submitted to the General Manager, North Western Railway, by the Trains Clerks Association. As regards the latter part, Government have taken no action on the memorial which is addressed to the General Manager, North Western Railway.

Mr. M. S. Aney: What is the subject on which the memorial was sent?

The Honourable Sir Andrew Clow: From the memorial itself, it is difficult to summarize precisely what the subject is. The general plea is that "the Trains Branch should be made attractive so that nobody should hesitate to go in" and it refers to previous requests.

PROVISION OF UNIFORMS TO THE TRAIN CLERKS ON THE NORTH WESTERN RAILWAY.

464. *Shaikh Rafuddin Ahmad Siddique: Will the Honourable the Railway Member be pleased to state whether it is a fact that train clerks on the North Western Railway have to work for major part of their time in the yard in all sorts of weather and that, while the staff working with the train clerks in the yards is provided with uniforms by the Railway, the train clerks are given no uniform, although train clerks serving in other State-owned Railways discharging similar duties are provided with uniforms, and if so, whether Government propose to remove this grievance of train clerks?

The Honourable Sir Andrew Clow: The answer to the first part is in the affirmative. As regards the second part, the uniform issued to staff on railways is laid down by General Managers and differs on different

railways. On the North Western Railway, train clerks are issued with overcoats and, in some cases, with waterproof coats. As regards the last part, the matter is one within the competence of the General Manager, North Western Railway, and Government do not propose to interfere.

RETRENCHMENT OF SEARCHING-PORTERS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.

465. *Maulvi Muhammad Abdul Ghani: Will the Honourable the Railway Member be pleased to state:

- (a) whether searching-porters in Delhi Division, North Western Railway, have been retrenched;
- (b) if so, whether Government are aware that, as a consequence of such retrenchment, train clerks have no one to show them light when recording particulars of trains in yards at night and that they have to carry the necessary registers, or cards, writing material and lamps and are put to great inconvenience, besides injury to their eye-sight and lungs done by the kerosine oil lamps which they have to carry for the purpose; and
- (c) if the above state of things exists, whether Government propose to make some arrangements for light being shown to train clerks when working in yards at night?

The Honourable Sir Andrew Olow: (a) Yes.

(b) I understand that where searching-porters were employed these porters were utilised by train clerks to carry their lamps although this was not the purpose for which they were specifically provided. At stations where searching-porters were not sanctioned, train clerks have always carried their own lamps. It is more convenient to have one's lamp carried than to carry it oneself, but I have no reason for supposing that the carrying of lamps produces the results suggested by the Honourable Member.

(c) Trains clerks requiring them are each provided with hand lamps, and no other steps are contemplated.

Mr. Lalchand Navalrai: Does the Honourable Member know that these train clerks carry the lamp in one hand and write with the second hand with great difficulty? Will the Honourable Member, therefore, make some arrangement to give them some help so that they may be able to do their work better?

The Honourable Sir Andrew Olow: I am not prepared to provide staff for this purpose.

Mr. Lalchand Navalrai: Even when they undergo this difficulty?

The Honourable Sir Andrew Olow: Most Government servants have to face some difficulty and inconvenience in their service.

Mr. Lalchand Navalrai: If they carry the lamps also, there will be loss of time, because they shall have to keep the lamps down and then write and that will take time?

The Honourable Sir Andrew Clow: I have said in my answer that it is more convenient to have one's lamp carried than to carry it oneself.

DEMOTION OF STAFF AS TRAIN CLERKS ON THE NORTH WESTERN RAILWAY.

466. *Manvi Muhammad Abdul Ghani: Will the Honourable the Railway Member be pleased to state:

- (a) whether it is a fact that on the North Western Railway staff serving in other categories are frequently demoted as train clerks, which very often has the effect of making senior train clerks juniors of those demoted and blocking the formers' promotion;
- (b) whether the majority of train clerks in the North Western Railway remain at the end of the grade of Rs. 30—3—60 for as many as 15 years and even more, and, if so, whether Government propose to consider the advisability of amalgamating grades 1 and 2, or, in the alternative of providing a larger number of higher grade posts in order to create an opportunity of speedier promotion for train clerks;
- (c) whether it is a fact that railway staff recruited on the basis of the same educational qualifications as train clerks has much greater chances of promotion than train clerks, and, if so, whether Government propose to take steps to bring train clerks up to the level of other subordinate staff in the matter of promotion; and
- (d) whether it is a fact that on other State-owned Railways (East Indian Railway, Great Indian Peninsula Railway) train clerks are promoted to Interchange Stock Verifiers and Tracers, while on the North Western Railway such promotion is denied to train clerks, and is given to the General Manager's office clerks, in spite of the fact that train clerks possess better experience of the kind of work entrusted to Interchange Stock Verifiers and Tracers; and, if so, whether Government propose to throw open such promotions to train clerks?

The Honourable Sir Andrew Clow: (a) No. Such cases are rare.

(b) The answer to the first part is in the negative. The second part does not, therefore, arise, but I would refer the Honourable Member to the observations on this subject made in my reply to Mr. Joshi's cut motion on 26th February.

(c) Prospects of promotion depend on many factors and are not governed by the educational qualifications of the staff recruited. It is not practicable to ensure equal chances of promotion to staff with the same educational qualifications in different departments or divisions of the Railway.

(d) The normal channel of promotion for out-door clerks is laid down in the rules for the recruitment and training of non-gazetted staff on State-managed Railways, a copy of which is in the Library of the House. On the Eastern Bengal Railway, there are no Interchange Stock Verifiers or Tracers. On the East Indian Railway, train clerks are not denied promotion outside their normal avenue provided they are suitable, and they are eligible for promotion as Junction Stock Verifiers. On the Great

Indian Peninsula Railway, Head Number Takers, who are in the normal channel of promotion of Number Takers, who correspond to trains clerks, may be promoted as Stock Verifiers. On the North Western Railway, Interchange Stock Verifiers are drawn from staff with a knowledge of the Conference Rules relating to the interchange of stock between Railways. Trains clerks do not generally possess this qualification. The latter part does not arise.

Maulvi Muhammad Abdul Ghani: May I know what are those other factors which weigh with Government in giving promotion to the clerks?

The Honourable Sir Andrew Clow: I said it depends on many factors. Experience is obviously an important one: capacity to do the work, which is not necessarily related to the educational qualifications, is another.

PROMOTION OF TRAIN CLERKS TO GUARDS' POSTS ON THE NORTH WESTERN RAILWAY.

467. *Maulvi Muhammad Abdul Ghani: Will the Honourable the Railway Member be pleased to state whether promotion to special ticket examiner's posts on the North Western Railway is confined to ticket collectors only and, if so, whether Government are prepared to consider the nature of train clerk's work and experience, and confine promotion to the posts of guards to train clerks only?

The Honourable Sir Andrew Clow: The answer to the first part is in the affirmative. As regards the second part, the matter is one within the competence of the General Manager, North Western Railway, to decide and Government do not propose to interfere.

REVISION OF THE PAY OF THE SUBORDINATE STATION STAFF ON THE NORTH WESTERN RAILWAY.

468. *Maulvi Muhammad Abdul Ghani: Will the Honourable the Railway Member be pleased to state:

- (a) whether it is a fact that the subordinate station staff on the North Western Railway has to work generally for 56 hours in a week and may have to work for 60 hours while clerks in other Government offices work for 36 hours a week;
- (b) whether subordinate station staff gets no public holidays while clerks in others Government offices do; and
- (c) whether Government propose to revise and enhance the pay and grades of subordinate station staff so as to compensate them for loss of holidays and for more working hours?

The Honourable Sir Andrew Clow: (a) and (b). Subordinate station staff are normally governed by the Hours of Employment Regulations and their attendance on public holidays is dependent on the nature of their work. The hours of work for clerks in Government offices vary from office to office; but such staff do normally get public holidays.

(c) No. The scales of pay of non-gazetted subordinate staff are fixed by the General Manager taking into due consideration the nature of the work and the hours of duty.

ADVERSE TREATMENT OF THE OLD EAST INDIAN RAILWAY STAFF TRANSFERRED TO THE NORTH WESTERN RAILWAY.

469. *Bhai Parma Nand: Will the Honourable Member for Railways please refer to starred question No. 790, regarding adverse treatment of the old East Indian Railway staff transferred to the North Western Railway, answered on the 28th February, 1939, and state when the reply to parts (e) and (f) of that question may be expected?

The Honourable Sir Andrew Clow: The answer was laid on the table of the House on 6th February, 1940.

SENIORITY OF CERTAIN STAFF TRANSFERRED TO THE NORTH WESTERN RAILWAY.

470. *Bhai Parma Nand: (a) Will the Honourable the Railway Member please state whether it is a fact that the seniority of certain old East Indian Railway Station Masters or Assistant Station Masters, taken over by North Western Railway before 1927 and retained afterwards, has been fixed on the system referred to in the reply to starred question No. 790, dated the 28th February, 1939, from 1917 and of others from 1920, whereas under the East Indian Railway system, the latter staff ranked senior to the former?

(b) Are Government prepared to order an investigation and a re-arrangement of the order of seniority?

The Honourable Sir Andrew Clow: (a) I presume the Honourable Member refers to the Station Masters and Cabin Assistant Station Masters, belonging to the D. U. K. portion of the East Indian Railway, which was taken over by the North Western Railway in 1925. If so, the answer is that all Station Masters were treated on similar lines, and all Cabin Assistant Station Masters were treated on similar lines; but the latter were not senior to the former on the East Indian Railway, although they could reach a higher maximum pay. Under the arrangement made none of the latter were granted seniority as Station Masters from a date before 1920 whereas those actually in the Station Masters' grade could count seniority from earlier dates, if their position in the Station Masters' scale was such as to justify that.

(b) No.

SELECTION OF CANDIDATES FOR THE POST OF TRAFFIC INSPECTOR ON THE NORTH WESTERN RAILWAY.

471. *Bhai Parma Nand: (a) Will the Honourable the Railway Member please state whether it is a fact that on the 3rd July, 1939, a Central Selection Board was held at the General Manager, North Western Railway Office, Lahore, to select candidates for the post of Traffic Inspector?

(b) If so, how many appeared before it and how many were selected? Was the selection based on communal representation of the employees in this cadre? How many members of each community were selected and for how long will the results of this selection remain valid?

(c) Will Government please state if there is any standard of minimum educational qualifications for these appointments laid down or observed? How many of the selected candidates were non-Matrices, Matrics or its equivalent standard, or graduates?

(d) Is the Honourable Member prepared to enquire from the General Manager of the said Railway as to what is the system of calling candidates from each division for such Central Selection Board? Do the divisions hold their own Selection Boards, or individual officers nominate?

(e) Does the Honourable Member propose to ask the General Manager, North Western Railway, Lahore, that, as the standard of selection differs with individuals, all candidates having eligible qualifications should be granted a chance to appear before the same Selection Board to warrant uniformity of treatment and not selected at different centres with different members of the Board as the latter course causes differential treatment?

The Honourable Sir Andrew Clow: (a) to (d). I have called for information and will lay a reply on the table of the House in due course.

(e) I have no such proposal under consideration.

Mr. Lalchand Navarai: May I know from Government whether it is the policy of Government to take Inspectors from Station Masters and others, and not by direct recruitment?

The Honourable Sir Andrew Clow: Speaking from memory, they are generally recruited from Station Masters.

KIDNAPPING OF MUHAMMAD SALIM KHAN, EXCISE SUB-INSPECTOR, NORTH-WEST FRONTIER PROVINCE.

†472. ***Maulvi Abdur Rasheed Chaudhury:** Will the Secretary for External Affairs kindly state:

- (a) when Muhammad Salim Khan, Excise Sub-Inspector, North-West Frontier Province, was kidnapped by the trans-border dacoits;
- (b) the circumstances in which he was kidnapped;
- (c) whether he is still in tribal custody;
- (d) the steps taken by Government to secure his release, and the nature of the obstacles, if any, in the way;
- (e) whether the tribesmen concerned have been and are demanding ransom money from his father and other relatives; if so, the amount demanded;
- (f) whether Government propose to pay the ransom money and secure his release; and
- (g) when he is likely to be released?

Mr. O. K. Caroe: (a) On the 8th January, 1940.

(b) Two lorries were stopped by raiders on a road in the Hangu Sub-Division of the Kohat District and four persons, including Muhammad Salim Khan were kidnapped.

(c) No. He was released on the 5th March.

(d) to (g). Do not arise.

I should however add that it is understood that the captives' relatives in this case paid Rs. 2,300 to hostiles to secure his release.

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

ARREST OF MUHAMMAD ALI KHAN OF JAHANGIRPURA, PESHAWAR CITY.

†473. ***Maulvi Abdur Rasheed Chaudhury**: Will the Secretary for External Affairs kindly state:

- (a) whether Muhammad Ali Khan, son of Muhammad Hussain Khan, of Jahangirpura, Peshawar City, was arrested in June, 1939, under the orders of the Central Government;
- (b) whether he is the authorised agent of the *ex*-King Amanullah Khan of Kabul, to manage his estates in Peshawar district;
- (c) the nature of the charge against him, and the law under which he was arrested;
- (d) how long it is proposed to detain him;
- (e) where he is being detained and why;
- (f) whether he will be made to stand his trial; if so, where, when and under what law;
- (g) whether Government have fixed any allowance for his dependents; if not, why not;
- (h) whether the management of the estate of *ex*-King Amanullah Khan is suffering owing to his detention in prison; and
- (i) whether Government are prepared to order his release?

Mr. O. K. Caroe: Muhammad Ali is an Afghan subject and is being detained under Rule 26 of the Defence of India Rules. It is not in the public interest to reply to the Honourable Member's question in more detail.

LANGUAGE USED BY THE ALL-INDIA RADIO IN BROADCASTING.

474. ***Dr. Sir Ziauddin Ahmad**: (a) Will the Honourable Member for Communications please state whether the All-India Radio has abandoned the use of the word Urdu in its announcements and programmes as well as in its publications and uses the word Hindustani in its place?

(b) Is such a language as Hindustani in existence in India?

(c) Is it the policy of the All-India Radio to carve out a new language for Indians in addition to Urdu and Hindi, at the expense of both these languages?

(d) Are Government aware that a great deal of propaganda is going on in the country for some time against the Urdu language?

(e) Is it not the policy of Government to keep neutral in such political controversies? If so, are Government prepared to issue instructions to the All-India Radio, which is a Department of the Government, to observe this policy and not to 'spoil' the Urdu language by using unfamiliar Hindi words and expressions which are foreign to the Urdu language under the false name of Hindustani?

(f) Are Government prepared to issue instructions to the All-India Radio to abstain from using the word Hindustani in place of Urdu? If not, why not?

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

The Honourable Sir Andrew Clow: (a) The term "Hindustani" is frequently employed by All-India Radio, but it is not correct to suggest that the use of the word "Urdu" has been abandoned.

(b) Yes.

(c) No. The policy of All-India Radio is to endeavour as far as practicable to use a vocabulary which is understood by the largest number of listeners.

(d) No.

(e) Government have no intention of taking sides in the political implications, if any, of what it regards as essentially a linguistic matter. I do not agree that the Urdu language is being spoilt by All-India Radio, whose policy it has always been to avoid, as far as possible, unfamiliar words and expressions, whatever their origin.

(f) No, for the reasons I have already given in reply to part (b).

Mr. Lalchand Navalrai: May I know from the Honourable Member whether, in view of the fact that at present the announcers use Persian words and also very abstruse words in their announcements which are not very familiar to the public, he will make some suggestions to see that easy words are used?

The Honourable Sir Andrew Clow: I am not prepared to accept the Honourable Member's premises.

Mr. Lalchand Navalrai: Has the Honourable Member been hearing Hindi and Urdu announcements?

The Honourable Sir Andrew Clow: Yes, Sir.

Mr. Lalchand Navalrai: Has the Honourable Member been following those abstruse words which are unintelligible?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is raising a debate; he is not asking a question.

Dr. Sir Ziauddin Ahmad: May I know what difference does the Honourable Member make between Hindustani on the one side and Urdu and Hindi on the other? Will he also keep in mind the remarks of my Honourable friend, Mr. Lalchand Navalrai, that the announcer does not use Urdu or Hindi words, but high flown and abstruse Persian words?

The Honourable Sir Andrew Clow: I think the All-India Radio is guided by the definition given in the Linguistic Survey of India which, as the Honourable Member is aware, is the standard work on the subject. This says:

"Hindustani is primarily the language of the Upper Gangetic Doab and is also the *lingua franca* of India, capable of being written in both Persian and Devanagari characters, and without purism, avoiding alike the excessive use of either Persian or Sanskrit words when employed for literature."

Dr. Sir Ziauddin Ahmad: Will he define "Urdu" also?

The Honourable Sir Andrew Clow: All living languages tend to change; but I myself understand Urdu and Hindi as distinguished mainly by the extent to which they use Persian and Sanskrit words, respectively.

Maulana Zafar Ali Khan: What is the difference between Urdu and Hindustani?

Mr. President (The Honourable Sir Abdur Rahim): This controversy cannot be settled in question hour.

STAFF OF THE RAILWAY CLEARING ACCOUNTS OFFICE SUFFERING FROM TUBERCULOSIS.

475. *Sardar Sant Singh: (a) Will the Honourable the Railway Member please state the total number of deaths that have taken place amongst the staff of the Railway Clearing Accounts Office, Delhi, ever since its formation, from all kinds of tuberculosis?

(b) Is he aware that this dreadful disease is spreading amongst the staff of that office? If not, was any examination of the staff ever carried out by the experts in the disease and what were their findings?

(c) Is he now prepared to set up a board of expert doctors to report on the general health of the staff of that office and to find out how many of them are now suffering from tuberculosis at present in any of its stages?

(d) How far has the location of the Municipal Tuberculosis Clinic in close proximity to that office been responsible for spreading the disease in that office ever since its location?

(e) Were any objections raised by the authorities of that office in regard to the location of Municipal Tuberculosis Clinic next door to that office? If so, at what times and what were they?

(f) What does he propose to do to check the disease in that office?

(g) Is he prepared to have that office shifted from its present building to new Delhi, or to some other suitable site, or at least to have the clinic shifted from its present site and to stop further increase in the death rate of the staff of that office from this disease? If not, why not?

The Honourable Sir Andrew Clow: (a) The total number of deaths reported to be due to tuberculosis since 1934 is eleven. Information prior to 1934 is not readily available.

(b) In 1934, the District Medical Officer, North Western Railway, Delhi, drew attention to the number of clerks in the Railway Clearing Accounts Office seeking his advice for tuberculosis of lungs or pleura. In consultation with him the Director, Railway Clearing Accounts Office, drew the attention of the staff to the need for paying more regard to ventilation and cleanliness in the office and later it was thoroughly fumigated and cleaned. No general examination of the staff was ever carried out by experts in the diseases.

(c), (f) and (g). There appears to be no increase in the incidence of the disease and I am not satisfied that any steps are necessary, but the medical authorities will be consulted regarding the question of the desirability of having a medical examination of the staff employed in the Clive Building.

(d) It cannot be said that the location of the Municipal Tuberculosis Clinic in close proximity to that office has enhanced the spread of the

disease; on the contrary, the number of deaths reported as being due to it amongst the staff during the period of three years before and after the opening of the Clinic in November, 1936, is seven and four, respectively.

(e) The matter was referred by the authorities of the Clearing Accounts Office to the Chief Commissioner, Delhi, in 1938 when the location of the Clinic was under consideration. The Director of Public Health expressed the opinion that there was no danger to public health from the location of the Clinic at its present site and explained that it was neither a hospital nor a sanatorium where patients are kept for a considerable length of time and that one of its main activities would be to educate the public in the methods of prevention of tuberculosis.

TONGAS PERMITTED TO RUN FROM THE MEERUT CANTONMENT RAILWAY STATION.

476. *Bhai Parma Nand: (a) Will the Honourable the Communications Member be pleased to state whether it is a fact that there is a tonga-shed just outside the Railway Station, Meerut Cantonment? If so, is it taken on rent?

(b) Is it a fact that a special licence for running a tonga is needed by the *tongawalas*?

(c) Is it a fact that not more than 15 tongas are permitted to run from the Cantonment Railway Station, Meerut?

(d) If the answer to part (c) be in the affirmative, are Government aware that it causes trouble and annoyance to the passengers?

The Honourable Sir Andrew Clow: Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course.

NON-RECRUITMENT OF MUSLIMS TO CERTAIN POSTS ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

477. *Maulvi Syed Murtuza Sahib Bahadur: Will the Honourable Member for Communications be pleased to state if it is a fact that no recruitment has taken place since 1922, of Muslims in the Bombay, Baroda and Central India Railway, as Assistant Signal Engineers, Signal Inspectors, Assistant Signal Inspectors, Head Mistries, Sub-Inspectors and Head Fitters? If not, why?

