

27th November 1940

**THE
LEGISLATIVE ASSEMBLY DEBATES**

Volume V, 1940

(19th November to 27th November, 1940)

**TWELFTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1940**



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CONTENTS.

VOLUME V.—19th November to 27th November, 1940.

	PAGES.		PAGES.
TUESDAY, 19TH NOVEMBER, 1940,—		THURSDAY, 21ST NOVEMBER, 1940,—<i>contd.</i>	
Starred Questions and Answers	765—84	Election of a Member on the Governing Body of the Indian Research Fund Association	918
Motion for Adjournment <i>re</i> Alleged occupation of the Muslim <i>Jugh</i> at Burhanpur by the Military—Disallowed	784—85	Election of three Members for the Standing Committee attached to the Department of Supply	918—23
The Indian Finance (No. 2) Bill—Motion to consider negatived	786—840	The Indian Railways (Amendment) Bill—Referred to Select Committee	924—39
WEDNESDAY, 20TH NOVEMBER, 1940,—		The Berar Laws Bill—Referred to Select Committee	939—49
Speech delivered to the Council of State and the Legislative Assembly by His Excellency the Viceroy	841—48	The Indian Income-tax (Amendment) Bill—Passed as amended	949—59
Starred Questions and Answers	849—67	FRIDAY, 22ND NOVEMBER, 1940,—	
Unstarred Questions and Answers	867—82	Starred Questions and Answers	961—82
Message from H. E. the Viceroy	882—83	Motion for Adjournment <i>re</i> closing of the Chandpur-Siau-Bijnor Section of the Gajraula Muazzampur Nairan Branch of the East Indian Railway—Negatived	982—83, 996—1011
The Indian Finance (No. 2) Bill (As recommended)—Motion for leave to introduce negatived	883—86	The Hindu Women's Rights to-Property (Amendment) Bill—Motion to refer to Select Committee negatived	983—95
The Excess Profits Tax (Amendment) Bill—Referred to Select Committee	886—90	The Land Acquisition (Amendment) Bill—Introduced	995
The Indian Railways (Amendment) Bill—Discussion on the motions to refer to Select Committee and to circulate not concluded	890—903	The Specific Relief (Amendment) Bill—Introduced	995
THURSDAY, 21ST NOVEMBER, 1940,—		The Hindu Judicial Separation and Divorce Bill—Introduced	995—96
Starred Questions and Answers	905—17	The Hindu Married Women's Right to Separate Residence and Maintenance Bill—Introduced	996
Motion for Adjournment <i>re</i> closing of the Chandpur-Siau-Bijnor Section of the Gajraula Muazzampur Nairan branch of the East Indian Railway—Postponed to next day	917		

	PAGES.		PAGES.
MONDAY, 25TH NOVEMBER, 1940,—		WEDNESDAY, 27TH NOVEMBER, 1940,—	
Starred Questions and Answers	1013—26	Starred Questions and Answers	1097—1102
Motion for Adjournment <i>re</i> closing down of the Branch Line between Shoranur and Nilambur in the Malabar District—Withdrawn	1026—27, 1080—95	Statement laid on the Table	1103—09
Position of Nominated Members of the House	1027—28	Motion for Adjournment <i>re</i> —	
Bills passed by the Council of State	1028	Alleged embezzlement in the Multan Division of the North Western Railway—Ruled out	1109—11
Draft Convention and Recommendations adopted by the International Labour Conference	1028—59	Rustication of Mr. M. Farouqi and Mr. D. Sanghi from the University of Delhi—Leave refused	1111—12
The Excess Profits Tax (Amendment) Bill—Presentation of the Report of the Select Committee	1059—60	Banning by the Government of Bengal publication of news of hunger strikes in jail, etc.—Disallowed	1112—13
The Indian Sale of Goods (Amendment) Bill—Passed	1060—62	Election of a Member for the Governing Body of the Indian Research Fund Association	1113
The New Delhi Mosque Bill Motion to consider not made	1062	Election of Members to the Standing Committee for the Department of Supply	1113
Report of the Public Accounts Committee	102—75	Statement laid on the Table <i>re</i> lowest tenders not accepted by the High Commissioner for India in purchasing stores for the Government of India	1113—15
Demands for Excess Grants for 1938-39	1076—79	The Excess Profits Tax (Amendment) Bill—Passed as amended	1116—24

LEGISLATIVE ASSEMBLY.

Wednesday, 27th November 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.

POSTS OFFERED TO THE GOVERNMENT OF INDIA SECRETARIAT ASSISTANTS IN THE INCOME-TAX SERVICE, CLASS II.