The Honourable Sir Andrew Clow: With your permission, Sir, I propose to reply to questions Nos. 477, 478 and 479 together. These relate to details of administration on a Company-managed Railway in regard to which Government have no information other than the communal returns of recruitment published in the Report by the Railway Board on Indian Railways. Under the terms of the contract, the Bombay, Baroda and Central India Railway has full powers in regard to recruitment of staff. It has agreed to conform to the principles of the Government of India's Resolution of 1934 on the subject of recruitment of minority communities; but the percentages fixed in accordance with that Resolution apply to the railway as a whole and not to particular categories of staff. I am, however, sending copies of these questions to the Agent & General Manager, Bombay, Baroda and Central India Railway, for such action as he may consider necessary.

Dr. Sir Ziauddin Ahmad: Do I understand from the Honourable Member that in this House we cannot ask any question about Company-managed Railways?

The Honourable Sir Andrew Clow: Honourable Members are entitled to ask questions, if they are admissible.

Mr. President (The Honourable Sir Abdur Rahim): The question has been fully answered. Next question.

NON-RECRUITMENT OF MUSLIMS TO CERTAIN POSTS ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

†478. ***Maulvi Syed Murtuza Sahib Bahadur:** (a) Will the Honourable the Railway Member be pleased to state whether it is a fact that there has been no recruitment of Muslims in the Bombay, Baroda and Central India Railway as Watch and Ward Inspectors, Sub-Inspectors, Chief Overseers and Office Clerks?

(b) If the answer to part (a) be in the affirmative, what is the reason?

(c) If it is a fact that some educated Muslims have been taken as watchmen on the understanding, after representation made to the Agent, that they will soon be promoted to higher grades and that the further recruitment of Gujratis and relatives of the Watch and Ward Assistant Superintendent would be stopped? If so, from when will this take effect?

MUSLIM WATERMEN ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

†479. ***Maulvi Syed Murtuza Sahib Bahadur:** Will the Honourable the Railway Member be pleased to state whether it is a fact that on the Bombay, Baroda and Central India Railway no Muslim waterman is given preference to become a permanent Muslim *bhishti* (waterman)? If so, why?

HOURS OF WORK OF THE STAFF ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

480. ***Maulvi Syed Murtuza Sahib Bahadur:** Will the Honourable the Railway Member be pleased to state whether it is a fact that the railway staff in the North Western and East Indian Railways works eight hours a day whereas all the railway staff in the Bombay, Baroda and Central India Railway has to work twelve hours a day? If so, why?

The Honourable Sir Andrew Clow: 56 hours per week may be taken as normal for many classes of staff on the North Western Railway. The facts are not as stated on the Bombay, Baroda and Central India Railway, to which also the Hours of Employment Regulations are applicable.

†For answer to this question, see answer to question No. 477.

PROVISION OF RENT-FREE QUARTERS TO BLOCK MAINTAINERS ON THE NORTH WESTERN RAILWAY.

481. *Mr. Lalchand Navalrai: Will the Honourable Member for Railways be pleased to state :

- (a) whether certain Block Mistries on the North Western Railway were promoted to the posts of Block Maintainers with effect from 1st May, 1931 or subsequent dates;
- (b) whether it is a fact that they were allowed the privilege of rent-free quarters, if any of them was appointed to Railway service prior to 1st August, 1928, in any capacity in the inferior service;
- (c) whether it is a fact that these Block Maintainers promoted from Mistries enjoyed the privilege of rent-free quarters till 31st August, 1931, when orders were issued by the Agent, North Western Railway, Lahore, depriving them of the privilege of rent-free quarters;
- (d) whether it is a fact that deductions from the wages of Block Maintainers towards rent for occupying Railway quarters were made only on three divisions of the North Western Railway; if so, what was the reason for this discrimination;
- (e) whether it is a fact that these men continued to send representations and as a result thereof they were told *vide* the General Manager, North Western Railway, Lahore's letter No. 540-E./104, dated the 27th January, 1936, that, with the concurrence of the Chief Accounts Officer, it had been decided that Block Maintainers whose original appointment was that of a Block Mistry, and if he had enjoyed the concession of rent-free quarters prior to 1st August, 1928, the date from which the Revised Rent Rules were brought into force, would continue to enjoy the privilege as Block Maintainers also;
- (f) whether it is a fact that these Block Maintainers were again asked in May, 1939, to pay house-rent for quarters occupied by them; if so, what was the reason for this change, since their case was once decided with the concurrence of the Chief Accounts Officer;
- (g) whether the Railway Board or the General Manager countermanded 1936 orders; and
- (h) whether Government propose to allow the concession of rent-free quarters to this class of staff as decided in 1936; if not, why not?

The Honourable Sir Andrew Clow: I have called for information and will lay a reply on the table of the House in due course.

DEVALUATION OF ASSISTANT STATION MASTERS' GRADES ON THE NORTH WESTERN RAILWAY.

482. *Mr. Lalchand Navalrai: Will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that Assistant Station Masters' posts on the North Western Railway have been devalued from grade V to grade IV as they fall vacant;

- (b) whether it is a fact that a very large number of Assistant Station Masters are officiating against these posts and drawing the pay of grade V owing to their being in continuous officiating service in these posts prior to their devaluation; if so, how many such persons are officiating in grade V;
- (c) whether it is a fact that, under the present rules, if an Assistant Station Master, officiating in any of these posts, proceeds on leave on average pay, or is taken ill and the period of such absence is treated as leave on average pay, and on resuming duty if he is put to officiate as senior Assistant Station Master, he is relegated to the scale of pay in grade IV Assistant Station Masters only, as the leave is considered to constitute a break in officiating service;
- (d) whether Government are aware that this has caused hardship on the employees and they cannot enjoy any leave on average pay for the fear of losing their grade in pay;
- (e) what steps Government propose to take to ensure that no hardship is caused on this account; if not, why not;
- (f) whether it is a fact that most of these Assistant Station Masters are officiating against permanent vacancies; if so, why they are not placed on probation and confirmed after the usual period of one year;
- (g) whether it is a fact that officiating service also counts towards probationary period, provided it is continuous; if so, whether Government propose to direct confirmation of such Assistant Station Masters who have been officiating against permanent vacancies for more than one year; and
- (h) if the reply to second portion of part (g) be in the negative, what steps Government propose to take to end the suspense of Assistant Station Masters officiating in these grades since long; if not, why not? -

The Honourable Sir Andrew Clow: (a) Posts of Assistant Station Masters, grade V, were abolished in October, 1938.

(b) Incumbents of grade V posts who had been confirmed or were continuously officiating prior to the abolition of the posts retain the pay of grade V as personal to themselves. There are 18 Assistant Station Masters officiating in grade IV who are drawing the pay of grade V.

(c) Yes.

(d) and (e). The matter is under consideration.

(f) As regards the first part, there are 10 permanent vacancies in grade IV. As regards the second part, the question of filling the vacancies is under consideration.

(g) The answer to the first part is in the affirmative. As regards the second part, I would refer the Honourable Member to the reply I have given to the latter part of part (f).

(h) Does not arise.

TREATMENT OF BLOCK MAINTAINERS ON THE NORTH WESTERN RAILWAY AS INFERIOR STAFF FOR PURPOSES OF LEAVE RULES.

483. *Mr. Lalchand Navalrai: Will the Honourable Member for Railways be pleased to state:

- (a) whether Block Maintainers on the North Western Railway were treated as members of inferior staff for the purpose of leave rules;
- (b) whether it is a fact that the Railway Board were pleased to treat this class of staff as subordinate service employees for the purpose of leave, in 1934;
- (c) if so, whether this will have effect from the date these men were appointed as Block Maintainers; if not, why not;
- (d) whether it is a fact that this change would involve only book entries in the leave registers to permit Block Maintainers to accumulate leave as subordinates with effect from the date of their appointment; if so, what is the reason for admitting them to the subordinate leave rules only from 1st January, 1935, and
- (e) whether Government propose to give them the benefit of Leave Rules for subordinate staff with retrospective effect; if not, why not?

The Honourable Sir Andrew Clow: (a) Yes, prior to 24th December, 1934.

(b) Yes.

(c) Yes, if their appointment is subsequent to 24th December, 1934.

(d) and (e). Government are not prepared to give retrospective effect beyond 24th December, 1934, to the change for the purposes of calculating leave, because they see no reason to credit men now with leave which, under the conditions of service as they then stood, these men did not earn.

COMMUNAL COMPOSITION OF JOURNEYMEN APPOINTED IN CERTAIN SHOPS ON THE NORTH WESTERN RAILWAY.

484. *Mr. H. M. Abdullah: Will the Honourable Member for Communications please state community-wise the number of journeymen appointed by direct recruitment after the issue of Government of India Resolution of 1934 on the North Western Railway in the following shops, separately:

- (1) Loco. Shops, Moghalpura,
- (2) Carriage and Wagon Shops, Moghalpura,
- (3) Mechanical Workshops, Sukkur,
- (4) Karachi Division Sheds,
- (5) Quetta Division Sheds,
- (6) Multan Division Sheds,
- (7) Lahore Division Sheds,
- (8) Ferozepore Division Sheds,
- (9) Rawalpindi Sheds, and
- (10) Delhi Division Sheds?

The Honourable Sir Andrew Clow: I have called for information and will lay a reply on the table of the House in due course.

COMMUNAL COMPOSITION OF TRAIN CLERKS AND TICKET COLLECTORS ON THE NORTH WESTERN RAILWAY.

485. *Mr. H. M. Abdullah: Will the Honourable Member for Communications please state community-wise the number of Train Clerks and Ticket Collectors in the following divisions of the North Western Railway:

- (1) Lahore,
- (2) Rawalpindi,
- (3) Ferozepur,
- (4) Delhi,
- (5) Multan,
- (6) Karachi, and
- (7) Quetta?

The Honourable Sir Andrew Clow: The returns submitted by Railways regarding communal composition of staff are not given either by particular categories or by divisions, and I understand that even in the returns sent by divisions to the Headquarters office separate particulars are not given of categories such as Ticket Collectors. I regret, therefore, that I cannot furnish the information desired.

RECRUITMENTS TO THE TELEPHONE REVENUE OFFICE, DELHI.

486. *Bhai Parma Nand: (a) Will the Honourable the Communications Member be pleased to state whether it is a fact that the Telephone Revenue Office, Delhi, is under the direct control of the Deputy Director General, Finance, Posts and Telegraphs, New Delhi, and that the recruitment to the latter office is based on the communal ratio fixed for the centrally administered departments?

(b) Is it a fact that the recruitment to the Ministerial Establishment of the Telephone Revenue Office is based on the Punjab Model Rotation?

(c) If the replies to parts (a) and (b) be in the affirmative, will the Honourable Member please state how he reconciles the position as regards the recruitment to the T. R. G. Office on the basis of the Punjab Model Rotation? How and when do Government propose to rectify the mistake?

(d) If the reply to part (b) be in the negative, will the Honourable Member please state how many appointments were made to the ministerial establishment of the T. R. G. Office in the years 1937-38, 1938-39, and 1939-40, giving the number of clerks so employed community-wise?

The Honourable Sir Andrew Clow: (a) The reply to the first part is in the negative. The office is under the Director-General who is assisted in its supervision and control by the Deputy Director-General, Finance: that officer has no separate office.

(b) Yes.

(c) This does not strictly arise, but I would observe that there has been no mistake. Recruitment to this office, as to other offices under the Director-General's control, (excluding his headquarters office) is made on the basis of the ratios fixed for the circle in which the offices are situated.

(d) Does not arise.

***COMMUNAL COMPOSITION OF CERTAIN STAFF OF THE BROADCASTING STATIONS AT LAHORE AND PESHAWAR.**

487. *Sardar Sant Singh: Will the Honourable the Communications Member be pleased to state the number of Hindus, Muhammadans, Sikhs and others, holding various posts carrying salaries of Rs. 100 or more per mensem at the Lahore and Peshawar Radio Stations of the All-India Radio?

The Honourable Sir Andrew Olow: 12 Hindus, 7 Muslims and 1 Sikh at Lahore, and 5 Hindus and 3 Muslims at Peshawar.

***COMMUNAL COMPOSITION OF CERTAIN STAFF OF THE BROADCASTING STATIONS AT LAHORE AND PESHAWAR.**

488. *Sardar Sant Singh: (a) Will the Honourable the Communications Member please state whether Government are aware that there is not a single Sikh employed as a Station Director, Programme Director, or Programme Assistant, anywhere in the All-India Radio?

(b) If not, will Government be pleased to state the number of Hindus, Muhammadans, Sikhs and others employed on these posts at the Lahore and Peshawar stations and the period of their employment?

The Honourable Sir Andrew Olow: (a) Yes.

(b) Does not arise.

Sardar Sant Singh: Is it a fact that there have been several applicants for these jobs when advertised, and no Sikh was ever taken?

The Honourable Sir Andrew Olow: I am not sure what job the Honourable Member is referring to. If he refers to the jobs mentioned in part (a) of the question, my answer was in the affirmative.

Sardar Sant Singh: Why were Sikhs considered to be disqualified for these jobs?

The Honourable Sir Andrew Olow: It is not a question of disqualification; these are selection posts and other candidates happened to be selected.

Sardar Sant Singh: How is it that during all these years that the department has been in existence, not a single Sikh could be employed or come under selection?

The Honourable Sir Andrew Olow: This relates to individual selections, and, without going back over these, I could not give the Honourable Member a categorical answer.

NON-BROADCASTING OF PROGRAMMES RELATING TO SIKH CULTURE.

489. *Sardar Sant Singh: (a) Will the Honourable the Communications Member please state whether Government are aware that a good deal of matter broadcast from the various Radio Stations relates to the culture of various communities?

(b) Are Government aware that there is a good deal of dissatisfaction among the Sikhs, because very little useful material is broadcast by the All-India Radio in the Punjabi language or concerning the Sikh culture?

The Honourable Sir Andrew Clow: (a) Yes

(b) No.

Mr. Lalchand Navalrai: In view of the fact that broadcasting is done in several languages, will the Honourable Member consider the claims of the Sindhi language also?

The Honourable Sir Andrew Clow: This question does not relate to Sindhi.

Sardar Sant Singh: What did the Honourable Member mean when he said that there was no dissatisfaction among the Sikhs for want of broadcasting in the Punjabi language? What inquiries did the Department make about this?

The Honourable Sir Andrew Clow: I did not say there was no dissatisfaction. The question was whether I was aware of a good deal of dissatisfaction, and I said that I was not so aware.

Sardar Sant Singh: Will the Honourable Member make an inquiry and propose some remedy?

The Honourable Sir Andrew Clow: I am prepared to take it that the Honourable Member is dissatisfied; I do not know about others.

UNSTARRED QUESTIONS AND ANSWERS.

CERTAIN DUTIES PERFORMED BY THE ENQUIRY CLERKS AT CERTAIN STATIONS ON THE NORTH WESTERN RAILWAY.

89. Mian Ghulam Kadir Muhammad Shahban: Will the Honourable Member for Railways be pleased to state:

(a) the number of (i) First Class and (ii) Second Class, tickets issued, (iii) Reservation coupons given and (iv) enquiries attended to at the following stations on the North Western Railway by enquiry clerks, from 1st July, 1939 to 31st December, 1939.

(i) Amritsar,

(ii) Peshawar Cantonment,

(iii) Rawalpindi, and

(iv) Quetta; and

(b) whether it is proposed to have separate Reservation Clerks at these stations?

The Honourable Sir Andrew Clow: (a) The information required regarding tickets and reservations is as follows:

Station	Tickets issued			Reservation Coupons issued.
	1st	2nd	Total	
Amritsar	186	2,416	2,602	181
Peshawar Cantonment	615	2,671	3,286	1,087
Rawalpindi	1,171	3,096	4,267	2,586
Quetta	444	1,157	1,601	841

Figures for enquiries in respect of Peshawar are not available; if reliable figures can be secured for other stations, they will be supplied at a later date.

(b) No.

TICKETS ISSUED FROM THE HYDERABAD (SIND) RAILWAY STATION.

90. Mian Ghulam Kadir Muhammad Shahban: (a) With reference to the reply to starred question No. 132, asked on 23rd February, 1940, will the Honourable Member for Railways be pleased to state whether the figures for tickets issued from Hyderabad (Sind) also include the figures of tickets issued to stations on other than the North Western Railway?

(b) If the reply to part (a) be in the negative, will the Honourable Member please supply this information also?

The Honourable Sir Andrew Clow: (a) No; I regret that further inquiries have shown that these were not included.

(b) 68 first class and 2,063 second class tickets were issued from Hyderabad for stations on other railways.

PROMOTIONS OF SHUNTERS ON THE NORTH WESTERN RAILWAY.

91. Bhai Parma Nand: (a) Will the Honourable Member for Railways please state how many grade III shunters on the North Western Railway have been promoted to drivers in 1939?

(b) Will the Honourable Member state whether only 22 grade III posts have been given instead of 33 as per answer to starred question No. 179 (c) put by Mr. Lalchand Navalrai on the 14th September, 1939, i.e., "33 vacancies in grade III held in abeyance in 1934 have been recently restored."

The Honourable Sir Andrew Clow: (a) and (b). 26 shunters grade III have been promoted to drivers' grade III, since the restoration of the 33 vacancies in grade III held in abeyance since 1934 referred to in the reply to part (c) of Mr. Lalchand Navalrai's question No. 179 on the 14th September, 1939. The promotion of a further seven men is under consideration.

POSTS OF DRIVERS HELD IN ABEYANCE ON THE NORTH WESTERN RAILWAY.

92. Bhai Parma Nand: (a) Will the Honourable Member for Railways state approximately how much monetary loss has been sustained individually by grade III staff (mostly Indians) on account of holding in abeyance 26 vacancies of this staff *vide* Agent, North Western Railway's letter No. 755-E./157-II, dated the 7th September, 1934?

(b) Does the Honourable Member propose to keep in view the loss sustained by 45 promotions of grade IV drivers (of whom 100 per cent. were Europeans) and compensate grade III Indians and sanction 11 more (as stated in part (b) of the preceding question) *plus* 26 drivers' posts (which were held in abeyance)?

(c) Will the Honourable Member please state how many grade III staff have been debarred from Loco. Shed Foremen and Locomotive Inspector's posts while holding 33 vacancies in abeyance?

(d) Is it a fact that grade IV drivers numbering nine have been promoted to Loco. Shed Foremen and Loco. Inspectors posts, instead of those being given to grade III drivers whose vacancies were held in abeyance?

The Honourable Sir Andrew Clow: (a) It has not proved practicable to calculate this as the assumptions which it would be necessary to make are too arbitrary to make accuracy attainable.

(b) The Honourable Member is referred to the reply to part (c) of Mr. Lalchand Navalrai's question No. 179 on the 14th September, 1939, and the reply to his own question No. 91 laid on the table today. It is not proposed to restore more than the 33 posts in grade III which were held in abeyance in 1934.

(c) None. Since posts of drivers, grade III, were held in abeyance, 11 drivers, grade IV, and six drivers, grade III, have been promoted to the posts of Shed Foremen and Loco. Inspectors.

(d) No. The Honourable Member is referred to the reply to part (c) above. The holding of posts of drivers, grade III, in abeyance has made no difference in respect of these promotions.

INDIANISATION OF THE POSTS OF LOCO. FOREMEN AND INSPECTORS ON THE NORTH WESTERN RAILWAY.

93. Bhai Parma Nand: (a) Will the Honourable Member for Railways please state how many Indians (Hindus, Sikhs and Muhammadans) are working as Loco. Foremen and Locomotive Inspectors over the North Western Railway?

(b) If the reply to part (a) be *nil* (as given by Sir Thomas Stewart to Mr. N. M. Joshi's starred question No. 80 on the 18th March, 1938), do Government now propose to change the policy and Indianize this department too, as promised, since qualified (*i.e.*, T. 13 Course) Indians on recommendation rolls for such posts on the North Western Railway are available?

(c) Is it a fact that all the sonior posts of all the departments over the North Western Railway are represented by Indians except the posts of Loco. Foremen and Loco. Inspectors? If so, do Government now propose to take early steps to promote Indians to the above posts?

The Honourable Sir Andrew Olow: (a) On the 30th September, 1939, the last date for which information is available, there were none.

(b) No question of change of policy arises. There is no racial discrimination in the selection of staff to fill these posts, and when qualified Hindus, Sikhs or Muslims become eligible for promotion they will be promoted in due course.

(c) There are Hindus, Sikhs or Muslims in the senior subordinate grades of the North Western Railway in practically all departments. As regards the second part the Honourable Member is referred to the reply given to part (b) above.

FILLING UP OF VACANCIES OF FOREMEN FOR SHOPS BY INDIANS.

94. Bhai Parma Nand: (a) Will the Honourable the Railway Member please state whether it is a fact that Foremen for Shops are generally recruited direct from England?

(b) If the reply to part (a) be in the affirmative, will the Honourable Member please state why Indians are not given a chance?

(c) Are the Railway Authorities now prepared to take Foremen for Shops from Sheds and vacancies thus occurring be filled by qualified Indians?

The Honourable Sir Andrew Olow: (a) No, but it has proved necessary to import a limited number of supervisory staff for the Mechanical Workshops of Railways, and I would refer the Honourable Member to the Proceedings of the Meeting of the Central Advisory Council for Railways, held in Simla on the 16th September, 1939, and the memorandum prepared for this meeting by the Railway Board.

(b) Does not arise.

(c) The class of work done in sheds differs from the class of work done in shops, and the transfer of foremen from sheds to shops, even if practicable, would not obviate the necessity for the importation of a limited number of foremen for shops until staff with experience in advanced technical processes become available from firms in India.

WORKING OF MAIL AND EXPRESS TRAINS BY INDIAN DRIVERS ON THE NORTH WESTERN RAILWAY.

95. Bhai Parma Nand: (a) Will the Honourable the Railway Member please state whether grade III Locomotive staff belonging to educated class of Indians are not given chances to work on mail and passenger trains on several divisions? If not, why not?

(b) Is it a fact that grade III drivers are senior in service and more experienced than grade IV drivers (Europeans) who were recently promoted?

(c) If the reply to part (b) be in the affirmative, how is it that grade III men have not been given equal chances to work on mail and express trains when they have already done so previous to the promotion of grade IV drivers?

(d) Is it a fact that in 1939 promises were made to fix percentage for working mails and express trains for grade III and IV drivers? If so, why has it not been given effect to?

(e) Since grade IV is an abolished grade and the present grade III is its equivalent, are Government prepared to fix a reasonable percentage for working mail and express trains over the North Western Railway?

(f) Are Government prepared to distribute grade III staff equally on all divisions of the North Western Railway, to give the benefit of the percentage mentioned in part (e) above?

The Honourable Sir Andrew Clow: (a) As regards the first part, the instructions are that grade III drivers on the maximum of their grade, *viz.*, Rs. 180 (old scales), should be given preference over grade IV drivers drawing less than Rs. 190 (old scales) in the working of mail and other important trains. The second part does not arise.

(b) There are certain drivers, grade III, who have longer service than certain drivers, grade IV, but before a driver can be utilised on mail and other important trains, he must establish his ability to drive such trains.

(c) The Honourable Member is referred to the answers given to parts (a) and (b).

(d) Government are informed that no such promise is traceable. The second part does not arise.

(e) Grade IV has not been abolished, but is a diminishing cadre which has been amalgamated with grade III. No percentage can be fixed for the working of mail and express trains as this is dependent on the abilities of the drivers.

(f) This does not arise, but it should be observed that the distribution of running staff by Divisions is dependent on the requirements of each Division and cannot be made equally between Divisions.

DEPRIVING OF CERTAIN EMPLOYEES OF RENT-FREE QUARTERS ON THE GREAT INDIAN PENINSULA RAILWAY.

96. Sardar Sant Singh: Will the Honourable the Railway Member be pleased to state:

(a) whether the Great Indian Peninsula Railway Administration has recently issued instructions, *vide* Weekly Notice No. 28 of the 14th July, 1939, depriving its employees of the concession of rent-free quarters, or an allowance in lieu thereof, during the time they are away from duty owing to illness;

(b) whether it is a fact that such concessions used to be enjoyed by the employees all these years; and

(c) if the replies to parts (a) and (b) be in the affirmative, whether Government are prepared to cancel the orders?

The Honourable Sir Andrew Clow: (a) and (b). Employees on privilege leave, injury full pay or hospital leave, special casual leave or unrecorded sick leave admissible under the Great Indian Peninsula Railway Company rules, are entitled under the rules to get rent-free quarters or an allowance in lieu thereof. Employees on leave of other kinds are not entitled to this concession. It was noticed that certain staff falling under the latter category were getting the concession by mistake and contrary to rules. This mistake was corrected in the Weekly Notice to which my Honourable friend refers.

(c) This does not strictly arise; but Government do not propose to take any action.

NON-APPLICABILITY OF THE FUNDAMENTAL LEAVE RULES TO INFERIOR STAFF OF THE GOODS DEPOT AT WADI BUNDER ON THE GREAT INDIAN PENINSULA RAILWAY.

97. Sardar Sant Singh: Will the Honourable the Railway Member be pleased to state:

- (a) whether it is a fact that certain members of the inferior staff employed at the Goods Depot at Wadi Bunder on the Great Indian Peninsula Railway, who were eligible for the Fundamental Leave Rules, were treated under other sets of leave rules;
- (b) whether, as a result of this, the said staff were put to a loss;
- (c) whether it is a fact that in 1939 it was decided that the mistake was to be rectified from 1st January, 1937 and not from the date of appointment of the staff concerned; and
- (d) if the answer to part (c) above be in the affirmative, the reasons for not rectifying the mistake with proper retrospective effect?

The Honourable Sir Andrew Clow: (a) and (b). Yes.

(c) Effect was given to the change from the 1st January, 1937.

(d) I have called for certain information and will lay a further reply on the table of the House in due course.

LEAVE RULES CONCESSIONS GIVEN TO SHED STAFF AT WADI BUNDER ON THE GREAT INDIAN PENINSULA RAILWAY.

98. Sardar Sant Singh: Will the Honourable the Railway Member be pleased to state:

- (a) whether it is a fact that (*vide* their letter No. 1243 E. G. of 2nd April, 1932) the Railway Board gave as a concession the Shed Staff at Wadi Bunder, Great Indian Peninsula Railway, who were engaged between 1st September, 1928 and 31st March, 1930, the option either of remaining under the Fundamental Leave Rules or the Revised State Railway Leave Rules;
- (b) what was the ground, if any, for granting this concession;
- (c) whether it is a fact that there were several other employees similarly appointed elsewhere during the period in question;
- (d) whether the employees, referred to in part (c) above, were granted the concession given to the Wadi Bunder Staff; and
- (e) if the reply to part (d) be in the negative, what are the reasons for making such discrimination between the different categories of staff?

The Honourable Sir Andrew Clow: (a) Yes.

(b) The reason given was that they were not appointed on the condition that when the revised leave rules for State Railway employees were introduced, they would be brought under them.

(c) Yes.

(d) No.

(e) I understand that the railway regarded the case of the Wadi Bunder staff, who would not have secured the concession but for an oversight, as exceptional.

APPLICATION OF FUNDAMENTAL RULE 32 (a) (ii) TO THE COMMERCIAL DEPARTMENT OF THE GREAT INDIAN PENINSULA RAILWAY.

99. Sardar Sant Singh: Will the Honourable the Railway Member be pleased to state:

- (a) whether it is a fact that the Railway Board have decided that in the case of staff governed by the Fundamental Rules, all posts in the grades the maximum of which is less than Rs. 120 per mensem are held to carry equal responsibilities, and the fixation of pay in the higher grades at a stage above the substantive pay as a general rule is inadmissible and that the initial pay in such cases should, therefore, be fixed strictly in accordance with Fundamental Rule 32 (a) (ii);
- (b) whether it is a fact that, unlike any other Government Departments, there are several grades on the Railways up to the grade of Rs. 120;
- (c) whether it is a fact that in the Commercial Department of the Great Indian Peninsula Railway there are more than seven grades up to Rs. 120;
- (d) whether it is a fact that by reason of this Fundamental Rule an employee on the Railway would be required to go without increment for several years, as there are grades through which he has to work up his career unlike an employee in any other Department of Government Service;
- (e) whether it is a fact that representations in regard to the application of the Fundamental Rule were received from and on behalf of the staff concerned;
- (f) whether Government are aware that the Great Indian Peninsula Railway Administration had approached the Railway Board to seek an exception from this rule in the case of Railway workers;
- (g) what the outcome of the same was;
- (h) what the reasons were for non-compliance with the request in this connection; and
- (i) whether Government are prepared to review the position?

The Honourable Sir Andrew Clow: (a) No such general principle has been laid down by the Railway Board. A decision to this effect affecting certain staff on the Great Indian Peninsula Railway was taken by the General Manager, and the Railway Board, acting on this decision, gave instructions to him regarding the fixation of pay for such staff on promotion to a higher grade.

(b) There are several grades for the same type of work on the railways; but I am unable to assure the Honourable Member that this is not the case elsewhere.

(c) Yes.

(d) This is possible, but I doubt if it is peculiar to the railways.

(e) No such representations have come to my notice.

(f) Yes; for staff on the old scales of pay in two particular grades.

(g) and (h). The request was not granted as it appeared that no sufficient case had been made out for the relaxation of the rule.

(i) The question will be considered.

TRAIN COLLISIONS ON THE HARBOUR BRANCH OF THE GREAT INDIAN PENINSULA RAILWAY.

100. Sardar Sant Singh: Will the Honourable the Railway Member be pleased to state:

(a) whether there were train collisions on the Harbour Branch of the Great Indian Peninsula Railway on 13th May, 1939;

(b) if so, how many persons were injured as a result of these collisions;

(c) what damage was done to the railway tracks in terms of money;

(d) whether any claim was received from injured passengers and, if so, how the same was disposed of;

(e) whether it is a fact that this section of the Railway is controlled by 'Automatic Signals' and not by 'Block System' as in the case of other sections;

(f) whether it is a fact that these stations are manned only by Clerks-in-charge;

(g) whether they know anything about train working;

(h) whether they are responsible for the train working as in the case of Station Masters at other stations; and

(i) whether it is a fact that the Guards and Drivers cannot get any assistance from the Station staff on the Harbour Branch owing to there being no Station Masters?

The Honourable Sir Andrew Clow: (a) Yes.

(b) 22 persons were slightly injured.

(c) Rs. 17-4-0.

(d) Rs. 1,500 were paid in claims from six persons.

(e) The section is worked under the Automatic Block system to which all rules appertaining to the Absolute Block System are applicable except as otherwise provided in the rules in Chapter XI of the General Rules for the working of Open Lines.

(f) No. There are two signallers-in-charge, one at Reay Road and the other at Sewri, in addition to the Clerks-in-charge.

(g) The signallers-in-charge are qualified in train working.

(h) No.

(i) No. The train staff can obtain the assistance of the signallers-in-charge and the Controller.

TRAIN COLLISIONS ON THE HARBOUR BRANCH OF THE GREAT INDIAN PENINSULA RAILWAY.

101. Sardar Sant Singh: Will the Honourable the Railway Member be pleased to state:

- (a) whether it is a fact that the Home Signal at Reay Road, Bombay, which was the scene of accidents in Bombay on 13th May, 1938, stands at the end of a sharp gradient of 1 in 42 and that there is a curve also;
- (b) whether it is a fact that the rails on the curve are greased to facilitate easy negotiation for the moving wheels of the trains, but owing to which the trains could not be stopped all of a sudden to prevent an accident;
- (c) whether it is a fact that owing to these facts and also owing to an adjoining tree near the curve which was subsequently pruned, the train staff were greatly handicapped;
- (d) whether it is a fact that the Guards and Drivers of some of these trains were removed from service only on the ground that they did not carry out General Rule 280;
- (e) whether it is a fact that Station Staff at Victoria Terminus, who were aware of the failure of the first train, did not take any precautions while allowing subsequent trains to leave the station;
- (f) what action, if any, was taken against Victoria Terminus station staff;
- (g) whether it is a fact that there are failures in the 'Automatic Signal' system;
- (h) what is the number of failures of this type during the year 1938-39 and what cost the Administration had to incur on that account; and
- (i) whether Government propose to get the question of replacing the system of 'Automatic Signals' by the 'Block System' examined on this service in the interests of public safety; if not, why not?

The Honourable Sir Andrew Clow: (a) I understand that it is some distance away from the end of the gradient but there is a curve. The accident occurred in May, 1939.

(b) The outer rail of a curve is greased on the running edge and not on the table of the rail. The reply to the second part of the question is in the negative.

(c) No.

(d) Yes.

(e) There was no failure on the part of the staff at Victoria Terminus to comply with any rules.

(f) Does not arise.

(g) Yes. The number of failures to the number of train movements is in the ratio of 1 to 19,000.

(h) 139. The small cost involved is not readily ascertainable.

(i) No. As the accident was the result of failure of the train staff to obey orders and not due to the failure of the automatic signals, the question does not arise.

PROMOTION OF FIREMEN ON THE GREAT INDIAN PENINSULA RAILWAY.

102. Sardar Sant Singh: Will the Honourable the Railway Member be pleased to state:

(a) whether it is a fact that on the Great Indian Peninsula Railway Firemen have been engaged in class 'A' with qualifications distinct from those engaged in other lower classes and with prospects of their promotion as 'A' Class Drivers direct;

(b) whether it is a fact that since recently this channel of their promotion has been affected and they are now being asked to seek promotion along with 'B' and 'C' Class Firemen;

(c) whether any representations were made by these Firemen and the Great Indian Peninsula Railwaymen's Union in regard to restoration of their prospects in the light of which they were entertained in the service; if so, with what results;

(d) what the present number of these 'A' Class Firemen is;

(e) whether most of them are not Indians;

(f) whether there was any racial discrimination practised by the Administration; and

(g) whether Government are prepared to reconsider the question and allow these Firemen to enjoy the prospects that were open to them at the time of their engagement; if not, why not?

The Honourable Sir Andrew Olow: I have called for information and will lay a reply on the table of the House in due course.

STATEMENT OF BUSINESS

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House): Sir, as the House is aware, Tuesday, the 26th, is at present fixed for the transaction of non-official business (Bills). I understand that there is a general desire that that day should be fixed for the transaction of official business; and that being so, the Governor General is willing to allot in the following week a day for the transaction of non-official business (Bills) in respect of which the 26th was fixed, and the 26th may, therefore, be fixed for the transaction of official business. On the date which is fixed in the following week for the transaction of non-official business, Government propose to put on the agenda a certain amount of official business, so that if the non-official business is concluded before 5 o'clock, some of that official business may then be transacted.

NOTIFICATION *RE* CERTAIN AMENDMENTS TO THE MOTOR VEHICLES INTERNATIONAL CIRCULATION RULES

The Honourable Sir Andrew Olow (Member for Railways and Communications): Sir, I beg to lay on the table a copy of the Department of Communications' Notification No. R.-63, dated the 21st February, 1940, regarding certain amendments to the Motor Vehicles International Circulation Rules, 1933.

“DEPARTMENT OF COMMUNICATIONS

NOTIFICATION

Roads

New Delhi, the 21st February, 1940

No. R.-63.—In exercise of the powers conferred by sub-section (1) of section 92 of the Motor Vehicles Act, 1939 (IV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Motor Vehicles International Circulation Rules, 1933, the same having been previously published as required by sub-section (2) of section 133 of the said Act, namely:

1. For sub-rule (2) of rule 1 of the said Rules, the following sub-rule shall be substituted, namely:

“(2) They shall extend to the whole of British India, including Berar.”

2. In the Note to Annex. C. in the First Schedule to the said Rules, for the entries—

Colony and Protectorate of Kenya	} E A”
Colony and Protectorate of Uganda	
Colony and Protectorate of Zanzibar	
Colony and Protectorate of Nyassaland	
Tanganyika Territory	
Northern Rhodesia	

the following entries shall be substituted, namely:—

Colony and Protectorate of Kenya	EAK
Colony and Protectorate of Uganda	EAU
Colony and Protectorate of Zanzibar	EAZ
Colony and Protectorate of Nyassaland	NP
Tanganyika Territory	EAT
Northern Rhodesia	NR.”

S. N. ROY,

Secy. to the Govt. of India.”

THE EXCESS PROFITS TAX BILL—*concl'd.*

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume consideration of the Excess Profits Tax Bill. The question is:

“That Schedule I, as amended, stand part of the Bill.”

Babu Bajinath Bajoria (Marwari Association: Indian Commerce): Sir, I move:

“That in sub-rule (2) of Rule 4 of Schedule I to the Bill, after the words ‘received from investments’ the words ‘other than investments in companies the profits of which have been subjected to excess profits tax in British India’ be inserted.”

The effect of this is to give relief to that portion of the income which has already been subjected to the excess profits tax in British India. It relates to the dividends received from companies by shareholders. The profits have already been subjected to the excess profits tax and the balance distributed to the shareholders as dividends should not be calculated for the imposition of this tax. In part (c) of sub-clause (2) of clause 27 relief is provided for by rules to be made by the Central Board of Revenue in regard to the very case I am referring in my amendment. I do not, however, like that it should be left on rules to be made by the Central Board of Revenue but that it should be made a statutory provision so that this income should not be taken into account for computing the excess profits tax. Once the principle has been accepted, I hope Government will see no objection to this amendment. Sir, I move.

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

"That in sub-rule (2) of Rule 4 of Schedule I to the Bill, after the words 'received from investments' the words 'other than investments in companies the profits of which have been subjected to excess profits tax in British India' be inserted."

Mr. S. P. Chambers (Government of India: Nominated Official): Sir, I oppose this amendment. As the Honourable Member has pointed out, the matter has been dealt with in clause 27, and an additional sub-clause has been added in Select Committee. The reason for putting this matter in clause 27 and for giving the Central Board of Revenue power to make rules for giving the relief and not putting it as a specific item in Schedule I of the Bill can be explained on these lines.

First of all, the excess profits tax is not like income-tax charged upon the whole income of any company. It is only a tax upon the excess profits in one period over the profits made in a standard period or over a statutory percentage. For that reason it is difficult to say that any particular item of income in one company's accounts is subjected to the excess profits tax although such can be said in relation to income-tax. For that reason any attempt to put the relief in a rule such as this would have very awkward consequences and would be very difficult to work in practice. Perhaps I can explain that point by an illustration. If the profits in the standard period of the first company, among whose investments there is an investment in a second company, is one lakh of rupees, and if the invested capital consists of investments some of which have suffered excess profits tax in the chargeable accounting period, and if in the standard period the profits of the investment company include profits from another company which has not suffered excess profits tax, then if one excludes from the profits of the chargeable accounting period the dividends which have been subjected to excess profits tax in the hands of the subsidiary company, we are not comparing like with like, even though the investment company may be making more profits. It will be necessary to take out of the profits of the chargeable accounting period a certain amount, and then also take out a corresponding amount from the profits of the standard period

Babu Baijnath Bajoria: The Honourable Member's speech is very confusing.

Mr. S. P. Chambers: The Honourable Member has apparently not quite seen the point. I will state it again. The company which owns the

[Mr. S. P. Chambers.]

investments has in the standard period certain investments including investments in a company which in the chargeable accounting period will pay excess profits tax. When we come to the chargeable accounting period it is found that the amount coming from that company is greater, the amounts coming from other companies is less, but the total profits made by the investment company is much greater. If we attempt to exclude from the profits of the chargeable accounting period the profits of the company which has paid excess profits tax we must go back to the standard period and exclude correspondingly the amount received from the same company. But even if we do that, the results may be quite peculiar. You may get a large excess when there is no real excess profit, or you may actually get a deficiency even though the investment company is doing extremely well and is making large excess profits. The matter is entirely different from the position for income-tax purposes, where one is only taxing the profits of one period and we can say that the whole of the profits of that period have been subjected to income-tax in the hands of the first company. That is one point.

In respect of another point, I should like to draw the attention of the House to another difficulty. Even if some measure of relief can be granted, as the Bill provides for an allowance for deficiency if the profits of the company which has paid excess profits tax are smaller in a subsequent period, there may be a deficiency computed under the deficiency clause, and the whole of the excess profits tax paid by the subsidiary company may have to be repaid. We will then have the position that you have granted the relief to the investment company in respect of income from the company which has paid excess profits tax, but subsequently the whole of the excess profits tax has been refunded to the original company. That would make the position still more complicated. For that reason it has been found practically impossible to devise any rule to be put into the statute to give specific relief which will be equitable and which would not have quite absurd results. What we have done is to put into this rule-making clause a provision to give the Central Board of Revenue power to grant relief. The Central Board of Revenue can then draw up rules to deal with specific types of cases that may arise. The drafting of those rules will not be easy, but I may say that an attempt has already been made to draft a rule in such a way that relief can be given and can be given only in cases in which it is quite clearly due. As I say, the rule is a long and complicated one because the matter is long and complicated: and in practice when the rule is being worked it may be found to be working unsatisfactorily, and then the Central Board of Revenue may have to amend that rule. That is a much simpler process than coming to the Assembly with an amending Bill. I suggest that whatever can be done has been done in clause 27 and that this amendment is impracticable.

Babu Baijnath Bajoria: May I ask one question? In principle you have accepted that dividends received from companies which have been subjected to excess profits tax will not be again taxed in the hands of the shareholders. I have followed the speech of the Honourable Mr. Chambers—it is a long and complicated one and it will take me a long time to understand it; but I want to know specifically whether the principle has been accepted.

The Honourable Sir Jeremy Raisman (Finance Member): In the case of investment companies.

Mr. S. P. Chambers: The other companies are, of course, not affected, because their dividends are not included in their assessment for excess profits tax. So we are only concerned with investment companies. The principle that if one company receives dividends from another company which has paid excess profits tax some measure of relief should be given to the second company: but how much relief and how it should be given is a difficult thing to work out because it is quite clear that you cannot take out of the profits of the chargeable accounting period dividends from the first company without going back and taking something out of the profits of the standard period also. Otherwise, if both companies are making more profits you may have the absurd result that the second company, although both of them are doing well and both are making excess profits, you may have a deficiency shown because you are taking out of the profits of the chargeable accounting period without taking out anything correspondingly from the standard period. Of course, if we said, "take out exactly the same amount from both periods", then of course no relief would be given at all, because if you take out one lakh from the profits of the standard period and one lakh from the chargeable accounting period, that of course gives no relief. I think I have said sufficient about the difficulty of granting relief in this manner

Babu Baijnath Bajoria: What about dividends received by persons and firms?