†261. *Maulvi Syed Murtuza Sahib Bahadur: Will the Honourable the Home Member please state:

- (a) whether it is a fact that the Government of India in the Home Department issued orders last year to offer one post every year in the Income-tax Service class II, to the Assistants in the Secretariat Departments;
- (b) whether, in the rules governing this appointment, Government have ordered that as regards communal proportions the rules in force for recruitment to the appointments in question will apply;
- (c) what is the interpretation that Government put on the orders referred to in part (b) above;
- (d) whether Government propose to apply the orders contained in the Home Department Resolution No. F. 14/17/-B./33-Ests., dated the 4th July 1934, to these appointments;
- (e) if the Government of India propose to apply the principle of communal representation to these appointments, whether these will be governed by the memorandum of supplementary instructions connected with the Resolution referred to above;
- (f) if the answer to part (e) above be in the affirmative, whether Government in making these appointments, propose to observe the order prescribed in the model roster as embodied in clause (7) of the Memorandum of Supplementary Instructions referred to above; if not, why not;
- (g) whether last year's appointment in the Income-tax Service under this scheme was offered to a non-Muslim; and
- (h) if the answer to part (g) above be in the affirmative, whether Government, in observance of the standard communal roster which generally runs from year to year, propose to offer the next appointment to a suitable and duly qualified Muslim; if not, why not?

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

The Honourable Sir Reginald Maxwell: (a) and (b). Yes.

(c) to (f). The Income-tax Service, Class II, is a locally recruited service with different percentages of reservation for the minority communities in the several recruitment areas. The procedure for making selection from the Assistants in the Government of India Secretariat is that the best candidate is selected every year and the appointment is then accounted for in the roster for the area to which the selected candidate is posted. The rules regarding communal representation in the service are thus observed.

(g) Yes.

(h) As will appear from the reply to parts (c) to (f) of the question, the best candidate will be selected for the next vacancy.

CONFIDENTIAL REPORTS BY THE MINISTERIAL STAFF OF THE GOVERNMENT OF INDIA.

†262. ***Maulvi Syed Murtuza Sahib Bahadur:** Will the Honourable the Home Member be pleased to state:

- (a) whether it is a fact that the ministerial staff of the Government of India are confidentially reported on every year;
- (b) whether it is a fact that, prior to about the year 1935, the staff were shown their confidential reports;
- (c) whether after about the year 1935, they are not shown their annual confidential reports;
- (d) if the answer to parts (b) and (c) above be in the affirmative, what has necessitated the departure from the old practice;
- (e) whether the substance of an adverse report, if any, is communicated to the person concerned;
- (f) if so, why a good report is not shown to him;
- (g) whether Indian Civil Service, Indian Army, Indian Police, Indian Medical Service, and other officers are shown their annual confidential reports;
- (h) if so, what grounds exist for a departure from this practice in the case of the ministerial staff; and
- (i) whether Government are prepared to reconsider the question?

The Honourable Sir Reginald Maxwell: (a) In some Departments confidential reports are made annually and in others half-yearly.

(b) and (c). The practice was not uniform in all Departments. In some Departments confidential reports used to be shown to the persons concerned but this practice was discontinued with effect from 1936.

(d) The practice was abandoned because it was considered that reports tend to become stereotyped and colourless when the reporting officer knows that they will be shown to the persons concerned.

(e), (f) and (g). As a rule confidential reports on civil officers and military officers in permanent civil employ are not shown to them, but remediable defects are communicated to the officers concerned so that they may rectify them. No similar reason exists for communicating a good report.

(h) and (i). The position in respect of the ministerial staff is similar to that of civil officers. Government do not propose to reconsider the question.

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

BURGLARIES AND DACOITIES IN NEW DELHI.

†263. *Pandit Lakshmi Kanta Maitra: (a) Will the Honourable the Home Member please state the number of thefts, burglaries and dacoities (excluding cycle thefts) committed in New Delhi during the last three months?

(b) Are Government aware that the victims of these crimes mostly belong to the clerical and the subordinate staff of the Government of India?

(c) Are Government aware that most of these crimes are perpetrated in day time when the male members of the houses are absent on duty either in office or in schools and colleges?

(d) Is it a fact that in Barakhamba, New Delhi, the burglars entered a house and decamped with the booty after murdering the servant who was left in charge of the house?

(e) Will Government state what is the number of policemen employed daily on patrol duty in the areas in New Delhi and the names of the roads and squares, which are inhabited by the clerical and subordinate staff of the Government of India and which are so patrolled both by day and by night to prevent crimes?

(f) Will Government state in how many cases during the last three months (i) the crimes have been detected by the police, and (ii) the criminals have been brought to book?

(g) Are Government aware that the number of crimes has increased in New Delhi since the appointment of the present Senior Superintendent of Police?

(h) Will Government state what steps do they propose to take to reduce these crimes and remove the feeling of panic and insecurity which is daily growing in the minds of the Government employees?

The Honourable Sir Reginald Maxwell: (a) Thefts (excluding cycle thefts) 63, burglaries 42, dacoities none.

(b) Yes.

(c) The majority of these offences have been committed by day, often during the absence of the occupants of the premises.

(d) Yes.

(e) The patrol staff for the area included in Reading Road, Panch Kuin Road, Baird Road, Irwin Road and Park Street (the area inhabited mainly by the clerical and subordinate staff of the Government of India offices) is one Head Constable and eight Foot Constables by day and two Head Constables and 24 Foot Constables by night.