Mr. S. P. Chambers: As the Honourable Member will see in the clause to which he has tabled an amendment, dividends received in those cases are not chargeable to excess profits tax. Sub-rule (1) of rule 4 says:

"Income received from investments shall be included in the profits in the cases and to the extent provided in sub-rules (2) and (4) of this rule and not otherwise."

Some Honourable Members: Withdraw, withdraw.

Babu Baijnath Bajoria: In view of the explanation given, I beg leave of the House to withdraw the amendment.

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

Mr. F. E. James (Madras: European): Sir, I move:

"That in sub-rule (5) of Rule 4 of Schedule I to the Bill, for the words 'as if the principal of the borrowed money were reduced by the value of' the words 'after setting off the gross income received from' be substituted."

This particular rule, rule 4, deals with income received from investments and explains in pellucid language which is very difficult for any one to understand the extent to which they are to be included in the profits in certain cases. This particular sub-rule is I think likely to be extremely complicated in practice, and the purpose of our amendment is to remove the complication attached to the estimate of the value of the investments. I have no doubt that my friend, Mr. Chambers, will rise and explain the complications with his usual clarity, and I should, if I may, acknowledge

[Mr. F. E. James.]

on behalf of this Group his graceful reference yesterday to something he had said on a previous occasion. We accept that explanation, and I should like here to express my own regret, and I am sure the regret of all of us in the House, at Mr. Chambers' impending departure. I think seldom has a civil servant combined with his competence in that direction the rare parliamentary gifts which Mr. Chambers possesses. (Hear, hear). He appears to be able to know the unknowable, explain the unexplainable and unscrew the inscrutable

Sir H. P. Mody (Bombay Millowners' Association: Indian Commerce): And compute the uncomputable.

Mr. F. E. James: Now, Sir, coming to the particular amendment, under the rule as it stands in the Bill, it will be necessary to ascertain the value of investments. How is that to be ascertained? For instance, take the case of the cost of investments. Does the value mean the original cost or does it mean the market value on any given date,—either at the beginning of the period or on the date on which, for example, an overdraft may have been taken? Will it not be necessary also to ascertain the interest charged in the case of a running overdraft for such period as the overdraft exceeds the value of the investments? It also appears to be unfair that if an investment actually brings in no income, it should be treated as if it had brought in the same rate of interest as was paid on the overdraft. Perhaps my Honourable friend will explain precisely how it is proposed to compute the value of those investments. If his explanation is as clear as it usually is, perhaps we may not be obliged to press this amendment, but I do hope he will clear up our doubts.

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

"That in sub-rule (5) of Rule 4 of Schedule I to the Bill, for the words 'as if the principal of the borrowed money were reduced by the value of' the words 'after setting off the gross income received from' be substituted."

Mr. S. P. Chambers: Sir, this sub-rule was intended to have this effect that, if a company borrows more money than is required for the purpose of its business, the profits from which are chargeable to excess profits tax, then as it borrows partly for the purpose of the business and partly to invest in outside investments, such part of the loan as is for the purpose of investment outside shall be deemed to be no part of the capital of the business, and the interest is not to be allowed in arriving at the profits. Generally speaking, I think it is true that a company or an individual for that matter borrows from the Bank at one rate of interest with the object of investing and getting interest at a higher rate; that is to say, one does not borrow from a bank at six per cent. in order to earn three per cent. In business normally one does it the other way round, he borrows at four per cent. and gets six per cent. or seven per cent. So, I think in a normal case the sub-rule as worded in the Bill is somewhat more favourable to the assessee than the rule as it would appear if the amendment were accepted. But there is the difficulty of determining how much of the overdraft is to be cut out by reference to the value of the investment. I think in practice this is not likely to cause so much difficulty as my Honourable friend apprehends, because when one borrows from a Bank for

the purpose of making an investment part of the money borrowed is forthwith paid away as the cost of the investment, and I think the natural thing to do would be to deduct that amount, that part of the overdraft which has been applied to the purchase price of the overdraft. Subsequent fluctuations either up or down in the value of the investment would not have any effect on the cost of the investment or on the overdraft which was used for the purpose of buying that investment, and I think as the object is to determine how much of the overdraft or loan was taken out in order to invest in the business itself, once we have excluded that part which has been used to purchase an investment, then we have done all that need be done, and I don't think anything else is required or that subsequent adjustment is necessary. In cases where there is a fluctuating overdraft, I am afraid all that can be done is to trace it back to see how much of the overdraft was used for making the investment. I do not think the practical difficulty would be great in any case of any importance.

As regards the other point, some money may have been borrowed from the Bank and part of it put in investment which yields no income, but that is a point, I think, which cannot very well be taken into account. As I said the most normal case is that the amount of interest on the investment will exceed the interest on the loan, and as in the normal case the assessee is benefited by the rule as drafted, I think in the exceptional case nothing can really be done about it,—it is just that the assessee has been unfortunate; but with the rule as it stands, it does at least effect what is intended to effect, namely, to point out how much of the overdraft is used for the purpose of the business. Perhaps with this explanation the Honourable Member may see fit to withdraw his amendment.

Mr. F. E. James: After this explanation, I beg leave of the House to withdraw the amendment.

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

Babu Baijnath Bajoria: Sir, I move:

"That for Rule 5 of Schedule I to the Bill the following be substituted:

- "5. If the person carrying on the business proves to the satisfaction of the Excess Profits Tax Officer that the whole or any part of the borrowed money or debts which are required to be deducted from the average amount of the capital employed in the business, under the provisions of Rule 2 of Schedule II, are *bona fide* utilized for the purpose of such business only, and for no other purpose, the interest on so much of the borrowed money or debts as has been so utilized, shall not be deducted in computing the profits for the purposes of excess profits tax and, notwithstanding the provisions of Rule 2 of Schedule II, that amount, of such borrowed money or debts, shall not be deducted in arriving at the average amount of the capital employed in the business."

Sir, though the amendment is rather a long one, yet it is much more clear that the explanation given by my friend, Mr. Chambers, on the last few amendments. The short and simple effect of my amendment is that all borrowed money *bona fide* for the purposes of business and utilised in the business should be counted as capital employed in the business. No differentiation should be made in favour of a bank or money raised on debentures. Though we very much value the addition which was made in the Select Committee, giving the assessee the right to compute as capital employed in the business money which has been borrowed from a bank or

[Babu Baijnath Bajoria.]

on debentures, I think that did not go far enough and there should be no distinction. All capital that has been borrowed,—if the assessee proves to the satisfaction of the Excess Profits Tax Officer that that money has been utilised for the purpose of the business, there is no reason why that amount should not be treated as capital of the business. I do not want to prolong my speech. I hope that my amendment will be given due consideration by the Honourable the Finance Member.

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

“That for Rule 5 of Schedule I to the Bill the following be substituted :

‘5. If the person carrying on the business proves to the satisfaction of the Excess Profits Tax Officer that the whole or any part of the borrowed money or debts which are required to be deducted from the average amount of the capital employed in the business, under the provisions of Rule 2 of Schedule II, are *bona fide* utilized for the purpose of such business only, and for no other purpose, the interest on so much of the borrowed money or debts as has been so utilized, shall not be deducted in computing the profits for the purposes of excess profits tax and, notwithstanding the provisions of Rule 2 of Schedule II, that amount, of such borrowed money or debts, shall not be deducted in arriving at the average amount of the capital employed in the business.’”

The Honourable Sir Jeremy Raisman: I must oppose this amendment. The point has had a very chequered history. It was the subject of a good deal of discussion in the Select Committee, and as most Honourable Members of the House know, it has been the subject of a good deal of discussion since. I have come firmly to the conclusion that I should stand on the Bill as drafted. The position is this. The effect of allowing increases in capital of the nature of loans to be treated in this way is that an allowance of the standard percentage of eight or ten per cent. is given as against the actual rate of interest which would normally be much less,—this higher allowance is given in computing the profits. Originally, there was no such provision in the Bill, and there is, as far as I am aware, no such provision in the English Act. But we were impressed with the desirability of making some concession in this direction if it could be done without greatly complicating the administration of the tax and opening a wide door to evasion. We advanced as far as it was possible to do without opening a wide door to evasion and I am quite convinced that if we advance a step further, we shall make it possible for loans to be given and taken and for the capital ranking for standard percentage to be inflated in an unwarrantable manner. This, no doubt, would be resisted by the officers administering the tax, but it would lead to a tremendous amount of argumentation and altercation and would very greatly complicate the administration of the tax. My own position was at one time that since the concession which was embodied in the Bill as it emerged from the Select Committee seemed to be causing a good deal of heart burning and since we were charged with discrimination as between banks and other people lending money,—my own feeling at one stage was that I ought to withdraw this clause altogether, but the objection to that was that, having put it in in the Select Committee and the provision having been accepted, I felt that I was bound to stand by it provided that no attempt was made to extend it further in a way which I thought would be dangerous to the administration of the measure. I think I have explained exactly where I

stand on this which has been a very controversial point. I will neither go forward nor will I go back. I stand on the provision of the Bill as it is, and therefore I oppose the amendment.

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

"That for Rule 5 of Schedule I to the Bill the following be substituted :

'5. If the person carrying on the business proves to the satisfaction of the Excess Profits Tax Officer that the whole or any part of the borrowed money or debts which are required to be deducted from the average amount of the capital employed in the business, under the provisions of Rule 2 of Schedule II, are *bona fide* utilized for the purpose of such business only, and for no other purpose, the interest on so much of the borrowed money or debts as has been so utilized, shall not be deducted in computing the profits for the purposes of excess profits tax and, notwithstanding the provisions of Rule 2 of Schedule II, that amount, of such borrowed money or debts, shall not be deducted in arriving at the average amount of the capital employed in the business'."

The motion was negatived.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, I beg to move :

"That in Rule 5 of Schedule I to the Bill, after the words 'banking business', occurring in the fourth line, the words 'or an individual carrying on ordinary business of a private bank.' be inserted."

My opinion was the same as that of the Honourable the Finance Member that the whole of Rule 5 should not have been there at all, but once you have given this concession to banks, then I think it is but just and equitable that it should be extended to private banks as well because we know that in the country a good deal of business is being carried on before the introduction of banking system by private individuals

Babu Baijnath Bajoria : Do you mean by a private bank or a private banker?

Dr. Sir Ziauddin Ahmad : I mean persons who really act as public banks so that anybody could go and get money, or bill of exchange.

Dr. P. N. Banerjee (Calcutta Suburbs : Non-Muhammadan Urban) : A moneylender you mean?

Dr. Sir Ziauddin Ahmad : No. Moneylending is only a part of the functions. They write *hundis*—those who carry on a regular banking business. There are certain individuals—I know one in Delhi, Ali Jan—though they are not registered banks, they carry on all the banking business in the same manner as a registered bank does. Once you have extended this concession to registered banks, it is reasonable to demand that it should be extended to a bank which is not registered, and is not of the nature described in the Banking Act, but which functions in the same manner as a registered bank. I do not mean that it should be extended to moneylenders of Shylock type. Moneylenders are not banks. Therefore, I think it is but reasonable that this principle should be extended to private banks as well. With these words I move.

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

"That in Rule 5 of Schedule I to the Bill, after the words 'banking business', occurring in the fourth line, the words 'or an individual carrying on ordinary business of a private bank,' be inserted."

Pandit Lakshmi Kanta Maitra (Presidency Divisions : Non-Muham-
 12 Noon. madan Rural) : I want to know from the Honourable Member if an individual, who carries on banking business, is to be called a bank and brought under the provisions of this Bill?

Dr. Sir Ziauddin Ahmad: The transactions carried on by a person who under normal conditions carries on the functions of a bank should be included in this exception.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : I rise to support this motion, although ordinarily on most of the matters, so far as this Bill is concerned, I could not see eye to eye with Dr. Ziauddin. There are two kinds of banking in this country. So far as banking in the modern sense of the term is concerned, it is a new institution and it is a growing institution, not yet fully established in India.

Dr. P. N. Banerjee: And the other is indigenous banking.

Mr. Akhil Chandra Datta: There is another class of banking business in this country which has been in existence for a long time and which has up to now been financing all business and all industries. What is the attitude of this Bill so far as banking is concerned with regard to the first type of business? I had an amendment moved, but that was negatived by the Honourable the Finance Member. My real point in that connection was that banking business being new to this country, it is absolutely essential that for financing industries and business banking should be encouraged. Now, that was not accepted. At the same time indigenous banking is also being discouraged unless this amendment is accepted. On a superficial view this matter may be considered to be very unimportant, but the effect of this rule, as it stands, is to make a distinction between capital borrowed from a registered bank and capital borrowed from an indigenous bank. The result will be that this will hit hard so far as indigenous banking is concerned. I feel we are between the devil and the deep sea. When you talk of regular registered banking, it has no blessings from the Honourable the Finance Member. The question with regard to the indigenous banking is also not countenanced. The result will be that banking business in its entirety will be in jeopardy, and so far as this amendment is concerned, if that distinction is made, the result will be that all private banking by indigenous banks will be stopped altogether. The question is whether a revolutionary change like that ought to be made by a rule in this Schedule. That is the whole question. It is a very important matter, and I am strongly in favour of this amendment.

The Honourable Sir Jeremy Raisman: On the question of making any actual change in this provision I have already made my position clear. I do not think that I can advance further without positively endangering the

administration of the measure. I am not quite sure myself at this moment whether many of the cases which my Honourable friend has in mind would not be covered by the terms of the rule as drafted, namely, a bank carrying on *bona fide* banking business. At the moment I do not see why they should not be but at any rate I regret that in view of the danger of any further extension I cannot accept any amendment which would tend to widen the scope of the rule. I oppose the amendment.

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

"That in Rule 5 of Schedule I to the Bill, after the words 'banking business', occurring in the fourth line, the words 'or an individual carrying on ordinary business of a private bank,' be inserted."

The motion was negatived.

Sardar Sant Singh (West Punjab: Sikh): Sir I beg to move :

"That after Rule 5 of Schedule I to the Bill the following be inserted :

'5A. In the case of the business of shipping, to which this Act applies no deduction shall be made on account of allowance under section 10 (2) (vii) of the Indian Income-tax Act, 1922.

5B. In the case of the business of shipping, to which this Act applies, out of the amount carried to a special reserve fund for the purpose of replacing tonnage lost during the war or tonnage in commission at the end of the war, the Excess Profits Tax Officer may allow such sum to be deducted out of the profits of any chargeable accounting period as he thinks reasonable'."

This amendment relates to the shipping industry, and we have received many representations about the necessity of this amendment from interested quarters. The first part of the amendment, namely, 5A, refers to the question of the computation of standard profits. In computing the profits, certain allowances are made under the Indian Income-tax Act. For instance, depreciation allowance is deducted from the profits. Similarly, if any obsolescence allowance is granted to the business in question, the same is also under the Act liable to be deducted in arriving at the taxable profits. In the case of ships such obsolescence is bound to be considerable amounts, sometime running to lakhs, and if it is deducted from the quantum of profits in the standard period, the standard profit is bound to be depleted to an insignificant figure. In computing chargeable profits under the Excess Profits Tax, the principle of like for like may not be translated into actual practice if, in the computation of standard profits, large sums by way of obsolescence is allowed to be deducted. This is a peculiar position to the shipping industry alone, as the unit of asset in the industry, namely, a ship is of considerable value compared to assets in other industries. Moreover, in the chargeable accounting period, obsolescence may not be allowed, such an allowance or claim not being an annual feature, with the result that the chargeable profits in the latter period would show an artificially inflated position compared to the profits of the standard period. In a report submitted to His Majesty's Government by the Chamber of Shipping of the United Kingdom the above difficulties are pointed out and the position is summarised in the following words :

"E. P. T. being a temporary tax, obsolescence allowance made in the standard period should not be treated as a charge against trading profits. Such allowances may result from insufficiency of annual wear and tear allowances in previous years and it might be unfair that obsolescence should be deducted from the standard profits since it might so happen that there was no corresponding deduction in the chargeable accounting period."

[Sardar Sant Singh.]

In view of the special position of the shipping companies due to hostilities, I hope the Honourable the Finance Member will assure the industry and thus remove the apprehensions prevailing therein. Sir, I move.

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

"That after Rule 5 of Schedule I to the Bill the following be inserted :

'5A. In the case of the business of shipping, to which this Act applies no deduction shall be made on account of allowance under section 10 (2) (vii) of the Indian Income-tax Act, 1922.

5B. In the case of the business of shipping, to which this Act applies, out of the amount carried to a special reserve fund for the purpose of replacing tonnage lost during the war or tonnage in commission at the end of the war, the Excess Profits Tax Officer may allow such sum to be deducted out of the profits of any chargeable accounting period as he thinks reasonable'."

Mr. A. Aikman (Bengal : European) : Sir, I would just like to ask the Mover one question in order to enable us to understand more fully the motion which he has made. Perhaps he could explain to us exactly how obsolescence allowances are calculated in the case of shipping?

Sardar Sant Singh : I do not know how they are calculated, but if a ship becomes obsolete on account of wear and tear, no allowance will be made at all.

Mr. A. Aikman : Thank you very much.

Sir H. P. Mody : Sir, I am not expressing any opinion upon this amendment. All that I want to do is to emphasise the special difficulties of the shipping industry in times such as these. From such discussions as I have had it seems to be common ground between the Government and ourselves that the shipping industry stands in a peculiar position during times of war and that its particular difficulties have got to be taken into consideration. The object of my intervention in this debate is to invite Government to give us categorical assurance on the subject.

Mr. S. P. Chambers : Sir, there are really two points now at issue. The first one is the one which is specifically covered by the amendment which is now before the House. The position in the United Kingdom, as I explained on an earlier amendment, is that no obsolescence deduction can be given unless the asset is replaced. The position in India is quite different, and the allowance in respect of the residual value of the asset is given as and when the asset goes out of the business, whether by sale or by any other means, and it is not dependent upon the replacement of that asset. In the case of ships, it is quite clear that the replacement of ships in the normal course of peace time need not be delayed. But during war time if several ships are sunk at the same time, they will not be replaced in the same year. But, as I said, that is an important matter which has to be taken into consideration in the United Kingdom. But as replacement is not taken into account in India in fixing the deduction for the obsolescence allowance, the amendment is unnecessary.

Then, my Honourable friend, Sir Homi Mody, said, that shipping is in a special position, that is to say, there are special difficulties with regard to shipping and special difficulties with regard to the determination of the profits of shipping. Sir, these difficulties will receive very special consideration and if it is found, when the work of the assessment of the excess profits tax comes to be taken up, that some specific amendment is required to the Act, that amendment will be put forward by Government.

Mr. M. S. Aney (Berar : Non-Muhammadan) : Will the Government put themselves in touch with those who are interested in the shipping industry before they make any rules on account of these special difficulties?

Mr. S. P. Chambers : No rules are necessary at the moment for this industry. If any special relief is required and it is not given in the Bill at it stands, then Government will come forward with an amendment to the Act.

Sardar Sant Singh : Sir, in view of the assurance given by Government, I beg leave of the House to withdraw the amendment.

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

Mr. F. E. James : Sir, I move :

“That at the end of Rule 8 of Schedule I to the Bill the words ‘except where such remuneration is included in the profits of the managing agents’ business for the purpose of Excess Profits Tax’ be added.”

Sir, I remember hearing from an eminent Parliamentary draftsman in England that one day he was asked to draft a particular Bill in more simple language. He expressed his horror at the suggestion. His grounds for opposing the idea were that if the Bill was drafted in more simple language, Members of the House of Commons would not understand it and its passage through the House would be delayed. Well, Sir, we have understood this particular rule and we suggest that it does, as it stands, inflict a hardship. Under the rule, an increase in the remuneration of the managing agent is not taken into consideration in arriving at the profits of the assessee, in this case the company; but it is taken into consideration in arriving at the profits of the Managing Agent. Hence the Excess Profits Tax is really charged twice on the amount of the increase. This, we suggest, is really inequitable and there would be a number of cases affected. The House will recollect that the Companies Act was passed in 1936 and, as a result of the passing of that Act, a large number of new agreements were entered into or a number of the agreements of managing agents were revised. I am thinking of the particular case of a company in connection with remuneration. Before the Act came into force, it was charged on the basis of a percentage of the dividends. When the Act was passed, the agreement was amended and the remuneration is now based upon the net profits. Similarly, there have been many other agreements altered in order to bring them into line with the provisions of section 87-C of the Companies Act. Then, again, a company, quite apart from the Companies Act, may take one of the earlier options provided in the Bill for the standard period. The agreement of the managing agent may have been terminated and may have been replaced by a new agreement on a different basis of remuneration. We suggest, therefore, that it

[Mr. F. E. James.]

is not equitable that the excess profits tax should be charged doubly on the actual amount of the increase which, we fear, will be the case if the rule stands as it is. It may be argued that if the amendment we have proposed is accepted, there will be a time when trade is bad and when the remuneration from other companies is reduced and thus the total assessable profits of the managing agents will be lessened. That, in our view, does not really justify a provision which involves taxing increased remuneration twice. I do, therefore, hope that my Honourable friends will be ready to accept this modification of the rule.