A statement is laid on the table giving the names of the roads and squares included in these areas.

(f) A statement is laid on the table.

(g) There is not the slightest foundation for the insinuation which appears to lie behind this question. The rise in crime is by no means peculiar to New Delhi. So far indeed as New Delhi is concerned, a rise in the

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

figures was to be expected, corresponding to the increase in the population, and following the decision to take fewer clerks with the Government of India to Simla in the summer.

I may add that the present Senior Superintendent has been in the appointment only since the beginning of October last, whereas the increase in crime has been progressive from the beginning of 1938 onwards.

(h) The Delhi Administration are fully alive to the importance of the subject and will take all possible measures to lower the crime level. In the meantime, I do not believe that there is anything that can be called a feeling of panic and insecurity, and certainly there is no ground for such a feeling.

Statement.

I. Roads.—Park Street, Havelock Road, Scindia Road, Peshwa Road, Baker Street, Panchkuin Road, Irwin Road, Baird Road, Ibbetson Road, Maude Road, Reading Road, Lutyens Road, Market Road, and Doctors Lane.

II. Squares.—Lake Square, Hastings Square, Outram Square, Clive Square, Dalhousie Square, Nicholson Square, Roberts Square, Cornwallis Square, Lawrence Square, Taylor Square, Wilson Square, Lumaden Square, Edwards Square, Joffre Square, Market Square, Pershing Square, Riaz Square, Haig Square, Foch Square, Telegraph Square, French Square, Albert Square, Tughlak Place, Sikandra Place, Ranjit Place and Shivaji Place, Sumru Place, Rama Place, Ganesh Place, Raja Bazar Square, Baird Square.

Statement.

	Cases reported.	Persons arrested.	Cases worked out.
Burglary . . .	42	14	16
Theft . . .	63	20	15

(The above does not include cycle theft.)

TRAINING OF MARKSMANSHIP BY THE NAGPUR UNIVERSITY.

264. *Mr. Govind V. Deshmukh: Will the Defence Secretary please state:

- (a) if Government were informed by the Nagpur University that it had made the training of marksmanship compulsory for its students and that it undertook to defray all expenses for giving such training; and
- (b) whether the permission of the Government of India to give such training is necessary; if so, whether it was given; if not, what the reasons for refusing such permission were?

The Honourable Sir Reginald Maxwell: (a) The Government of India have received no communication on the subject from the Nagpur University.

(b) Under the conditions in which functions under the Arms Act have been entrusted to Provincial Governments applications for licences for rifle

clubs can only be sanctioned by the Government of India. The Government of India, however, do not ordinarily grant licences to rifle clubs outside recognized bodies such as University Training Corps. In view of the reply given to part (a), the other parts of the question do not arise.

HIGH SCHOOL VOLUNTEER CORPS AND RIFLE CLUBS.

265. *Mr. Govind V. Deshmukh: Will the Defence Secretary please state:

- (a) if Government favour the idea of having (i) High School Volunteer Corps, and (ii) Rifle Clubs of such High Schools; in case they do not favour either or both, what their reasons for doing so are; and
- (b) if Government are prepared to give any help to these High School Volunteer Corps and Rifle Clubs, if started; in case they are, what the nature and extent of such help would be?

Mr. C. M. G. Ogilvie: (a) (i) and (b). It is not understood what precisely the Honourable Member means by 'Volunteer Corps'. Government assume that the reference is to cadet companies. Any applications received for the formation of such companies would be considered on their merits.

(a) (ii). It is not the policy of Government to grant licences to Rifle Clubs in educational institutions except in the case of recognised forces such as the University Training Corps.

Mr. Govind V. Deshmukh: What is the answer to part (b)?

Mr. C. M. G. Ogilvie: The answer was to part (a) (i) & (b).

QUOTA OF MUSLIM CANDIDATES AT THE FLYING TRAINING SCHOOLS.

266. *Shaikh Rafiuddin Ahmad Siddiquee: (a) Will the Defence Secretary please state where the flying training school was first opened?

(b) Was it transferred first to Lahore and then to Ambala? If so, why?

(c) How many students were admitted in these schools, and how many are Muslims?

(d) If the quota of Muslims is not twenty-five per cent. what is the reason for the deficiency?

(e) Is it not a fact that the candidates for the Flying Elementary School, Lahore, were not expected to know flying?

Mr. C. M. G. Ogilvie: (a) The first Flying Training School for Air Force pupil pilots was opened at Risalpur.

(b) The Risalpur school is now being closed down and No. 1 Flying Training School has been opened at Ambala. A portion of the instructional staff and training equipment was transferred from Risalpur. In addition the Initial Training School (Officers) has been opened at Lahore. These places were found to be more suitable than Risalpur.

(c) 42 Indian Officers were admitted for training at Risalpur, and of these nine were Muslims, and 74 Indian Officers have so far been admitted to the Initial Training School (Officers) at Lahore; 15 were Muslims.

(d) No communal quota is laid down for commissions or enrolment in the Indian Air Forces. The basis of selection is suitability for flying or technical training.