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

"That at the end of Rule 8 of Schedule I to the Bill the words 'except where such remuneration is included in the profits of the managing agents' business for the purpose of Excess Profits Tax' be added."

Mr. S. P. Chambers: Sir, I admit at once that the rule as provided would in some cases involve double excess profits tax, that is to say there would be a disallowance in the company's assessment and the same remuneration would appear in the managing agent's assessment and I admit that that is a hardship which should be remedied. On the other hand as the Honourable the Mover has himself pointed out this amendment has its dangers in that as worded if the profits are included in the managing agent's profits for the purposes of excess profits tax, that does not mean that the excess profits tax will in fact be payable on that remuneration. What I would like to suggest is that if the Honourable Member can with the permission of the House withdraw his amendment and substitute one which differs from it very slightly and which deals with the principle of his amendment, then it would be acceptable. The amended words would read like this "except where such remuneration is subjected to excess profits tax in the hands of the managing agents". The original wording is: "except where such remuneration is included in the profits of the managing agents' business for the purpose of excess profits tax". The substituted wording is more precise and does exclude the possibility of abuse.

Mr. F. E. James: I have supplied copies of the amendment to the amendment to the other Parties. I would beg leave of the House to withdraw my present amendment.

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

Mr. F. E. James: Sir, I move:

"That at the end of Rule 8 of Schedule I to the Bill the following words be added, namely:

'except where such remuneration is subjected to excess profits tax in the hands of the managing agents'."

Sir, I move.

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

"That at the end of Rule 8 of Schedule I to the Bill the following words be added, namely:

'except where such remuneration is subjected to excess profits tax in the hands of the managing agents'."

The motion was adopted.

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

"That Schedule I, as amended, stand part of the Bill."

The motion was adopted.

Schedule I, as amended, was added to the Bill.

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

"That Schedule II stand part of the Bill."

Sir Abdul Halim Ghuznavi (Dacca cum Mymensingh: Muhammadan Rural): Sir, I beg to move:

"That after Rule 3 of Schedule II to the Bill the following be inserted:

3A. Notwithstanding anything contained in Rule 3 in the case of the business of shipping, to which this Act applies, the sale proceeds of any tonnage sold or the amount of compensation in respect of loss of ships or the amount of accumulation of reserves, whether invested or not, shall be taken into account in computing the average amount of capital employed in such business:

Provided that any income received from investment of such funds shall be included in computing profits for purposes of the excess profits tax."

Sir, the position of the shipping industry, particularly the Indian shipping industry is of momentous importance during the war particularly. Ships are requisitioned for war services and if they are lost, it is difficult to replace them. It is also not always practicable to utilise the reserves for depreciation for replacement of old ships, the cost of replacement under conditions of war being a very important factor. It is therefore quite essential that funds lying with shipping companies either as cash or as investments being the proceeds of the sales or the amount of compensation for losses of ships or the accumulation of the amounts of depreciation should be treated as capital employed in the business. Unless such a consideration is shown, the position of the shipping industry will be rendered very difficult. It must be remembered that even after the war, for a few years at any rate, the cost of replacement is going to be substantially higher than it would be the case under normal circumstances.

In this connection the report of the Joint Taxation Committee of the Chamber of Shipping and the Liverpool Steamship Owners' Association is of interest. They say:

"A special reserve should be allowed out of profits to replace vessels lost during the war, or vessels in commission at the end of the war, which would have to be replaced at a cost which would exceed the cost of the fleet replaced, and this is of paramount importance if the shipping industry is to be maintained after the war. The creation of any such reserve should not be confined to the excess profits tax provisions, but provided for if necessary against the national defence committee."

Sir, I move.

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

"That after Rule 3 of Schedule II to the Bill the following be inserted:

- '3A. Notwithstanding anything contained in Rule 3 in the case of the business of shipping, to which this Act applies, the sale proceeds of any tonnage sold or the amount of compensation in respect of loss of ships or the amount of accumulation of reserves, whether invested or not, shall be taken into account in computing the average amount of capital employed in such business:

Provided that any income received from investment of such funds shall be included in computing profits for purposes of the excess profits tax'."

The Honourable Sir Jeremy Raisman: As far as I can see, the amendment proposed by my Honourable friend embodies a reasonable principle, and I am prepared to accept it.

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

"That after Rule 3 of Schedule II to the Bill the following be inserted:

- '3A. Notwithstanding anything contained in Rule 3 in the case of the business of shipping, to which this Act applies, the sale proceeds of any tonnage sold or the amount of compensation in respect of loss of ships or the amount of accumulation of reserves, whether invested or not, shall be taken into account in computing the average amount of capital employed in such business:

Provided that any income received from investment of such funds shall be included in computing profits for purposes of the excess profits tax'."

The motion was adopted.

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

"That Schedule II, as amended, stand part of the Bill."

The motion was adopted.

Schedule II, as amended, was added to the Bill.

Schedule III was added to the Bill.

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

"That clause 2 stand part of the Bill."

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

"That in the first proviso to sub-clause (5) of clause 2 of the Bill, after the words 'company or' the words 'of a' be inserted."

Sir, this is a small drafting point. Sir, I move.

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

"That in the first proviso to sub-clause (5) of clause 2 of the Bill, after the words 'company or' the words 'of a' be inserted."

The motion was adopted.

Babu Baijnath Bajoria: Sir, I move:

"That in the first proviso to sub-clause (5) of clause 2 of the Bill, after the word 'property', where it occurs for the second time, the words 'other than immovable property' be inserted."

The proviso runs as follows :

"Provided that where the functions of a company or society incorporated by or under any enactment consist wholly or mainly in the holding of investments or other property, the holding of the investments or property shall be deemed for the purpose of this definition to be a business carried on by such company or society."

It means that even income from immovable property held by a company will be treated as business carried on by the company and this income will be liable to taxation. The intention of this Bill, as I understand it, is to tax excess profits of business and not income derived from immovable property by way of investment. I move this amendment to clarify the point that property will mean only moveable property and not immovable property. Sir, I move.

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

"That in the first proviso to sub-clause (5) of clause 2 of the Bill, after the word 'property', where it occurs for the second time, the words 'other than immovable property' be inserted."

Mr. S. P. Chambers: Sir, I oppose this amendment. It was definitely intended, when the definition was put in the Bill, that in the case of a company which has as its only business the holding of investments or the holding of real property and the letting out of real property on hire, that that should be regarded as business for the purpose of the Act. And I can see no reason why, if there is such a company and if owing to the increase of rent in certain areas it makes excess profits, these profits should not be charged to the tax. This does not apply to individuals but only to companies and societies incorporated specially for the purpose. Sir, I oppose.

Mr. M. S. Aney: Will a house building society come within the meaning of this Act?

Mr. S. P. Chambers: A building society is in any case carrying on a business whether it is holding property or not. This deals with a different class of cases,—the actual holding of investments in real property and any other property for the purpose of the company's business. In the case of a building society the main source of income is interest although it does also hold property as part of its business. Both the cases are liable to excess profits tax.

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

"That in the first proviso to sub-clause (5) of clause 2 of the Bill, after the word 'property', where it occurs for the second time, the words 'other than immovable property' be inserted."

The motion was negatived.

Babu Baijnath Bajoria: Sir, I move :

"That in part (a) of sub-clause (6) of clause 2 of the Bill, for the word 'September' the word 'October' be substituted."

When I was speaking on this matter in the general discussion the Finance Member remarked that half a loaf is better than no loaf. This amendment carries out that intention and gives half a loaf. The financial year is from April to March. So 1st October to March will give six months as the chargeable accounting period and April to September will not be

[Babu Beijnath Bajoria.]

so included. I also explained then that there will be difficulties of administering the Act and also harassment to the assesseees if the 1st September is retained because most of the companies close their half-years in September and March. For that reason also October is better suited than September. Again, war was declared on 3rd September and the Government cannot go before that date. So it should be the 1st of the next month following the declaration of war. On these grounds I move this amendment. It will not make any heavy inroads on the Government revenues whereas it will be easier and simpler both for the assesseees as well as for the department to administer the Act. Sir, I move.

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

"That in part (a) of sub-clause (6) of clause 2 of the Bill, for the word 'September' the word 'October' be substituted."

The Honourable Sir Jeremy Raisman: Sir, I must oppose this amendment. The date which now stands in the Bill was the result of the deliberations of the Select Committee and in spite of the alluring arguments based on *a priori* ideas and symmetry and on some fractions being more aesthetic than others I regret I must accept the difficulties, such as they may be, of administering the 1st day of September rather than accept the postponement to the first day of October. Although war was declared on 3rd September we all remember that the 1st and 2nd September were for all practical purposes days of war. Sir, I oppose.

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

"That in part (a) of sub-clause (6) of clause 2 of the Bill, for the word 'September' the word 'October' be substituted."

The motion was negatived.

Mr. Akhil Chandra Datta: Sir, I move:

"That in part (a) of sub-clause (6) of clause 2 of the Bill, for the word and figures 'September 1939' the word and figures 'April 1940' be substituted."

My first ground for moving this amendment is that in the ordinary course the chargeable accounting period should begin from 1st April. For two reasons: it should not have retrospective effect—that is one reason. The second reason is that the 1st of April is not only the time when this will have been passed, but it happens to be the first day of the financial year. I do appreciate that a certain concession has been made by changing the date from 1st April, 1939 to 1st September, 1939; and although we are thankful for small mercies, I may point out that the concession is more illusory than real as was explained by my Honourable friend, Mr. Aikman. He said that it is only fair to point out that although the months from April to August are not now to be reckoned as coming within the first chargeable accounting period, this does not mean that in every case the assessee will pay a smaller amount of excess profits tax. I do not wish to say that that was the reason why Government made that concession, but I am only stating a fact that the concession is not so real as it might appear to be . . .

The Honourable Sir Jeremy Raisman: Then go back to April, 1939.

Mr. Akhil Chandra Datta: I should not be misunderstood. I do appreciate the concession so far as that portion of the period is concerned. Other grounds have been discussed on other amendments, and I do not like to repeat them now. Sir, I move.

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

"That in part (a) of sub-clause (6) of clause 2 of the Bill, for the word and figures 'September 1939' the word and figures 'April 1940' be substituted."

The Honourable Sir Jeremy Raisman: Sir, I oppose the amendment.

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

"That in part (a) of sub-clause (6) of clause 2 of the Bill, for the word and figures 'September 1939' the word and figures 'April 1940' be substituted."

The motion was negatived.

Babu Baijnath Bajoria: Sir, I move:

"That for sub-clause (8) of clause 2 of the Bill the following be substituted:

'(8) 'Company' has the meaning assigned to the expression in section 2 of the Indian Income-tax Act, 1922'."

I do not understand why a differentiation has been made in the definition of the word 'company' in this Bill from what it obtains in the Indian Income-tax Act. The difference is this: whereas company as defined in the Indian Income-tax Act includes a foreign association carrying on business in British India whether incorporated or not, and whether its principal place of business is situate in British India or not, the words "carrying on business in British India" and the words "whether its principal place of business is situate in British India or not" have been omitted from the definition as has been given in this Bill. I do not see any reason why the definition of company should be enlarged for the purposes of this Act and the word should not have the same meaning as is assigned to it in the Indian Income-tax Act, 1922, as amended by this House in 1939. In this connection I would like to refer to the Minute of Dissent of my Honourable friend, Sir Cowasji Jehangir. He would have explained this amendment in more details but, unfortunately, he is not with us here today. He says in his Minute:

"From the definition of 'Company' as given in the Income-tax Act, it is clear that a 'Company' which is incorporated in a Native State and which does not carry on business in British India, is not a 'Company' within the meaning of that definition. If such a company capitalises a part of its accumulated profits and reduces its capital by return of capital, then the amount of such capital received by a shareholder, who is a resident of British India, is not subjected to income-tax. From the definition of 'Company' as given in the Bill, the return of such capital received by a shareholder, who is a resident of British India, would be subjected to Excess Profits Tax. Whatever may have been the intention of Government when the Income-tax Act was amended last year, there is no reason why profits not legally subjected to income-tax should be subjected to Excess Profits Tax by this Bill."

For the sake of uniformity and in order that the meaning of the word "company" may not be enlarged, I would request Government to accept this amendment.

Mr. President (The Honourable Sir Abduṭ Bahim): Amendment moved:

"That for sub-clause (8) of clause 2 of the Bill the following be substituted :

'(8) 'Company' has the meaning assigned to the expression in section 2 of the Indian Income-tax Act, 1922'."

Mr. S. P. Chambers: Sir, I oppose this amendment. My Honourable friend has said that he did not see any reason why there should be any differentiation in the definition of "company" in the Excess Profits Tax Bill and in the Income-tax Act of 1922. On that point I entirely agree with him. The definition in the Income-tax Act has been found to be defective and a suitable opportunity will be taken to put that right and to bring it into line with the definition in this Bill; and in that case I think that his first objection will fall to the ground

Mr. F. E. James: Will that be in this Session too?

Mr. S. P. Chambers: No. I would like first of all to point out why a different definition was taken and in what way the definition in the Income-tax Act is defective. The principal difference is the omission of the words "carrying on business in British India". Under the definition in the Income-tax Act if a foreign association is carrying on business in British India, the Central Board of Revenue may declare it to be a company. That definition was put in when other sources of income available to a non-resident company were not chargeable to income-tax. But the Indian Income-tax Amendment Act of 1939 made chargeable certain items of income which were not formerly chargeable. It also provided for the deduction of super-tax from dividends paid to foreign associations; and we have found this difficulty in practice that the payment of a dividend by a British Indian company to a foreign company is liable to income-tax and super-tax at the rates appropriate to an individual, even though the company is quite obviously an ordinary public company registered in a foreign country. That was never the intention. Formerly there was no such liability to super-tax. And we have been faced with the difficulty that the super-tax will be deductible from such companies' dividends at a very high rate. That was never intended, and as I said, a suitable opportunity will be taken to put that right. At the same time, there was no reason why when we were drafting the Excess Profits Tax Bill we should carry into that Bill a defect which existed in the Indian Income-tax Bill. For that reason the definition in the Excess Profits Tax Bill was put in that form. That was the reason why we had the definition in this form.

Mr. F. E. James: Will it be precisely in this form?

Mr. S. P. Chambers: I cannot prophesy what this House will do, but the intention is that it will be in this form. Sir Cowasji Jehangir, however, has raised in his Minute a different point. It is a very interesting point. He says that if a company is registered in an Indian State and carries on business in an Indian State then it can either declare dividends, or capitalise its profits and pay those profits to a company in British India in a form which is not liable to income-tax or super-tax. That is a surprising statement, and it is argued in a rather peculiar manner. He does

it in this way. He says that dividend is defined in the Indian Income-tax Act as distribution by a company in a certain form. If a company is registered in an Indian State and does not carry on business in British India, it cannot be deemed to be a company for the purposes of income-tax, and then any dividend or distribution by a company would not be a dividend chargeable to income-tax and correspondingly it will not be chargeable to super-tax. Frankly, the object of putting in this definition of dividend was to prevent avoidance of tax—super-tax mainly, not income-tax,—by large corporations by distributing their profits in a capital form. This House passed that amendment, and it was generally agreed that an amendment of this kind declaring such distribution to be income was necessary and desirable. However, the Honourable Member comes along and says “we think there is a flaw because your definition of companies is defective, and as that is defective we think we can still get over your definition of ‘dividends’ in respect of companies floated in an Indian State”! That is precisely what he says in the words of his minute. He says whatever may have been the intention of Government when the Income-tax Act was amended last year, there is no reason why profits not *legally* subject to income-tax should be subjected to excess profits tax by this Bill. It is quite clear, therefore, that the object in trying to go back to the defective definition of ‘company’ is to utilise this defective definition for the avoidance of excess profits tax. Well, Sir, I find myself in a peculiar position, that having first of all suggested a definition of ‘company’, for one reason the Honourable Member shows me a much better reason. I think had I heard about it before, I would have welcomed the additional reason for making this definition different from that in the Income-tax Act. His reason is a better one even than mine, and I feel sure that this House will not wish to go back to a defective definition for the purpose of enabling corporations to avoid excess profits tax. Sir, I oppose the amendment.

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

“That for sub-clause (8) of clause 2 of the Bill the following be substituted:

‘(8) ‘Company’ has the meaning assigned to the expression in section 2 of the Indian Income-tax Act, 1922’.”

The motion was negatived.

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

“That sub-clause (17) of clause 2 of the Bill be omitted,”—

and I would like, with the permission of the House, to add to that, Sir, the consequential words ‘and the subsequent clauses be renumbered accordingly’. The object of this is to cut out a definition which is rendered unnecessary by another amendment.

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

“That sub-clause (17) of clause 2 of the Bill be omitted, and the subsequent clauses be renumbered accordingly.”

The motion was adopted.

Babu Baijnath Bajoria: Sir, I move:

"That in the second proviso to sub-clause (22) of clause 2 of the Bill, for the word and figures 'December, 1938' the word and figures 'September, 1937' be substituted."

This proviso gives an additional percentage of two per cent. in the case of new companies, but the date that has been provided there is "December, 1938", and as such very few companies will be able to take advantage of this date. If the intention of the Government is that new companies should be given the benefit of this extra two per cent. then the date, as I have suggested in my amendment, that the companies which have been in existence only for two years before the date of the application of this Bill should be treated as new companies for the purposes of this Act. After all, companies of two years' standing are merely babies, and if babies are to be fed, nine months are not sufficient. Sir, I move.

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

"That in the second proviso to sub-clause (22) of clause 2 of the Bill, for the word and figures 'December, 1938' the word and figures 'September, 1937' be substituted."

Mr. F. E. James: Sir, I am afraid that the House should not accept this amendment, because if they did so they would be defeating the purpose of the Select Committee. The change made in sub-clause (22) of clause 2 was specifically made for the purpose of mitigating the hardship which might otherwise be suffered by new business which had no standard period. Now, if my friend, Mr. Bajoria's amendment is accepted, it would apply to companies which would have a standard period. Therefore, inasmuch as options were extended to include the year 1938-39, the real date must be the 1st July, 1938; any company started after that date has no standard period and has therefore this concession. Any company started before that date would have a standard period to refer to and, therefore, is not entitled to have this particular concession which is limited to businesses with no standard period. I would suggest, therefore, that my friend should withdraw his amendment, and that he should support amendment No. 22 which fixes the date as the 1st July, 1938.

Mr. S. P. Chambers: Sir, the amendment No. 22 which has been tabled by Mr. James and Mr. Chapman-Mortimer is consistent with the amendment (No. 112) as modified yesterday, which amended clause 26 sub-clause (2) (a) of the Bill, and I accept the Honourable Member's suggestion that if this amendment is withdrawn, Government should accept No. 22.

Babu Baijnath Bajoria: In that case there will be only one standard period and you cannot judge the company by the results of its working of only nine months.

Mr. S. P. Chambers: The Honourable Member accepted the amendment in the corresponding place yesterday.

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

"That in the second proviso to sub-clause (22) of clause 2 of the Bill, for the word and figures 'December, 1938' the word and figures 'September, 1937' be substituted."

The motion was negatived.

Mr. F. E. James: I move:

"That in the second proviso to sub-clause (22) of clause 2 of the Bill for the words and figures '1st day of December, 1938' the words and figures '1st day of July, 1938' be substituted."

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

"That in the second proviso to sub-clause (22) of clause 2 of the Bill for the words and figures '1st day of December, 1938' the words and figures '1st day of July, 1938' be substituted."

The motion was adopted.

Sir George Spence (Secretary, Legislative Department): I move:

"That in the second proviso to sub-clause (22) of clause 2 of the Bill for the words 'by two per cent. in each case' the words 'from eight, ten and six per cent. to ten, twelve, and eight per cent., respectively' be substituted."

This is a drafting amendment. The intention has always been as expressed in the amendment, but it is believed that if the existing wording stood the increase in the percentage could not be from eight to ten per cent. but from eight to eight *plus* two per cent. of eight per cent. which is not what is intended. Sir, I move.

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

"That in the second proviso to sub-clause (22) of clause 2 of the Bill for the words 'by two per cent. in each case' the words 'from eight, ten and six per cent. to ten, twelve, and eight per cent., respectively' be substituted."

The motion was adopted.

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): I move:

"That to sub-clause (22) of clause 2 of the Bill the following further proviso be added:

'Provided further that in the case of business the profits of which accrue or arise without British India, the foregoing percentages shall be increased by two per cent. in each case.'

I do not entertain any hope that this amendment will be accepted, but the reason underlying the amendment is this. Unless we can provide sufficient incentive for those of our brethren who are trading outside India, there is no inducement for them to carry on trade in foreign countries and add to our national wealth.

Mr. F. E. James: Do you mean Indian States?

Pandit Krishna Kant Malaviya: I am talking of overseas. I, therefore, want that a concession of two per cent. which does not cost very much to the Government nor involve a big loss to the revenues of the Government, should be given to persons trading in foreign countries by increasing it by two per cent., that is, twelve instead of eight and ten. Sir, I move.

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

"That to sub-clause (22) of clause 2 of the Bill the following further proviso be added:

'Provided further that in the case of business the profits of which accrue or arise without British India, the foregoing percentages shall be increased by two per cent. in each case.'

Mr. F. E. James: I should like to accept this on behalf of the Chamber of Princes!

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa : Muhammadan): Sir, I rise to support the amendment. Its object is simple and it does not really interfere with any big amount in the matter of taxation. I think that people who are trading in foreign countries deserve some better treatment than those who are placed with better facilities in this country. Those people who are trading in foreign countries run greater risks than they do usually, and in the circumstances there is very good ground that an incentive should be given to our people to go and establish their businesses abroad. With these few words I support the amendment.

Mr. S. P. Chambers: I oppose the amendment. The second proviso which gave special relief to new companies has no application to businesses which are conducted abroad. In so far as those businesses are liable to income-tax and to excess profits tax, I cannot see any difference between them and the profits of anybody else ordinarily resident in British India, and if they are making excess profits I cannot see why they should not pay the tax in the same way as other persons.

Pandit Krishna Kant Malaviya: May I suggest to the Honourable Member that the difference between those who trade in India and those who trade in foreign countries is that those who trade in foreign countries run greater risk of life, greater risk of property, and a thousand and one other difficulties they have to face, which those who are trading in this country have not to undergo. What is demanded is only . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is making a second speech.

Mr. S. P. Chambers: May I suggest that we do not take into account elements of risk. Some people run a lot of risk in India, risks are much greater in some industries than in other industries, but the factor of risk cannot be taken into account.

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

"That to sub-clause (22) of clause 2 of the Bill the following further proviso be added:

'Provided further that in the case of business the profits of which accrue or arise without British India, the foregoing percentages shall be increased by two per cent. in each case'."

The motion was negatived.

Pandit Krishna Kant Malaviya: I move:

"That after sub-clause (23) of clause 2 of the Bill the following be inserted:

'(24) for the purposes of this Act a firm is resident in British India in any chargeable accounting period (a) if the control and management of its affairs is situated wholly in British India in that period, or (b) if its profits arising in British India in that period exceeds its profits arising without British India in that period'."

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

"That after sub-clause (23) of clause 2 of the Bill the following be inserted :

'(24) for the purposes of this Act a firm is resident in British India in any chargeable accounting period (a) if the control and management of its affairs is situated wholly in British India in that period, or (b) if its profits arising in British India in that period exceeds its profits arising without British India in that period'."

Mr. Lalchand Navarai (Sind: Non-Muhammadan Rural): Sir, I support this amendment.

Mr. S. P. Chambers: I oppose the amendment, but I would like to say this that I have some sympathy with a certain type of case which I believe may exist, but that type of case will not be dealt with by this amendment. The type of case I am referring to is where there is a firm in which the principal partners are ordinarily resident in British India, where the control is in British India, but where there are working partners outside British India who have profits which are, under the Indian Income-tax Act, liable to income-tax, because the firm is resident. I think there may be one or two cases in which the Bill may work a little harshly. This amendment, however, goes much further than that.

Mr. M. S. Aney: How are you going to meet those cases?

Mr. S. P. Chambers: The position with regard to those cases is somewhat obscure, because I believe that in many cases these persons have been called partners, but are not strictly partners. They are local non-resident managers. What I suggest is that this matter can be dealt with executively if there are cases of hardship of ordinarily non-resident manager partners or working partners who may be liable only if a very rigid interpretation of their partnership agreements is followed. That is, I think, as far as we can go. The amendment goes much further than that. I oppose it.

Dr. P. N. Banerjee: Will there be any general instructions?

Mr. S. P. Chambers: Yes.

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

"That after sub-clause (23) of clause 2 of the Bill the following be inserted :

'(24) for the purposes of this Act a firm is resident in British India in any chargeable accounting period (a) if the control and management of its affairs is situated wholly in British India in that period, or (b) if its profits arising in British India in that period exceeds its profits arising without British India in that period'."

The motion was negatived.

Pandit Krishna Kant Malaviya: Sir, I move:

"That after sub-clause (23) of clause 2 of the Bill the following be inserted :

'(24) for the purposes of this Act a Hindu undivided family is deemed to be resident in British India in any chargeable accounting period if the control and management of its affairs is wholly situated in British India in that chargeable accounting period'."

[Pandit Krishna Kant Malaviya.]

There are cases in which the *karta* of the family or the manager carries on trade in foreign countries and remains outside India all the year round or for years together. What would be the position of the members of his family? Will they continue to be taxed or will they escape from this Excess Profits Tax?

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

"That after sub-clause (23) of clause 2 of the Bill the following be inserted:

"(24) for the purposes of this Act a Hindu undivided family is deemed to be resident in British India in any chargeable accounting period if the control and management of its affairs is wholly situated in British India in that chargeable accounting period'."

Mr. Lalchand Navalrai: I support this amendment. It is quite plain that the undivided Hindu family will be the loser and there will be great hardship if the manager is working outside. In that case, some convenience should be given to him and I hope that if this amendment is not accepted, assurance of some nature will be given.

Mr. S. P. Chambers: I oppose this amendment. I think there is some misunderstanding about this. A Hindu undivided family under the Income-tax Act is resident unless the control or the management is outside British India. If the manager is not ordinarily resident in British India, then in respect of the foreign income the family will not be liable to excess profits tax. I think in many cases the control of the affairs of the Hindu undivided family is in British India and if its manager is ordinarily resident in British India, I cannot see that there is any reason why we should exempt the profits from the Excess Profits Tax. Sir, I oppose the amendment.

Pandit Krishna Kant Malaviya: What will happen in the case of a manager who trades outside India and remains outside the country for a length of time, a year, four or five years together. Will the members of the family get relief. What will happen to the members of the family? Will they be liable to this Excess Profits Tax?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is making another speech.

Pandit Krishna Kant Malaviya: I am only putting a question. Will he be regarded as an ordinary resident of the country, while he is staying in foreign countries for four or five years?

Mr. S. P. Chambers: If the manager is outside British India for four or five years, he is neither resident nor ordinarily resident.

Mr. M. S. Aney: I think the Honourable Member should take time to think over this during the lunch interval.

Mr. S. P. Chambers: I am quite clear on the point.

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

"That after sub-clause (23) of clause 2 of the Bill the following be inserted :

"(24) for the purposes of this Act a Hindu undivided family is deemed to be resident in British India in any chargeable accounting period if the control and management of its affairs is wholly situated in British India in that chargeable accounting period'."

The motion was negatived.

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

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

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

"That clause 1 stand part of the Bill."

Mr. Lalchand Navarlal: Sir, I move:

"That after sub-clause (3) of clause 1 of the Bill the following be added :

"(4) It shall remain in force only until the present hostilities cease'."

This is a point which we raised at the time of the general discussion as well. In the Preamble it is not quite clear whether it is the intention of the Government that this Bill will last only till the end of the war. What I want is that this point should be made definite and clear. There are amendments Nos. 2 and 3, but my amendment is a very comprehensive one and makes the intention quite clear. If it is the real intention of Government that this Bill should be in force only till the end of the war, nothing will be lost by making it clear. In all Acts, we find that the period is given and I do not know why the period should not be given clearly and why it should be left vague and indefinite. Therefore, I move this amendment.

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

"That after sub-clause (3) of clause 1 of the Bill the following be added :

"(4) It shall remain in force only until the present hostilities cease'."

Mr. M. S. Aney: The main object of this amendment is that the operation of the Excess Profits Tax Bill should be confined to the war period and should not go beyond. I believe that is in consonance with the objects with which the Excess Profits Tax Bill has been introduced in this House. The idea is to make certain money to cover war expenditure. It may be that even after the war, we shall have to make some more money in order to finish off the various liabilities that we may incur during the course of the war. A period of a year or two may be required as we did find it necessary in the case of the previous war. Immediately after the expiry of the war, all expenditure in regard to the war will not necessarily be over. In that case, an enabling clause may be introduced to enable the Government to extend the operation of the Act by a year or two more if they think it necessary after the expiration of the war. But the main purpose of this Bill being to raise certain money to cover war expenditure,

[Mr. M. S. Aney.]

it ordinarily ought not to go beyond the period of hostilities. With that object in view, my Honourable friend, Mr. Lalchand Navalrai, has tabled this amendment. I know that we have already restricted the operation of this Bill to the end of the financial year. On that point I have already made my observations at the time of the general discussion of the Bill. I do not want to repeat them now. All that we are likely to gain by that is to consider the question of the rate when the specific clause in the Finance Bill relating to the extension of this particular Act for another year comes before us. What is now intended is that they need not have that kind of annual restriction at all if the period of the operation of the Act is definitely restricted to the period of hostilities. I, therefore, think that this is a more reasonable position and the Government should think over the matter before they give any reply off-hand.

The Honourable Sir Jeremy Raisman: Sir, I must oppose this amendment. There are a number of considerations to be borne in mind when determining the operation of a measure of this kind and many of those considerations operate in favour of the tax-payer. It is to be remembered that the exact date chosen on which the validity of this legislation should cease is one of great importance as between different assesses. In any case, it will be quite impossible for this Act to cease on some date in the middle of the financial year because the position then would be that certain people who happened to have been assessed would have paid the tax and others would not. Therefore, the operation of the tax must be over a complete financial year. By the amendment which the Select Committee made in clause 4 and the amended definition of the accounting period, we have already secured that the measure comes under our consideration each time at the end of the financial year. If the war should have ceased by that time, obviously a new situation would have arisen which would have to be taken into account. It would be quite inappropriate to make the Act suddenly cease on the date on which the hostilities cease.

Mr. Lalchand Navalrai: Sir, in view of the explanation of the Honourable Member, I beg leave of the House to withdraw the amendment.

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

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

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

The Assembly then adjourned for Lunch till a Quarter to Three of the Clock.

The Assembly re-assembled after Lunch at a Quarter to Three of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

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

"That the Preamble stand part of the Bill."

Mr. M. S. Aney: Sir, I beg to move:

"That in the Preamble of the Bill, for all the words occurring after the words 'excess profits' the words 'which accrue in certain businesses as a result of the special conditions prevailing during the war' be substituted."

Sir, when this Bill was first introduced, the preamble stood like this: "whereas it is expedient to impose a tax on excess profits arising out of certain business". Now, that was later on altered in the Select Committee as it stands at present, "whereas it is expedient to impose a tax on excess profits arising out of certain businesses in the conditions prevailing during the present hostilities". These words have been added by the Select Committee to bring out what they considered to be the real objects of this Bill. I concede that it is certainly an improvement upon, the original Bill and goes to some extent to meet the objections that the excess profits were intended to refer to the conditions of business prevailing during the hostilities. But I do not think it goes sufficiently far enough to achieve the real object which we ought to aim or which the Honourable the Finance Member had declared in the first speech which he made while introducing this Bill. I may remind him of a very important admission made by him on the 13th March, 1940, when this Bill was under discussion. In justifying his Excess Profits Tax he gave the reason why the Government were entitled to claim a share on certain kinds of profits:

"The State in a war emergency had the undoubted right to a very large proportion of profits which accrued—*these are the important words to which I wish to draw the attention of the Honourable the Finance Member*—demonstrably and directly as a result and in the conditions of war."

That is what has been stated there. Later on, of course, he has given some explanation about these matters. My amendment is really intended to bring about in the preamble with full force the import of what he has stated in explaining the object of this Bill in the statement which I have just read out. The words which I want to introduce now are, "which accrue in certain businesses as a result of the special conditions prevailing during the war". The present wording is only "in the conditions prevailing during the present hostilities". Here we want to confine the profits to arise in the business as a result of the special conditions prevailing during the war. That is the only difference I have made. In justification of the change which has been made in the Select Committee in para. 3 of the Select Committee Report certain reasons are given which also in my opinion if properly read go to support the position which I have taken:

"Having regard to the professed objects of the Bill, to tax additional business profits which accrue as a result of the conditions prevailing during the war, we consider that the preamble should contain a definite reference to this aspect of the proposed legislation. We have therefore amended the preamble to indicate clearly that this new taxation is related to war conditions and we have altered the date on which excess profits become liable to taxation from the 1st day of April to the 1st day of September, 1939."

Of course, by making that change we have made the profits to have relation to war conditions. That is true. But we have not been able to declare properly. It is only profits arising out of conditions existing due to the war and war alone that we are going to tax. That position is not made perfectly clear in the preamble and this amendment is intended to do that. I have spoken about the matter before and the Honourable the Finance Member has also more than once given his reply to my criticism

[Mr. M. S. Aney.]

in explaining his conception of excess profits etc., during the course of the debate on this Bill. I need not therefore repeat the grounds over now. This amendment is intended to bring about certain points of view which we have been pressing on the floor of the House since this Bill has come up for discussion here. I believe my amendment will be accepted. All that they wanted out of this Bill to come from the people will be secured by them. We are making their objects more clear and more intelligible and less equivocal. That is all we are doing by bringing about this change. I hope the Government will accept my amendment.

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

"That in the Preamble of the Bill, for all the words occurring after the words 'excess profits' the words 'which accrue in certain businesses as a result of the special conditions prevailing during the war' be substituted."

The Honourable Sir Jeremy Raisman: Sir, I am ready to admit that for all practical purposes, or for most practical purposes the amended words do actually describe the intentions which I have in mind, but my reluctance to accept an amendment of this kind is simply this: that if words of this kind are put into the preamble it will give ground for the possible argument that certain types of profits although they arise in the conditions of the war are not due to the special conditions prevailing during the war and therefore legal argumentation might result as to whether certain profits which are undoubtedly liable to tax fall within the scope of this measure. I explained at some length the other day that I was not prepared to leave scope for that type of argument. I felt myself that practically all cases of excess profits arising during the war are cases of excess profits arising out of the war. But it would not be desirable to leave a precise point like that to be open to doubt and argumentation and, therefore, I feel that it is the practical course to adopt a preamble which while it relates the measure quite definitely to conditions prevailing during the war, does not purport to establish a direct casual connection between every case of excess profits and the war. For these practical reasons, namely, to avoid litigation of this character, I must oppose this amendment.

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

"That in the Preamble of the Bill, for all the words occurring after the words 'excess profits' the words 'which accrue in certain businesses as a result of the special conditions prevailing during the war' be substituted."

The motion was negatived. .

Dr. Sir Ziauddin Ahmad: Sir, I beg to move:

"That in the Preamble of the Bill, for the words 'in the conditions prevailing during the present hostilities' the words 'on account of war conditions' be substituted."

The object is that as soon as war ends, the operation of the excess profits tax will not end on that very day. Hostilities may end but war conditions may continue. Therefore my intention is to make it clear that the operation of the Bill will cease only on such day as the Governor General in Council may notify in the official Gazette. Sir, I move.

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

"That in the Preamble of the Bill, for the words 'in the conditions prevailing during the present hostilities' the words 'on account of war conditions' be substituted."

The Honourable Sir Jeremy Raisman: Sir, I am afraid my Honourable friend was not in the House this morning when I spoke on Mr. Lalchand Navalrai's amendment No. 6. I then explained that it would not be possible for the period of the Bill to be determined automatically the moment war ceases. My main objection to Sir Ziauddin's amendment is the same as the one I have just explained, namely, that it implies direct casual connection between every case of excess profits and the war; and that would give grounds for legal arguments. Sir, I oppose the amendment.

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

"That in the Preamble of the Bill, for the words 'in the conditions prevailing during the present hostilities' the words 'on account of war conditions' be substituted."

The motion was negatived.

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

"That the Preamble stand part of the Bill."

The motion was adopted.

The Preamble was added to the Bill.

The Title was added to the Bill.

The Honourable Sir Jeremy Raisman: Sir I move.

"That the Bill, as amended, be passed."

On the motion for the consideration of the Bill I gave my view that the Bill as it had emerged from the Select Committee was a greatly improved measure and I indicated the various features of the Bill in which improvements had been effected in the Select Committee. The Bill has undergone a few changes in the course of the consideration stage, the two main ones being the raising of the exemption limit to Rs. 36,000 and the widening of the scope of clause 26 to cover certain additional types of cases. On these amendments I feel that the possibilities of genuine hardship have been very greatly reduced. It is true that the consideration stage of this measure might have been described as a debate as to whether Sindhi merchants should or should not be subjected to the Excess Profits Tax, because curiously and very disproportionately that aspect of the measure seems to have occupied by far the greater part of the time of the House during this stage. I trust that that microscopic fraction of the assesses who will be affected by the measure will feel that even they managed to carry off some victories at the consideration stage; in my opinion, they certainly got all that they were entitled to expect. But whether that is an adequate return for their enormous and persistent labours in the precincts of this House is a matter which I must leave to them to decide. Sir, I will not make a long speech at this stage. I move.

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

"That the Bill, as amended, be passed."

Sir H. P. Mody: Sir, the battle is over, the ground is being cleared and the killed and the wounded will presently be removed from the field. This is the time in which to say a word or two about the principal combatants. The judiciousness of Sir Jeremy, the changelessness of Mr. Chambers, the levity of the Law Member, the cuteness of the Commerce Member, the dignity of Mr. Datta, the adaptability of Mr. Aikman, the jugglery of Mr. James, and last but not the least, the mathematical miscarriages of Sir Ziauddin have all left their impress upon the Bill. So far as I am concerned I would certainly have liked the Bill to be "mody-fied" a little further. However, the tax is there and we have got to put the best face upon it. I have too great a confidence in the judgment and fairness of Mr. Sheehy, who is the principal officer, who will be connected with the administration of the Act, to feel that in his hands it will be an instrument of oppression. Of course, it is a heavy impost and I shall look very indulgently upon the efforts of my ingenious friends in Calcutta and Bombay to get round it in some way or other.

Mr. F. E. James: It is like with like.

Sir H. P. Mody: So far as Madras is concerned, of course, it would not have the wits to do anything. At one time it occurred to me that I might as well get back to Bombay and start a society for the protection of Excess Profits Tax payers. However, I shall leave that alone. I shall be brief because I know to my cost how tiresome this Bill has been. I shall just refer to the Finance Member, the principal author of the measure, and, if I may say so, the principal culprit in this business. There will be many occasions on which we shall differ from him and differ, I expect, very violently. There will be many occasions, on which we shall feel he has been as misguided and wrong as he has been on the present occasion. But if I may have the presumption of speaking for the non-official Benches, I shall say that they could not expect to have a fairer or more straightforward opponent. If, as I think, this tax is going to bear heavily upon certain interests, if in the course of its operation it really comes about that a great many anomalies and instances of injustice are brought to light, I am certain, as I said on a previous occasion, that he will be the first to come to us and put them right. I would also repeat what I said on a previous occasion that I expect the department to set about its business in a spirit of fairness and reasonableness. The tax is going to cut very heavily into the profits of industries, and as I have said before, they may be forgiven if they object very strongly to it. Finally, I would like to say with regard to myself that it has been with a heavy heart that I have assisted at my own execution.

Mr. Deputy President (Mr. Akhil Chandra Datta): Mr. Aney.

(Mr. Muhammad Nauman also rose in his seat.)

Mr. Deputy President (Mr. Akhil Chandra Datta): If Mr. Nauman wishes to speak now, the Chair will allow him to speak, though Mr. Aney has already been called upon to speak.

Mr. Muhammad Nauman: Sir, I am glad that the Honourable the Finance Member has been able to pilot this Bill with the best possible support in this House. Although a measure of taxation can never be welcome in any country, we feel that faced as we are with a deficit budget and living as we do under conditions of world turmoil, we have to bear certain hardships, which certainly are not as much as in countries which are situated near the theatre of war, like England, France and others, where even rationing of food has been ordered. I am glad that in spite of their virtual majority, the Government have not coerced us: they have tried to meet the view points of the elected Members as much as possible, though not to the extent that we would have liked. They have met us on some of the most vital points that we urged. The Finance Member has on the whole been sympathetic. The absence of the Congress Party made the position of the Opposition very weak and left us in a very embarrassing position where we could not have compelled the Government to accept any of our amendments whatsoever. But I must say that the Government were fair in not accepting amendments designed to increase the yield of the tax, as for instance, the amendment moved yesterday which I supported regarding protected industries where we wanted that the statutory profit calculated on the recommendation of the Tariff Board should be taken as the standard profit and any profit over that should be considered as excess profit. Mr. Chambers explained that the preamble of their Bill did not aim at that sort of taxation, though he was rather loth to oppose the amendment which would have brought some more money. I mention this only to show that the Government were fair and tried to see that the rigour of the Bill did not affect too many people.

I am certainly glad that they accepted the suggestion to increase the limit from 30,000 to 36,000—as a matter of fact it was from 20,000 to 36,000, as the Select Committee had already raised it from 20,000 to 30,000. Our intention was to raise it to 40,000, as there was a feeling among some sections of the people that amendments in the Select Committee were made more in the interests of the bigger capitalists rather than the middle classes. I will not say that the burden falls on the poor because in the matter of direct taxation, normally, effort is always made to see that the incidence of taxation does not fall on the poor people and that is so in the case of this Bill as well. But it does to a certain extent fall on the shoulders of the middle class people because the limit is only 36,000. It would have been very much worse if the limit had been kept at 20,000 as originally proposed. However, we are glad that the limit has been raised and we hope that it will save a lot of merchants who may be called middle-class merchants. I again appreciate the fact that the Government have understood the difficulties of foreign merchants and of fluctuations in the foreign exchange and inflated currencies because of the depreciated value of the sterling, and they have accepted some of our amendments—such as the one saying that inflated currency will not affect those countries where there is an embargo and the profit will be re-estimated at the time they bring back the money. An assurance has also been given by the Government that no hardship will be caused in the matter of bringing the books in those cases. I pressed their case because I honestly believed that those merchants who are trading outside India run greater risks at this particular period of war than they normally do, and they do deserve a certain amount of encouragement and differentiation from the average trader in this country who has more security of life and property.