(e) Candidates for the Initial Training School (Officers) at Lahore are expected to have some knowledge of elementary flying; they receive instruction at Government expense before entering the School.

Mr. M. S. Aney: With reference to part (c), may I ask how many are Hindus?

Mr. C. M. G. Ogilvie: I could not say off hand, but I should say that the great majority are Hindus.

Mr. Lalchand Navalrai: What are the prospects of these students who have this elementary knowledge in this flying club?

Mr. C. M. G. Ogilvie: If they develop into good pilots and show that they have flying sense and so on, their prospects are excellent.

Mr. Lalchand Navalrai: Have any been able to get such prospects till now?

Mr. C. M. G. Ogilvie: I do not understand what prospects the Honourable Member means.

Mr. Lalchand Navalrai: Whether any of them have become pilots?

Mr. C. M. G. Ogilvie: The first batch of officers is now actually under training at Lahore and a few have fallen by the way, but not a large proportion.

Dr. Sir Ziauddin Ahmad: With reference to part (d), is it a fact that every candidate selected knew something of flying or only some of them?

Mr. C. M. G. Ogilvie: I believe that every one knew something of flying—at least all candidates for initial training at the officers' school. It is possible that some of those originally selected for training did not.

Mr. Muhammad Azhar Ali: Sir, I rise to a point of order

Mr. President (The Honourable Sir Abdur Rahim): What is the point of order? Is it with reference to this question?

Mr. Muhammad Azhar Ali: With reference to the short notice question.

Mr. President (The Honourable Sir Abdur Rahim): There can be no point of order with regard to any order passed by the Chair disallowing a question.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to unstarred question No. 18 asked by Mr. Muhammad Azhar Ali on the 15th February, 1940.

WORKINGS OF THE TRAINS BETWEEN HARDWAR AND RIKHIKESH ON THE EAST INDIAN RAILWAY.

(a) 3 trains in each direction.

(b) The average number of passengers of the two years before the reduction in fares was 1,16,960, and after the reduction was 1,62,015.

(c) The average revenue of the two years before the reduction was Rs. 38,012 and after the reduction Rs. 30,068.

(d) Separate figures of maintenance charges for the Hardwar-Rikhikesh section are not available.

NOTE.—For the purposes of this comparison, the following years have been taken :—

Before the reduction—

1-7-1934 to 30-6-1935.

1-7-1935 to 30-6-1936.

After the reduction—

1-7-1936 to 30-6-1937.

1-7-1938 to 30-6-1939.

The figures for the year 1-7-1937 to 30-6-1938 were abnormal owing to the Kumbh Mela and have been excluded.

Information promised in reply to starred question No. 268 asked by Mr. Akhil Chandra Datta on the 5th March, 1940.

MODEL HOUSING SCHEME IN THE ALLAHABAD CANTONMENT.

(a) The answer to the first part is in the affirmative and to the second in the negative.

(b) Government are informed that every effort was made by the Cantonment Board, Allahabad, to dispose of the land in separate plots, but as no one came forward to bid at the various auctions, the whole area was leased by auction to the highest bidder who happened to be a member of the Board.

(c) No.

(d) The scheme was adhered to except for the conversion of two quarters into shops. The Board instituted an inquiry into the matter as a result of which they were satisfied that the alterations made by the lessee and use of these quarters as shops, though unauthorised, were an improvement from the hygienic point of view and provided amenities for the tenants of the quarters.

(e) Government are inclined to agree with the Board and propose to inform them that the unauthorised structures may be condoned.

Information promised in reply to starred question No. 481, asked by Mr. Lalchand Navalrai on the 20th March 1940.

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

(a) Yes.

(b) They were allowed the privilege of rent-free quarters provided they had enjoyed the same in a substantive capacity prior to 1st August 1928.

(c) No. The practice on the various Divisions in regard to the grant of rent-free quarters to Block Maintainers promoted from Block Mistries varied until the issue

of the General Manager's letter of 27th January, 1936, alluded to in part (e) of the question.

(d) Yes; as the matter was not referred to General Manager till late in 1935.

(e) Yes.

(f) and (g). Yes, because on further examination of the question by the General Manager it was held that as the Block Mistries did not enjoy the privilege of house allowance in lieu of free quarters, they were, under the rules, not entitled to rent-free quarters on promotion to a subordinate post.

(h) Orders have been issued restoring the decision of 1936.

Information promised in reply to unstarred question No. 19, asked by Dr. P. N. Banerjee on the 5th November, 1940.

SENIORITY OF CERTAIN SUBORDINATE STAFF ON THE EAST INDIAN RAILWAY.

(a) The names in question are shown in the order of seniority in the statement attached.

(b) The seniority list prepared under the rules in question was published in December, 1936 and relevant extracts therefrom were sent to each of the staff on 23rd January 1937.

Statement.