[Mr. Muhammad Nauman.]

Sir, I am sorry that my friend, Mr. Chambers, did not appreciate the point when Pandit Krishna Kant Malaviya brought an amendment to increase two per cent. statutory standard of profits in their case. However, I shall not stress this now, but I hope in the light of the assurances given to us, their difficulties will be minimised, and I am also glad that Government have been good enough to accept our amendments wherever possible. I am really glad, Sir, that the Bill as originally introduced has been modified in a manner which will be appreciated by every one in the country, and people will feel greater confidence in the Government now and will feel that they had no intention to strangle the industries. In fact, after we had gone through the Budget picture we were impressed with the position as it has arisen as a result of the war conditions, but we hope and trust that as soon as the budgetary position improves and as soon as the war is over, we will be able to repeal this law at the earliest possible moment. This is all what I have to say, and, with these remarks, I resume my seat.

Pandit Krishna Kant Malaviya: Sir, I was opposed to this Bill as it was originally introduced in the House, and I want to say that I am opposed to it even now, because, Sir, I feel even after all that has been done to mitigate its rigours, no case has been made out for the imposition of this excess profits tax. Even our business expert, Sir Homi Mody, although he does not say in so many words that our business and industries would be crippled, feels even today that the development of our industries will be hindered. I do not question the motives of the Honourable the Finance Member or those of his friends who are piloting this Bill in this House, but there is a feeling, not only here in this country,—we of course have no voice here,—but in the Dominions also that the mother country has been anxious to stop their industrial development during the war period. The fear is that the industrial development even in the Dominions might be so great that it would be impossible for the mother country to find an export trade. Whatever might be the reason behind the piloting of this measure, the fact remains that we are not yet convinced of the necessity for imposing this heavy burden on the industries when they were just expecting to have some prosperous times after they had met with great depression for some years. We would certainly have reconciled ourselves to the imposition of such a tax if, as we had suggested, the revenue out of this excess profit tax were to be earmarked for the development of our industries or for the creation and establishment of new industries in this country. But that was not done. I feel, Sir, that the Honourable the Finance Member was not free. He must have had instructions . . .

The Honourable Sir Jeremy Raisman: Certainly not. I entirely repudiate any suggestion of that kind.

Pandit Krishna Kant Malaviya: I believe the statement of my Honourable friend. I did not want to hurt his feelings, and if I did so, I withdraw the words and apologise to him. What I meant was that he, not as an individual or in his personal capacity, but as a Member of the Government, naturally felt that he wanted money in the conditions that prevail owing to the war; and he wanted to have extra money in his exchequer to meet new contingencies that might arise in view of the hostilities prevailing in

Europe. I did not think, Sir, that he got orders from somewhere and he was going to carry them out in spite of himself, as individual, but as Finance Member he had to provide for contingencies that might arise owing to the prevailing conditions. I would make this difference. However, the Bill as it has emerged from the Select Committee, is a substantial improvement on the Bill as it was originally introduced, and I think that my friends, Mr. Chambers and Mr. Sheehy, deserve the thanks of this House for making concessions and for giving us certain assurances and for trying to be reasonable as far as they could be. But even acknowledging the fact that they have been reasonable much yet remains to be done. There has been cool and calm atmosphere during all the time the debate has been carried on in this House, we at times felt that it was a dull House, some people making a few speeches by saying 'I oppose, I support'; but there is no gainsaying the fact that the Bill, as it has emerged after consideration by this House, has some good things in its favour.

My friend, the Finance Member, referred to the Sindhi merchants. Naturally they can be called adventurers who at great risks leave the shores of this country and inhabit far off lands where they do not know anybody, and at the risk of their life and property, work hard to add a little more to our national wealth. Naturally we were and we are anxious that they should be given some more concessions as compared to those given to traders carrying on business in this country. As pointed out by the Honourable the Finance Member, they have been granted concessions which will go a long way to help them, but still something more remains to be done for them. For instance, if we could change the definition of a firm to a different form, it will be a great boon to those friends of ours who go and trade in foreign countries. Under section 4A of the Income-tax Act, a firm is defined to be "resident in British India unless the control and management of its affairs is situated wholly without British India". In other words, if only a part of the control and management of a firm is exercised in British India, it is held to be resident; and even non-resident or not ordinarily resident partners are taxed on their share of foreign incomes. The vague term "control and management" is in actual practice much misunderstood and misapplied and payment in British India of allowances to the dependants of staff and temporary residence of some partners have been held to be sufficient to constitute "control and management". As compared to this picture, the definition of residence is more favourable to a company which is defined to be "resident in British India in any year (a) if the control and management of its affairs is situated wholly in British India in that year, or (b) if its income arising in British India in that year exceeds its income arising without British India in that year."

The main distinction between a firm and a company as regards control and management lies in the fact that in the case of a firm slight exercise of control and management in British India make a firm resident and therefore liable on its world income; whereas in the case of a company although major part of the control and management may be situated in British India, if only a part of it is exercised abroad the company is treated as non-resident, and is immune from taxation on foreign income. The difference is this. In case of companies, though 99.9 per cent. control is held in India but if one meeting of the board of directors is held in London, they are immune from taxation on their world income they are not taxed on their world income, whereas in the case of our traders trading

[Pandit Krishna Kant Malaviya.]

in foreign countries, if 99.9 per cent. of their business is controlled outside this country and if they pay even the salaries of their employees or their dependants here, they are liable to taxation on their world income. I hope that my Honourable friend, the Finance Member, and his philosopher, friend and guide, pilot of this Bill, Mr. Chambers, will see that this sort of distinction is removed, and Sindhi merchants who are trading outside should not be taxed on their world income simply because they have to engage men here or to keep their families here or to pay the salaries of their staff which at times remain here.

The other point to which I wanted to draw the attention of my Honourable friend, Mr. Chambers, is regarding the production of books. We have the declaration of Sir James Grigg while he was speaking on the Income-tax Act, but what I want is this. It has been held that the production of books is not necessary. We plead that they should be allowed to go to the income-tax officer with an affidavit of the profits and loss account and that affidavit should be treated as audited accounts. I know there will be loopholes and it might lead to dishonesty and various other things, but the difficulty in the case of these foreign traders is that they have their accounts in Sindhi, a language which is not known to auditors in foreign countries. If certificates of income-tax authorities in foreign countries could be accepted in lieu of the books, it will go a long way to meeting the demand of our merchants trading abroad. With these few words I resume my seat.

Mr. Lalchand Navalrai: As reference has been made to those who represented the case of the Sindhi merchants and Indian merchants in general trading abroad, I feel it my duty to speak on this motion. The Bill is now nearing its completion. I have from the very beginning opposed this Bill and have said that it should not be passed. Yet I believe in this dictum that it is no use crying over spilt milk. I think we should, on the contrary, make use of the little milk that has been left for us.

Dr. Sir Ziauddin Ahmad: Milk and honey, both.

Mr. Lalchand Navalrai: I do not know. It may be honey for you.

Dr. Sir Ziauddin Ahmad: For me nothing.

Mr. Lalchand Navalrai: I do not know.

Dr. Sir Ziauddin Ahmad: I will explain.

Mr. Lalchand Navalrai: Now, what we want is that the Act should be administered well. The whole responsibility for administering it will lie on the lieutenant of the Honourable the Finance Member, Mr. Chambers, and the Central Board of Revenue.

An Honourable Member: Mr. Chambers is going.

Mr. Lalchand Navalrai: I am very sorry. Anyway the responsibility for administering this Bill in a reasonable manner falls on the Central

Board of Revenue and Mr. Sheehy has been here helping in the piloting of this Bill. He has heard what has been said in the House and also knows the spirit in which these provisions have been passed, and I hope that the Central Board of Revenue will act according to the spirit in which this Bill is going to be passed. I hope that instructions will be given to the Excess Profits Tax Officers that they should not be too greedy to get as much as they possibly can. The past experience of the income-tax officers has been a sorry one. They know one thing and only one thing. They do not care for the public interests. Whether a poor man is going to be assessed or a rich man is going to be assessed their business is only to get money and they think—I do not think wrongly—that their promotion depends upon as much money as they can get for the Central Board of Revenue. That is a wrong view that they take. I do not say that the Central Board or the Finance Member wish that, but all the same that is a wrong mentality, a vicious mentality. In the case of the Excess Profits Tax which is a more onerous tax, the officers should show reasonableness and demonstrate that they are not only for the Government but for the public as well. I will start by stating that I thank Mr. Chambers for the courtesy he has shown in receiving a deputation of Sindhis and understanding and realising their difficulties. I am also thankful to the Honourable the Finance Member for showing sympathy towards them, though on the ground of their being too few their case is condemned. Because they happen to be few, is not a good ground for refusing relief to them. That ground does not appeal to me at all. Because they are few it is said they are negligible, but I do not think that in equity it is a proper view to take of the case. They went satisfied from here that they have put their case before the authorities and it is for the Honourable the Finance Member and his lieutenants to consider it in the best manner they could. I congratulate the Honourable the Finance Member on having excelled his predecessor. I shall explain what I mean by excelling his predecessor.

Mr. M. S. Aney: Excess profit

Mr. Lalchand Navalrai: That is one, but what I mean is this. I had been in this House during the time of his predecessor also. I congratulate my Honourable friend on so smoothly and dispassionately piloting this Bill through the House. There was no hitch or fight, there was nothing. Quietly he is taking away all the money from our pockets, and without showing any offence.

The Honourable Sir Jeremy Raisman: I was not offended.

Sir H. P. Mody: He means no harm.

Mr. Lalchand Navalrai: In that sense I should say that he deserves our congratulations but in taking this excess profit he should not go in excess. He should tell the Central Board of Revenue not to take the blood out of the people but to take some blood out of those capitalists who are fat.

Anyway, Sir, to proceed further, there were two important points in which the Honourable the Finance Member has yielded. Anyway he showed no obstinacy in that. He was moved in the Select Committee to some extent and then even in the House at least, with regard to the

[Mr. Lalchand Navalrai:]

raising of the limit from 30,000 to 36,000, he has yielded. (Interruption.) He has raised it. This is very well done. Then, Sir, with regard to extending the scope of section 26 also, with regard to the interests of small merchants and my Sindi merchants, he has at any rate shown sympathy and also included them for consideration under section 26 of the Bill. These are the two important points in which he has given relief. From that point of view also I must congratulate him. Then, Sir, coming to the question of the Sindis again, we cannot forget it. We live in Sind. I eat the salt of Sind. They bring money from foreign countries. They undergo so many difficulties. They live there under very difficult conditions. Our Sind is now very important. Sind will rule some day. At any rate you have seen how the Ministry is there now. We have got to the old Talpur days.

Sir H. P. Mody: Your Ministry has not resigned for a whole week!

Mr. Lalchand Navalrai: We have now at the head a Mir, who is a ruling race man.

Mr. Deputy President (Mr. Akhil Chandra Datta): We are now in the third reading stage of the Bill.

Mr. Lalchand Navalrai: By the by, some liveliness is necessary at the end of this Bill and I think up to 5 o'clock we can carry on. What I mean to submit is this, that so far as the Sindis are concerned, with regard to the exchange question that has been disturbing them and that might come in their way when excess profits tax is levied. With regard to the exchange question and the exchange difficulties it has been said and an assurance has been given that the question will be considered by the Central Board of Revenue under clause 26. If it is done in a sympathetic manner, certainly it would be doing them some good. But Sir, when I asked that that option of the exchange should be given to them; they as I said were in a better position to show to the Central Board of Revenue that the exchange that was at the time of the standard profits may be detrimental to them and the present exchange is favourable to them. That option has not been given to them but as that has not been given I again say that we must depend upon the sympathy or I might call the mercy of the Central Board of Revenue.

Then, Sir, with regard to books, they have real difficulty about the books. That has not been realised. When the Sind merchants explained this to me and I believe to Mr. Chambers also, it will be realised that they have really a difficulty. No one understands that they have a peculiar script. They don't get their books written by any man who knows English or French. They take away their own writers from here, their Mehtas as they are called. They live there for four or five years and they write the book in their peculiar script. Though my friend, Sir Abdoola Haroon, is a communalist in the sense that he is a member of the Muslim League, yet he keeps a Mehta who is a Hindu. The script is such that even he will not be able to read it. That being the difficulty, even if the Central Board of Revenue sends for the books, they will not be able to make head or tail of it. Therefore, the best course was to accept

my amendment that they should be believed on the affidavit or the sole testimony that they give, because Government can prosecute them for giving false affidavit.

Mr. Deputy President (Mr. Akhil Chandra Datta): The Honourable Member is going a little too far.

Mr. Lalchand Navalrai: This is pertaining to the Bill. I am bound by what the Chair says but I am now speaking on the Bill itself. I am not speaking of Sind or the Ministry in Sind. I stopped there. So far as this Bill is concerned, I think I am within my rights but I will bow to the ruling of the Chair and if the Chair is anxious, I will finish it soon.

Then with regard to the Indian industries. The Commerce Member is looking at me. What I am submitting is this. If this is really a war measure and the money is being realised for war purposes, the articles should be purchased from India for war purposes and what I am submitting is this. If there are no such industries now, the money should be employed for starting those industries or if the industries are in an infant stage, the money from this excess profits tax should be utilised in helping those industries. For instance, if they are making small things, in their infancy they require subsidy. They require some help. Give them that help from this so that at the time the war is over, we shall have a substantial advantage from this tax, in the sense that at the time when war is over when there will be no need for the use of this money, we will have the satisfaction that our industries have been helped substantially and permanently. Sir, I do not want to take up any more time of the House.

Mr. A. Aikman: Mr. Deputy President, in one of my recent speeches I said that the Honourable the Finance Member had taken over the responsibilities of his important office in times of great difficulty. Whatever may be the tasks that lie ahead of him, I feel sure he will not regard the Excess Profits Tax Bill as a work of minor importance. I desire to offer the congratulations of my Party to him on its smooth conduct through this House. No such tribute would be complete which does not include Mr. Sheehy and Mr. Chambers to whose talents and experience as well as unfailing assistance and courtesy the House owes a very heavy debt.

Mr. Chambers will be leaving us within the next few days and we wish him a safe journey and the best of luck in his new appointment.

As I remarked on a former occasion this Excess Profits Tax is levied in a different manner from any other tax; it is very difficult to forecast exactly how it will affect different assesses. Much must depend on the options offered and the methods of comparing chargeable accounting period with standard period, matters very difficult to foresee.

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

My colleague in the Select Committee, Mr. James, and I, therefore, adopted from the outset in our consideration of all the important details of the Bill the principle of trying to ensure that the incidence of the tax would fall fairly and equitably on all assesses. The Honourable the Finance Member has co-operated whole-heartedly in this endeavour and even if he has conceded points with this end in view and reduced the

[Mr. A. Aikman.]

amount of tax he will receive, he has still cause to congratulate himself for I feel the entire House is of the opinion that the measure is now as nearly equitable as can possibly be foreseen at this stage.

Now, Sir, I am not a mathematician like my Honourable friend, Dr. Sir Ziauddin Ahmad, but I am an accountant of a sort and while I am not prepared to arrive at results without data I am prepared to recognise the very material difference which the amendments to certain clauses have made to the original estimate of the amount of tax the Bill would produce. Consequently, if ever the rate under clause 4 of the Bill has to be raised, I would like Honourable Members to realise that such rate would be applied to a very much smaller proportion of the profits of the businesses concerned than under the original Bill. What I mean is that 75 per cent. under the Bill as it now stands might be equivalent to 50 per cent. as it was originally drawn from the point of view of yield of tax on the cost to the assessee. I feel sure we shall all watch with interest the financial results to the revenues of this measure.

One small matter of detail, Sir, the Honourable the Finance Member has made perfectly clear his attitude to new Rule 5 of Schedule I, but I am sorry that in conceding a point to certain interests under this Rule, certain forms of finance have been put at a disadvantage. Under this provision bank finance is put in a better position than other forms of finance notably, that of managing agencies. I am sorry that my Honourable friend, Sir Abdul Halim Ghuznavi, is not present in the House now, for he accused me of not being sympathetic to Indian banks. I had hoped, Sir, to point out to him that we have refrained after consideration from any attempt to disturb the position created by this Rule. I always think it is a pity that those who have borne the burden of pioneer work should not be recognised. So, I feel that managing agencies were, therefore, entitled to more considerate treatment for they have been financing industry for well over a century, long before banks did so, when institutions like the Central Bank of India were unthought of and its distinguished Chairman no more than a gleam in his grandfather's eye.

Quite apart from this consideration, I feel that the provisions of the Rule must tend to encourage methods of finance which cannot but be regarded as unsound. Well, Sir, I hope in this matter as in other matters which are bound to transpire as the Act is applied, that the Government will not be slow in implementing the assurances given in the Select Committee, namely, that they will promote any legislation which is necessary to remedy the shortcomings which may reveal themselves in the working of the Bill when passed. Sir, I support the motion.

Dr. Sir Ziauddin Ahmad: Sir, I wish first of all to record our appreciation for the work which Mr. Chambers has done during his two years stay in this country. When his appointment was announced, one of the Parties in the Assembly did not hail the announcement with cheerfulness. But the experience of the past two years has changed the mind of every one and I am sure had they been here, they would have joined me in recording their vote of appreciation for all the work that he has done.

I will just tell him a little story which I hope he will carry with him and relate to his colleagues in the United Kingdom. Once a person cut a lemon into two and asked another man to squeeze out the juice. I, as an honest man, first made the attempt and squeezed out as much juice as I

possibly could and then I gave up the attempt and declared no more juice. Then came in Mr. James and with the skill and dexterity he possesses, he began to squeeze it at a proper angle and he got a few more drops out of it and then he declared 'no more juice in it'. Then followed Sir Homi Mody who is accustomed to take out the last drop of blood from out of the consumers and shareholders and he squeezed out some more drops from that lemon and, afterwards, he certified that no more juice was possible. Then followed a very big wrestler and he managed to take out several drops of juice from that lemon which was certified by three people as having no juice at all. We were all looking at each other and tried to find out who that man was and then, afterwards, we found that he was an Income-tax officer trained by Mr. Chambers.

Before I come to the subject matter of this Bill, I also wish to record our appreciation at the work done by the Honourable the Finance Member and his colleague Mr. Sheehy whose silent assistance at every stage was indispensable. We are now closing the drama and the tiger mentioned by the Honourable the Finance Member not only had the Finance Member inside, but the demon also had inside many other persons and in its insatiable greed began to bite all persons who stood in its way and I happened to be one of the unfortunate victims.

Now, Sir, Sir Homi Mody conceives his ideas very correctly but he always miscarries them by his wrong arguments. Now, Sir, as regards Mr. James, he showed good humour in using suitable words for everybody in his opening speech and had several pleasant hits on that occasion. Now, Sir, I was reading the debates of a previous year and one speaker, referring to Mr. James, said: "He is the *de facto* leader". I am sorry he is not present in the House. There was an interruption on this remark, and one Honourable Member who interrupted said: "No, not a *de facto* leader but self-elected leader." That was the remark made on that occasion. Whatever may have been said on that occasion, I believe that he is a gentleman and adorable gentleman. Now, Sir, we have heard a number of speeches from Mr. James. I have heard very humorous speeches from him and I have heard very serious speeches from him and I have also heard very angry speeches from him. He is very humorous when he wants to gain some points from the Government Benches. He becomes very strong and serious when he has to disagree on any question with the Honourable the Home Member and he becomes very angry if his legs are pulled by some of his friends who are absent today. It was once asked, which of his speech belonging to these three categories is the best and a prize was offered to the man who could give the correct answer.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is delivering an after-dinner speech.

Dr. Sir Ziauddin Ahmad: So did Mr. James. The person who had the prize said that his speeches are always the best when he is out of gear. The runner-up also had a very good argument. He said: "He always has two speeches." He called him a double-dealer, because he has two types of speeches ready, but that is a bad word and can't be used on this occasion. Very often, when he ought to be very serious, he delivers a very humorous speech and *vice versa*.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member should devote his attention to the motion before the House.

Dr. Sir Ziauddin Ahmad: Now, my friend, Sir Abdul Halim Ghuznavi, is not here today, so I leave him.

Now, Sir, I come to the Bill. I tried several times to put a knife in the hands of the Finance Member to tear the belly of the tiger under which both he and myself were being huddled, but he never tried to come out of it and remained inside it all the time.

Now, Sir, I wish to say a few words about my friend, Mr. Lalchand Navalrai

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member must confine himself to the motion before the House.

Dr. Sir Ziauddin Ahmad: Now, Sir, coming to the provisions of the Bill, we tried, at least I tried and pressed very hard that we ought to modify sub-clause (2) (d) of clause 6 of the Bill and should not give away a very large amount of the profits which we have lost under that sub-clause. I think it will be very difficult now to modify it even next year. If, unfortunately, the war conditions continue and if, unfortunately, the Finance Member may require larger amount, then it is impossible in the future years to modify this particular sub-clause because it will then be two years old. The only way in which he can get money in future years will be to increase the quantum of the excess profit and increase it as is done in the United Kingdom from 50 to 60. It will then rope in smaller people. Now, it was pointed out by one of the speakers, and I think the Honourable the Commerce Member took note of it, that those industries which make enormous profits during the war should not give them away to their shareholders but should keep a part of that amount in reserve. That is a very good advice and Professor Keynes put the same idea in another language. He said that we cannot trust these businessmen and we cannot expect that they will not be able to give larger dividends to the shareholders. He thought that the best way of securing this object would be to take away the money from them and put it in the custody of the Government and hand it over to them after the war was over, when the conditions will not be so lucrative and so good from their point of view. As we all know, after the war, as happened last time, we will have a period of depression and nobody can say that there will not be a similar period of depression after the present war. Therefore, the suggestion made by the Commerce Member as a practical man and the one given by Professor Keynes as a part of his theory of political economy deserve the consideration of the Government. The Government should see that those industries which make enormous profits and from whom we fail to collect the amount that we ought to have collected, do not squander away their money by giving high dividends. Of course, they should give reasonable dividends to their shareholders but they should at the same time keep something in reserve either with themselves or under the custody of the Government of India or the Reserve Bank.

Now, Sir, coming to the other points of the Bill, I am sorry that I failed my colleagues in the Assembly to induce them to have a different

definition of standard profit for the 'protected industries'. That is the definition which I pressed hard, namely, that the amount of profit given by the Tariff Board ought to be taken to be a standard profit. I drew the attention of the House several times to the steel industry and also to the textile industry and I pointed out that the consumers of India, over and above the real price, pay thirty crores per annum to the textile industry of this country over and above the real price. It was but fair for the Government to take away some portion of this contribution at a time when it was in great need of money and when money is required for the prosecution of the war. I am sorry that I failed to assure the Government Members about the justice and equity of this particular proposal but I am sure time will come when people will recognise the wisdom of this suggestion and find out for themselves that the protection is given only in the interests of the consumers and in the interests of the smaller industries and not in the interests of the capitalists or shareholders.

Now, Sir, I wish to touch just a few other points in connection with the Bill. Another very important change—and I consider it to be the most important change—that we have made in the Bill is to raise the income-tax level of the excess profits tax from Rs. 30,000 to Rs. 36,000 per annum. This is a great concession for the smaller industries which will be highly appreciated. The loss under this head will be a few lakhs only and it is an important change.

The second important amendment is in regard to clause 26. In new sub-clause (c) of this clause we have provided both milk and honey for Mr. Lalchand Navalrai which he wanted, milk in the shape of relief to the capital which cannot be brought to this country and honey in the shape of relief in the matter of exchange. But I am sorry he paid no fee for all this. At one time I was sorry that I did not become a Barrister which I could easily be when I was an undergraduate at Cambridge. In this debate I found that a lawyer or a Barrister can plead on either side with equal magnanimity, for his clients. Thank God I did not take up that profession. So I speak like an honest man and not pleading for my clients.

The next important change is the relief to the subsidiary companies. At first there was some doubt as to whether the subsidiary companies and the parent companies will be charged this tax twice over, but now that doubt has been removed.

These are some of the important changes made. It is of course difficult to visualise the amount of financial loss which will result from the amendments carried here and in the Select Committee, but purely as a guess, I think it will come to approximately three crores in the full chargeable accounting period and about one crore during the half period, i.e., 1940-41. It is difficult to estimate the results of the smaller amendments made which can only be visualised by those who are actually in the trade, that is, what industries will be affected and to what extent, e.g., the change from September to February and from February to January. It is an important change the results of which can be understood only by those who are benefited.

Sir, we have fought a good deal for the benefit of the various bodies and all throughout I have adopted an attitude, in which I got no support, of supporting and safeguarding the consumers and small industries. The Deputy President also stood out for the smaller and nascent industries

[Dr. Sir Ziauddin Ahmad.]

but he also fell a prey to the combination of the bigger people. If he had not co-operated with these bigger business people and industrialists who are accustomed to swallow up the smaller industries he would have been much better off than he was with them. It is our duty to protect the smaller industries and though we have succeeded partially, we could have done much better if we had removed the sub-clause (d) to clause 2 of clause 6 because that would have helped the smaller industries largely.

Babu Baijnath Bajoria: Thank God you did not succeed in your amendments.

Dr. Sir Ziauddin Ahmad: Now the cat is out of the bag.

In the end I congratulate the persons who piloted the Bill and also my colleagues who helped to remove the difficulties in its working and also the difficulties of those who will be affected by it. Sir, I support the motion.

Mr. M. S. Aney: Sir, we have now come to the last stage of the Bill. Most of my friends who have preceded me have paid a well deserved tribute to the Finance Member as well as to Mr. Chambers and Mr. Sheehy and I shall not fail in my duty by not expressing my appreciation of all these three gentlemen who have shown a very accommodating spirit during the course of discussion of this Bill in the House as well as the deliberations in the Select Committee. I want particularly to say a word about Mr. Chambers. He has been in this House for the last few years and he belongs to that class of criminals who commit great offences and yet succeed in eliciting the admiration and appreciation of the world. He has committed two major offences. One is the perpetration of the offence of getting the Income-tax Bill through and the other is the one which he is inflicting now. But in spite of these big offences he has succeeded in securing a good deal of sympathy for himself from this House and I am no exception to it. It is really a matter of deep regret that the Honourable Member is leaving this country. I should have very much liked that the working of this Act and the Income-tax Act had been in his hands for some time more in order that the high principles which he enunciated in this debate may be properly carried out and permeated through the service which he would control from his place in the Central Board of Revenue. However, as my Honourable friend, Mr. Aikman said, I wish him a safe journey and a safe voyage and good luck in the new appointment which he is going to assume.

Sir, as regards the Finance Member I will not say much because we shall perhaps have to deal with him for some longer time yet. I can only say, without being presumptuous, that he has made a very commendable start and we hope the relations that he has succeeded in establishing in this House will continue hereafter and that they will give a very salutary tone to the discussions in this House. The bitterness has almost disappeared although his achievements do not give satisfaction to us. After having said that, I must emphatically state that I am one of those who have declared our opposition to this Bill on principle; and though I am not slow in appreciating the important modifications that have been made in the Bill in the Select Committee as well as on the floor of this House, I must say that certain objections which we have raised remain

practically unanswered there. That being the case, my Group shall have to oppose this motion. Anyhow, I must say this, that it was mainly left to my Group to move most of the amendments in this House and the brunt of the opposition was borne by them. There are now three non-official Groups here—my Honourable friends of the European Group, and my Honourable friends of the Muslim League Group and ourselves: but in this Bill we three Groups did not pull together, and though we succeeded on certain occasions, it was unfortunate that we found ourselves practically stranded most of the time; and in spite of our trying to make overtures to the other Groups, they successfully resisted us all along.

One of the things that struck me most during the course of the debate was the generous spirit of my Honourable friend, Dr. Sir Ziauddin Ahmad. He, with a few of his colleagues, was profuse with liberality and was prepared to offer much more than the Honourable the Finance Member demanded. When I saw this classical instance of liberality on his part and the other classical instance of the Finance Member rejecting his offer, I was reminded of an old incident narrated in Raghuvamsa. The story is narrated by the great poet, Kalidasa, of a mendicant Brahmin called Kantsa who went to King Raghu. Kantsa was asked by his preceptor to give him as his *dakshina* at the end of his period of tuition 14 crores of mohurs, because he had taught him 14 branches of learning. He said "All right, I will pay you 14 crores." Then he was thinking whom he should approach. He knew there was a very great and liberal king who was known for his generosity and patronage of learning, of the name of King Raghu; and he went to him and found that King Raghu had finished a big sacrifice called the Vishwajit sacrifice which was performed at the end of his conquest of the world; and one of the things that the conqueror had to do was that all the wealth owned by him or gathered in world conquest had to be distributed among worthy people and nothing should be left with him; and so when he went and saw King Raghu he found that King Raghu had nothing left except a few earthen pots—not a bit of gold or silver or any other metal. Then he said to himself what is the use of asking this man who had nothing left except earthen pots. But King Raghu saw him and asked him why he had come and he said "I came for something but now I see you cannot help me and I am therefore returning." Then King Raghu said "No beggar and no worthy Brahmin has ever come to my house and gone back without getting what he wanted. That is the tradition of my family and so I must know what you want." Then he reluctantly told the King that he wanted 14 crores of mohurs for his *Guru Dakshina*. The King said "Never mind; sit down." Then he thought he had conquered all the world and drained it of all its precious metals and whom could he approach. There was only one person left called Kubera and so he thought he would go and fight Kubera and get the money. But as soon as Kubera learnt of this intention of King Raghu he sent a shower of gold on the house of King Raghu and the house was full of gold and King Raghu sent for this man and said "All this gold is yours. Take it away." But the man said "I only want 14 crores and not a pie more." But King Raghu told him "I do not want anything for myself: I wanted 14 crores only for you, but somebody has sent something more: the whole thing is for you and you take it away." And on this, the poet Kalidasa says:

"Janarya Saketanivasinaston
Dvavapya bhutamabhinandayasatwon
Gurupradeyadhikanisprahorthi
Apyarthikamadadhikapradashcha."

[Mr. M. S. Aney.]

Both the mendicant and the monarch were the subject of praise and compliments from the whole of the people of Ayodhya, for the beggar was reluctant to take a pie more than what was asked by his Guru, and the King was reluctant to retain anything for himself out of what came voluntarily for the sake of that man. I have found that scene enacted on the floor of this House. I was reminded of that story

Dr. Sir Ziauddin Ahmad: I will complete your story later on.

Mr. M. S. Aney: My Honourable friend, Sir Ziauddin Ahmad, has been very generous; but anyhow my friends there do not want a bit more. I have heard his speech now and he tells some stories and he calculates that the losses which the Treasury Benches will incur on account of not having accepted his suggestions on the one hand, and on the other for having yielded to the requests of others, will come to three crores. If that is so, I want to know what is left. The Government's calculations are that they will get three crores, and if they lose these three crores, the Government of India are practically left in the same condition in which we found King Baghu at the beginning and at the end of the above story a penniless King.

The only other point I would refer to at the end of my speech is this: I really feel that by putting such a heavy tax upon excess profits of certain businesses, we are probably creating a situation in which the development of new industries would be seriously handicapped. I regard this period as one of which it should have been possible for the industrialists of this country to take full advantage and to start on a systematic movement of establishing new industries and industrialisation of the country as much as possible. I feel that what should have gone to the reserve to strengthen old industries and keep them from demanding protection hereafter and what should also have gone back into the industrial activities in the form of starting new industries is being absorbed in the Government treasury and no real vitality is left for the country to enter upon a regular era of new industrialisation hereafter. That is the great difficulty I feel and I think that it means the great wrong. As I am labouring under this apprehension which I am afraid notwithstanding all the persuasive eloquence of my friend, Mr. Chambers, there, and all the serious and well-measured words of my Honourable friend, the Finance Member, they have not succeeded in removing from my mind; and so long as I feel like that I do not think I shall be justified in recording my vote for the Bill before the House. With these words I oppose the motion on behalf of my Group and myself.

Sir Abdul Halim Ghaznavi: Sir, I was one of those who opposed this Bill very strongly. As my Honourable friend, the Leader of the Congress Nationalist Group, has just said, our fear has been and still remains that the imposition of this tax will hamper the growth of the Indian industries. There will be a feeling in the minds of those who possess money that it is not worth while starting new industries, although the opportunity is present, because they will feel that the losses will be theirs, and if any profit accrues, excess profit or by any other name one may call it, that will be regarded as profit due to war conditions, and 50 per

cent. of it will go to the Government. That was the whole trouble, and that was why I made my speech, and in making that speech I was expressing the views of all the Indian Chambers in India. We are not unwilling to give all the assistance we can to the Government in the successful prosecution of the war, but the only apprehension in our minds was that if the measure was passed in the manner proposed it might affect the growth and development of our industries. Sir, in making my last speech I may have used words which I should not have used, and I hope Honourable Members of this House will forgive me if I said anything which I should not have said.

Sir, I will not make a long speech today, but I shall try to finish it in five minutes. At long last, this Bill is going to be passed, and it will become the law of the land. I say straightaway that the Indian commercial community will ever remain grateful to the Honourable the Finance Member for the consideration he has shown them. Both in the Select Committee stages as well as during the discussion of this Bill in the House, my friend, the Honourable the Finance Member, has acceded to many of our amendments and thereby, I am sure, has earned the lasting gratitude of the people of this country. Then my friend, Mr. Chambers

An Honourable Member: Dr. Sir Ziauddin Ahmad is behind you.

Sir Abdul Halim Ghuznavi: I find Dr. Ziauddin Ahmad is behind me.

Dr. Sir Ziauddin Ahmad: I am not your back bencher.

Sir Abdul Halim Ghuznavi: Then as I was saying, to my friend, Mr. Chambers our thanks are due, and let me assure him that we all regret his departure from India. It is not flattery to say that although the two Bills he piloted were against the wishes of Indians, yet credit must be given to him for the able manner in which he piloted them. He has done his very best to meet the wishes of Indians. How far he has succeeded in achieving the objects of the Bills, it remains to be seen, but he is leaving this country when the Income-tax Amendment Act has just come into operation. We wish he was with us for sometime more to see how it works in actual practice. In this case, too, he has done everything possible to assist us, and all of us wish him God speed and good luck. We wish him a long life, and I am sure he will shine as a brilliant star even in his new sphere of activities. Sir, once more I thank the Honourable the Finance Member from the bottom of my heart for the very great consideration he has shown us in every respect, particularly to me by accepting my last amendment relating to the shipping industry.

The Honourable Sir Jeremy Raisman: Sir, I find that there has arisen or accrued to me in the course of this afternoon an excess of tributes of various kinds for which I am very grateful to my friends, but I feel that in accordance with the principles of the Bill I can only retain one half. I feel sure that the credit for the reasonable spirit which marked the progress of the proceedings both in the Select Committee and during the consideration in this House is as much due to Honourable Members who have been associated in the labour of enacting this measure as to myself,

[Sir Jeremy Raisman.]

and in particular, I would like to say that my Colleagues on the Select Committee, and especially those who represented the interests of trade and industry have rendered me the greatest possible assistance in appreciating exactly where the shoe was likely to pinch

Sardar Sant Singh: It may still pinch.

The Honourable Sir Jeremy Raisman: and in endeavouring to adjust it. I am afraid it is true, as my friend, Sardar Sant Singh, says; it may still pinch occasionally or in places, but on the whole it is a much more comfortable shoe, I think, than it was in the first instance.

My friend, Sir Homi Mody, to whom I am very grateful indeed, not only for the assistance which he has rendered in these proceedings, but also for the many delightful moments in which we have enjoyed his witticisms, did himself an injustice. He said at one stage that his reason for supporting the principle of this Bill was that he feared that if he opposed it or that if the Bill were thrown out, worse might befall him. I think, Sir, he did himself less than justice. I believe myself that he was actuated by a deeper and a more conscientious motive and that he felt that in the circumstances of the country, it was his duty to assist, as he put it, although with a heavy heart, at his own execution. Well, Sir, he has at any rate succeeded in converting what he thought was a knife at his neck to a knife which will perhaps only scalp or rather take off a thin epidermis from the top of his head. To that extent, Sir, the tragedy of the execution has been lightened, and the operation, I trust, has become one from which he will speedily recover.

Other Honourable Members, particularly on the Select Committee, were of great assistance at all stages, and I feel that I must reciprocate the tributes which they have paid to me. My friends of the European Group, Mr. James and Mr. Aikman, with their great knowledge and contacts with business and commerce were exceedingly useful, and have approached this measure in the spirit in which it should be approached, remembering what Mr. James mentioned the other day, the background of an Empire at war.

Then my friend, Dr. Sir Ziauddin, was in many ways the most valuable member of the Select Committee, not excluding myself, because when interests were pulling in different directions, and there was a tendency to stampede in a direction which would have taken us a long way from the Bill, Dr. Sir Ziauddin was there to pull us in the opposite direction and bring us back to a very serious realisation of what we were after. To him the principle of the maximum revenue was very vitally present, and as the poet said:

*"The mountain sheep were sweeter
But the valley sheep were fatter.
He, therefore, deemed it meet
To carry off the latter."*

The mountain sheep being the excess profits determined by taking a higher level of standard income, and the valley sheep being those determined by taking a lower level of standard profits.

Sir, I feel that I must on this occasion add my tribute to what has been said about my colleague and most valued assistant, Mr. Chambers. I am

in the best position to know the extraordinary value of his work for this country. It is not merely his high degree of professional competence which I think I have never seen surpassed in a long period of service in the revenue departments of Government, but his general brightness, and energy of outlook, his courage, and his determination to tackle problems however knotty and to grasp nettles wherever they might spring up. It is men like Mr. Chambers who make the high reputation which the administration of democratic countries, and particularly of Great Britain enjoy,—men who have before themselves a high ideal of social justice, (in spite of what has been said on that phrase) and who allow that ideal to pervade all their daily tasks and to assist them in carrying out their important public duties. It is with regret deeper than I can say, that I have to dispense with his services at this stage, and it is only because I recognise that he is being called to a career in England which I am sure will prove a most brilliant career, that I acquiesce in his going. I associate myself with the good wishes which many Members of this House have extended to him. (Cheers.)

Well, Sir, I think I have very little to add about the Bill. I would, however, like to assure my Honourable friend, Mr. Aney, that, on the best consideration which I have been able to give to the problems which arise out of this measure, I do not believe that it will be as deterrent to the expansion of new industries as he fears. In fact, I think that the introduction of this tax, at this stage of the war, is probably the best way in which industry could have been brought to face what would have been an inevitable burden.

There have been various criticisms about the bringing forward of this tax at this stage. The procedure taken in the last war has been praised and again it has been said that the tax might have been put off for a year or two. In other words, what was offered to me was, jam yesterday, and jam tomorrow but never jam today. I think in all seriousness that if this opportunity had been let slip and if six months or so after the outbreak of war a Budget Session had passed, without the enactment of a measure of this kind, then the situation would have grown continually more doubtful and delicate. Industry, as time went on and as expenditure on defence became greater and greater—industry and commerce would have been wondering every day when an excess profits tax was going to be introduced in this country. It seems to me that it is definitely—I am not jocular—it is definitely to their advantage to know from the start that they have to reckon with another shareholder in the extra profits.

Sir H. P. Mody: A big shareholder.

The Honourable Sir Jeremy Raisman: It is an advantage not only from the point of view of the immediate transactions of their business, but also from the point of view of their long range policy. I think they were entitled to know at this stage for the purpose of conducting their business throughout the war—they were entitled to know that an Excess Profits Tax was going to be levied as from the beginning of the war and it would have been definitely a serious failure on our part if we had not acquainted them with our intention at the earliest stage. Now, Sir, having realised that a tax of this kind is going to be levied concurrently and that the stream of profits is so to speak to be baled as it passes on, they can now go ahead with their plans, and I cannot believe that either the established industries

[Sir Jeremy Raisman.]

or the new industries will not be able to respond to the stimulus of war, because instead of the prospect of possibly 50 or 60 per cent. they find themselves reduced to the prospect of 40 or even 30 per cent. I do not believe that the effect of this measure is so to reduce the prizes which will be available for commerce and industry to compete for, that they will lose heart in the process. On the contrary, I feel that their knowledge of what they will be expected to contribute to the country in time of war—their definite knowledge of the extent of their contribution at the earliest moment will help them in their policies.

I have only one matter more to touch on and that is the question of administration and the spirit in which this measure will be administered. To the extent that an important part of the administration of the Act will now be located at headquarters in that it will fall to the Central Board of Revenue to administer certain very important provisions of the Act, I can assure the House that that administration will be carried out in a spirit which will be tolerant and indeed sympathetic to the growth of industry and, particularly, of new and pioneer industries. I am myself exceedingly anxious that everything should be done to encourage industries to take advantage of the opportunities provided by the war

An Honourable Member: Thank you.

The Honourable Sir Jeremy Raisman: and it was with that in view that I was very happy to place at the disposal of my Honourable colleague the funds which could be used for research and pioneer work by the Board of Industries. In the same spirit I shall myself supervise the administration of the provisions which have now been included in section 26 of the Act and I hope to be able to secure that no damage will be done to the sensitive plants which may emerge in the course of the war period. I would add this. I have been asked for an assurance and I have given it in the Select Committee and I will repeat it now. If it should be found that in the working of this measure serious or unwarrantable hardship is caused to types of business, I shall make it my duty to promote the necessary amendments as soon as possible. With these words, I commend this highly important measure to the sympathies of the House.

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

"That the Bill, as amended, be passed."

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 21st March, 1940.