1. Mr. R. W. Newson.
2. Mr. H. V. Blake.
3. Mr. M. M. Sanyal.
4. Mr. T. W. Titman.
5. Mr. B. M. Kearney.
6. Mr. R. P. Munshi.
7. Mr. W. J. Davies.
8. Mr. D. M. Gupta.
9. Mr. N. Mukherjee.
10. Mr. P. N. Ghosh.
11. Mr. H. N. Tankha.

Information promised in reply to parts (b) to (d) of starred question No. 34 asked by Khan Bahadur Sheikh Fazl-i-Haq Piracha on the 11th November, 1940.

PENSIONS OR GRATUITIES GRANTED TO GOVERNMENT EMPLOYEES AT THE KAMARAN QUARANTINE STATION.

(b) Twenty employees of the Kamaran Quarantine Station and five employees of the Civil Administration were granted gratuities. One employee of the Kamaran Quarantine Station was granted an invalid pension.

(c) No.

(d) Eight employees of the Kamaran Quarantine Station and one employee of the Civil Administration. As the case of each employee has been subjected to careful consideration on merits before the grant or refusal of pension or gratuity, Government do not propose to re-open any case.

Information promised in reply to starred question No. 105, asked by Shaikh Rafiuddin Ahmad Siddiquee, on the 16th November, 1940.

IMPROVEMENT IN THE INDIAN CATERING SYSTEM OF THE ASSAM BENGAL RAILWAY.

(a) Yes.

(b) The change consists of passengers in trains being served aerated waters and ice, etc., by vendors at stations instead of by travelling vendors. Among the improvements are that all aerated waters for sale will be supplied from one source and a

high standard of quality will be ensured, while space is set free for passengers on trains. A catering inspector with medical qualifications is to inspect and report on the conditions of Indian refreshment rooms and stalls, and it has been arranged to provide such rooms and stalls at additional stations.

Information promised in reply to unstarred question No. 81 asked by Bhai Parma Nand on the 16th November, 1940.

POLICY OBSERVED BY THE GENERAL MANAGER, EAST INDIAN RAILWAY, IN THE MATTER OF CATERING CONTRACTS.

(a) The General Manager distributed a note but the quotation given in the Honourable Member's question is not accurate.

(b) No. The contract was given prior to March, 1940. As regards the second part, I understand the change was in pursuance of the policy of avoiding the sub-division of contracts on a communal basis.

(c) No contracts have been given to Messrs. Ballabdas Ishwardass, since March, 1940. The second part does not, therefore, arise.

(d) Yes; as regards the second part, the Administration decided to employ one contractor to cater for all communities, and a Muslim contractor was chosen. He has a staff of Hindu servants to cater for Hindu students.

Information promised in reply to starred questions Nos. 141, 142, 143, 144, 145, 146, 147, 148, 150, 151, 152 and 153 asked by Haji Chaudhury Muhammad Ismail Khan on the 18th November, 1940.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 141.—(a)—(c). Information in regard to permanent non-gazetted staff is given in the tables below. Class I and class II posts have been excluded as the orders regarding communal representation do not apply to them.

(a) Strength of permanent non-gazetted staff in each grade on 1st April, 1933.

	Total.	Hindu.	Muslim.	Indian Christian.	Sikh.	Anglo Indian.	Others.
Clerical Staff	33	24	4	4	1	..	..
Other Staff	1	1	..	..	..	..	..
Laboratory Staff	9	2	1	5	..	..	1
Farm Staff	12	8	2	1	..	1	..
Engineering Staff	13	13	..	..	..	..	..
Medical Staff	3	2	..	1	..	..	..
Veterinary Staff	35	9	16	7	1	1	1
Total	106	59	23	18	2	2	2

No Imperial Council of Agricultural Research Schemes were in operation at the Institute before 1936.

(b) Permanent appointments made from year to year since 1934.

Year.	Hindu.	Muslim.	Indian Christian.	Sikh.	Anglo-Indian.	Others.
1934	1	..	..	..	..	..
1935	1	..	..	..	..	1
1936	3	1	1	..	..	..
1937	2	..	..	..	..	..
1938	4	2	..	..	..	..
1939	5	3	1	..	..	1
Total	16	6	2	..	..	2

(c) Proportion of Muslims in each class of non-gazetted permanent staff.

	1934	1935	1936	1937	1938	1939
Clerical staff	16.6%	17.1%	20.5%	15.4%	13.9%	18.4%
Other staff	50%	50%	50%	50%	50%	50%
Laboratory staff	11.1%	11.1%	Nil	Nil	5.6%	12.5%
Farm staff	23.1%	16.7%	9.1%	18.2%	20%	20%
Medical staff	Nil	Nil	Nil	Nil	Nil	Nil
Engineering staff	Nil	Nil	7.1%	7.1%	7.1%	8.3%
Veterinary staff	41.2%	42.4%	46.7%	46.7%	48.3%	44.8%

(d) No.

(e) Yes.

(f) The percentage of Muslims taken as a whole increased from 21.7 in 1934 to 24.6 in January 1940, excluding 75 per cent. in Imperial Council of Agricultural Research Schemes.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 142.—(a) and (b). The information is given in the table below :—

	1934		1935		1936		1937		1938		1939	
	Total vacancies.	Filled by Muslims.										
Clerical staff	3	1	Nil	Nil	4	1	4	..	3	1	8	5
Other staff	1	1	Nil	Nil	Nil	Nil	Nil	Nil	1	..	Nil	Nil
Engineering staff	Nil	Nil	3	..	1	1	Nil	Nil	1	..	Nil	Nil
Medical staff	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	2	..	Nil	Nil
Farm staff	Nil	Nil	4	2	8	2	4	2	3	1	2	1
Laboratory staff	Nil	Nil	2	..	1	..	3	1	6	2	8	2
Veterinary staff	4	..	3	2	2	..	2	..	3	2	7	1
Total	8	2	12	4	16	4	13	3	19	6	25	9

(c) The Director follows the orders issued by the Government of India. The order of rotation followed is in accordance with the communal roster prescribed in paragraph 7 of the Memorandum of Supplementary Instructions connected with the orders contained in the Home Department Resolution No. F. 14/17-B/33-Ests., dated the 4th July 1934, copy of which is available in the library of the House.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 143.—(a) Two lower temporary posts carrying pay of Rs. 30 and Rs. 25 respectively have been classified as superior posts.

(b) No.

(c) Does not arise.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 144.—(a) No.

(b) and (d). Seven but all were recruited before 1930.

(c) None.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 145.—(a) and (b). Excluding technical posts, one Hindu, the most senior ministerial officer with twenty years satisfactory service and certain essential experience, was appointed to a gazetted post.

(c) No.

COMMUNAL COMPOSITION OF THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 146.—The time and labour involved in the preparation of the required statement will not be commensurate with the value of the information when compiled.

MUSLIM DRESSERS PROMOTED AT LABORATORY ASSISTANTS IN THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 147.—(a) Two since 1934.

(b) One.

(c) In making these promotions due consideration was paid to seniority and fitness.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 148.—(a) and (b). One post of Deputy Ranger and 2 of Technical Assistant are vacant. These posts will be filled with due regard to the existing orders regarding communal representation.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 150.—(a) The present percentage of Muslims in each class of service, including Imperial Council of Agricultural Research Schemes is:—

Clerical staff	19.6
Other staff	50.0
Laboratory staff	21.4
Technical Assistants	30.0
Farm staff	33.3
Engineering staff	12.5
Veterinary staff	44.4

(b) The orders contained in the Home Department resolution of the 4th July 1934 apply only to direct recruitment, and no percentage is prescribed for Muslims in a Department as a whole.

(c) and (d). Out of 8 Technical Assistants in the Animal Nutrition Section, 2 are Muslims. The recruitment is in accordance with the communal representation rules.

MUSLIMS IN THE POULTRY RESEARCH SECTION OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 151.—(a) 2 posts have been filled, one of which is held by a Muslim.

(b) The number of non-gazetted officers in the whole Institute drawing Rs. 100 and above is 43. Of these 9 are Muslims including 5 permanent officers.

PERMANENT MUSLIM VETERINARY INSPECTORS IN THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 152.—(a) In 1934 there were eleven permanent Veterinary Inspectors and three are eleven now. No permanent Veterinary Inspector is a Muslim.

(b) One Veterinary Inspector was promoted but he was not a Muslim.

(c) The duties of Veterinary Inspectors are to assist the Superior Officers in dealing with problems pertaining to Animal Husbandry and research.

MUSLIM CLERKS IN THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 153.—(a) 46 of whom 9 are Muslims.

(b) Government have no reason to believe that Muslims are treated unfairly either in the matter of appointment to vacancies filled by direct recruitment or in the matter of promotion. Government are not prepared to appoint a Commission but are always willing to investigate specific complaints.

Information promised in reply to unstarred question No. 86 asked by Mr. Muhammad Ashar Ali on the 18th November, 1940.

APPLICATIONS FOR SANCTION OF THE GOVERNOR GENERAL UNDER SECTION 270 OF THE GOVERNMENT OF INDIA ACT, 1935.

(a) 14.

(b) Consent was given in 9 cases and refused in 4 cases. One case is under consideration.

MOTIONS FOR ADJOURNMENT.

Mr. President (The Honourable Sir Abdur Rahim): I have got notices for a few motions for adjournment. The first* is in the name of Sardar Sant Singh.

(The Honourable Member was not present.)

ALLEGED EMBEZZLEMENT IN THE MULTAN DIVISION OF THE NORTH WESTERN RAILWAY.

Mr. President (The Honourable Sir Abdur Rahim): The second is in the name of Dr. Sir Ziauddin Ahmad: he wishes to discuss a definite matter of urgent public importance, namely:

"The failure of the Government of India in not taking effective steps to recover ten lakhs of rupees embezzled in the Multan Division of the North Western Railway."

When did this embezzlement take place?

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): The embezzlement has been going on for some time; but attention was first drawn to it

Mr. President (The Honourable Sir Abdur Rahim): How long has it been going on?

Dr. Sir Ziauddin Ahmad: Inquiry will show how long it has been going on, but public attention was drawn to it by an article published in the *Eastern Times* and that article was very indefinite; then I wanted to make some further inquiries about it, and the moment I got

Mr. President (The Honourable Sir Abdur Rahim): When was this article published?

Dr. Sir Ziauddin Ahmad: The article was published on the 8th November, 1940. But the article was rather indefinite, and the moment I

* Refusal of the Government to give the information in answer to Sardar Sant Singh's starred question No. 216 (a) of the 21st November, 1940, relating to the number of various communities proceeded against under the Defence of India Act.

received this information I wanted to make further inquiries, and the moment I got further facts immediately I tabled the motion of adjournment. I did not waste a single day.

Mr. President (The Honourable Sir Abdur Rahim): When did the Honourable Member satisfy himself of the correctness of his facts?

Dr. Sir Ziauddin Ahmad: On the day I tabled the motion. It was tabled some days ago.

Mr. President (The Honourable Sir Abdur Rahim): And the Honourable Member says that no steps have been taken with reference to this embezzlement?

Dr. Sir Ziauddin Ahmad: My information is that three persons were dismissed. This was known beforehand in June, but we did not know why they were dismissed: then came this article in the *Eastern Times* in which there was some mention of the details of this embezzlement, but it was of an indefinite nature and then I tried to find out more facts; and when I got some facts I tabled this motion.

Mr. President (The Honourable Sir Abdur Rahim): Is objection taken?

The Honourable Sir Andrew Clow (Member for Railways and Communications): Yes, Sir. I object to this motion in any case; but I submit it is not either definite or urgent, I cannot see what is definite about it: I am not aware of any ten lakhs of rupees that I can recover: if I were aware of that I should certainly hasten to do so. There have been certain irregularities on this division; and there are two entirely distinct cases, in one of which Government have already taken action against certain officers; the other is under investigation. I am not clear what my Honourable friend is referring to; and, in consequence, I submit that it is not a definite matter of urgent public importance.

Dr. Sir Ziauddin Ahmad: I will describe details.

Mr. President (The Honourable Sir Abdur Rahim): I think the objection is well-founded: it does not appear to be definite.

Dr. Sir Ziauddin Ahmad: May I mention those two definite cases now? I have got them before me. I could not put all of them in the wording of the motion. The cases are very definite cases.

Mr. President (The Honourable Sir Abdur Rahim): Yes.

Dr. Sir Ziauddin Ahmad: There was a ballast, which was sold to one contractor for Rs. 200, and that contractor re-sold it for Rs. 20,000. There is another definite charge. A certain ballast was kept in a place, but instead of using it for Railways it was sold to the roads by the contractor. Then the third is that materials were drawn from the stores

for building a certain house, and that material was sufficient to build two new houses. I have got definite instances before me

Mr. President (The Honourable Sir Abdur Rahim): In my opinion this matter is not definite nor

Dr. Sir Ziauddin Ahmad: And not of public importance?

Mr. President (The Honourable Sir Abdur Rahim): It is neither definite nor urgent within the meaning of the rule. Therefore, the motion is ruled out.

RUSTICATION OF MR. M. FAROQUI AND MR. D. SANGHI FROM THE UNIVERSITY OF DELHI.

Mr. President (The Honourable Sir Abdur Rahim): Mr. Muhammad Azhar Ali has given notice of a motion of adjournment to discuss a matter of specific, urgent and public importance, namely:

"The rustication from the University of Delhi for one year of Mr. M. Faroqui and Mr. D. Sanghi, President and General Secretary respectively of the Delhi Provincial Students' Federation and the forfeiture of their degrees of the Master of Arts and the Bachelor of Arts respectively.

I should like to hear if there is any objection to it because I quite understand that the University of Delhi is an autonomous body, but the difficulty I find is that we have held all along that a motion can be disallowed only by the Governor General on the ground that it is not a matter for the Governor General in Council.

Mr. J. D. Tyson (Secretary, Department of Education, Health and Lands): Sir, I object to this motion on two grounds, first, the facts are not entirely as stated, and, secondly

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is objecting to this motion?

Mr. J. D. Tyson: Yes, Sir. I object to this on two grounds; the first is that the facts are not entirely as have appeared in the newspapers and as stated in the motion, and secondly, because

Mr. President (The Honourable Sir Abdur Rahim): Are they substantially correct?

Mr. J. D. Tyson: Well, the fact that two students have been rusticated is correct, but that their degrees have been forfeited is not correct.

Mr. President (The Honourable Sir Abdur Rahim): That is not correct?

Mr. J. D. Tyson: No, Sir. Then the order was passed by a competent officer of an autonomous body. That is the second ground.

Mr. President (The Honourable Sir Abdur Rahim): As objection has been taken, those who are in favour of leave being granted will rise in their places.

(Less than 25 Members rose in their seats.)

As less than 25 Members are in support of leave being granted, leave is refused.

BANNING BY THE GOVERNMENT OF BENGAL PUBLICATION OF NEWS OF HUNGER STRIKES IN JAIL, ETC.

Mr. President (The Honourable Sir Abdur Rahim): Dr. P. N. Banerjea has given notice of a motion of adjournment to discuss a definite matter of urgent public importance, namely, the issue by the Government of Bengal of an order under the Defence of India Rules banning publication within the province of news of hunger strikes in jail or of any procession, meeting or demonstration in that connection. I suppose this order was passed in accordance with the ordinary administration of the law, is it not?

Dr. P. N. Banerjea (Calcutta Suburbs: Non-Muhammadan Urban): The Defence of India is a central subject and the Provincial Government

Mr. President (The Honourable Sir Abdur Rahim): But I suppose it is for the executive of any Provincial Government to administer the law, is it not? The administration of the law is in the hands of the local authorities, is it not?

Dr. P. N. Banerjea: Under the control of the Government of India.

Mr. President (The Honourable Sir Abdur Rahim): Supposing an order is passed by a Magistrate in Delhi in the ordinary administration of the law, is it liable to be reviewed by this House?

Mr. M. S. Aney (Berar: Non-Muhammadan): An exception is provided for it. If a judicial order is passed, it stands on a different footing altogether.

Mr. President (The Honourable Sir Abdur Rahim): Even if an executive order is passed in accordance with the law?

Mr. M. S. Aney: If it is under the control of the Central Government, then this House is perfectly justified in taking cognisance of it.

Mr. President (The Honourable Sir Abdur Rahim): There is a ruling of mine with reference to a certain order passed under section 144. This is what I said:

"It is a well established parliamentary rule that an order passed in the ordinary administration of the law, whether by a judicial authority or by a Magistrate or by any other lawfully constituted authority, cannot be the subject of an adjournment motion."

This ruling is in accordance with the parliamentary practice.

Dr. P. N. Banerjea: This order is under rule 21 of the Defence of India Rules.

Mr. President (The Honourable Sir Abdur Rahim): The Bengal Government is authorised to administer it.

Dr. P. N. Banerjea: But subject to control by the Central Government.

Mr. President (The Honourable Sir Abdur Rahim): That I do not know. Can you appeal? Is there an appeal to the Central Government?

Mr. M. S. Aney: No appeal.

Mr. President (The Honourable Sir Abdur Rahim): This motion must be disallowed as the order in question was passed by the Government of Bengal in the course of ordinary administration of the law.

ELECTION OF A MEMBER FOR THE GOVERNING BODY OF THE INDIAN RESEARCH FUND ASSOCIATION.

Mr. President (The Honourable Sir Abdur Rahim): I have to inform the Assembly that Dr. P. N. Banerjea has been elected to the Governing Body of the Indian Research Fund Association.

ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR THE DEPARTMENT OF SUPPLY.

Mr. President (The Honourable Sir Abdur Rahim): I have also to inform the Assembly that upto 12 Noon on Friday, the 22nd November, 1940, the time fixed for receiving nominations for the Standing Committee for the Department of Supply, five nominations were received. Subsequently two members withdrew their candidature. As the number of remaining candidates is equal to the number of vacancies, I declare the following to be duly elected:

1. Sir Abdul Halim Ghuznavi,
2. Pandit Nilakantha Das, and
3. Dr. Sir Ziauddin Ahmad.

STATEMENT LAID ON THE TABLE.

LOWEST TENDERS NOT ACCEPTED BY THE HIGH COMMISSIONER FOR INDIA IN PURCHASING STORES FOR THE GOVERNMENT OF INDIA.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour): Sir, I lay on the table a statement furnished by the High Commissioner for India showing all cases in which the lowest tenders have not been accepted by him in purchasing stores for the Government of India during the half-year ended the 30th June, 1940:

INDIA STORE

ABSTRACT OF CASES in which tenders for stores demanded by the Central of the goods demanded, were accepted on the grounds of superior inspection, quicker

HALF YEAR ENDING

Stores ordered.	Contract Number.	Name of contractor.	Amount of contract.
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PART A.—Cases in which lower foreign tenders, including British tenders, *ten*

Nil.

PART B.—Cases in which the discrimination

			£	s.	d.
Lathes, Toolroom, 6" Centre Belt drive No. 2.	Z. 789/375/21-5-40.	Dean Smith & Grace, Ltd.	854	0	0
			delivered at works Keighley (British)		
Vices, leg 4" No. 17.	Z. 761/13604/20-5-40.	Mosers Ltd.	37	19	8
			(British).		

PART C.—Cases in which the discrimination

Nil.

PART D.—Cases in which lower British tenders

Nil.

FOR INDIA.

DEPARTMENT.

Government, other than the lowest complying with the technical description quality, superior trustworthiness of the firm tendering, greater facility of delivery, etc.

30TH JUNE 1940.

Lowest tender not accepted.	Reason for acceptance.
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foreign made goods, have been set aside wholly or partially in favour of British firms

Nil.

is between British firms only.

£ s. d. 706 0 0 <i>f. o. b.</i> (British)	The lowest tenderer required 52/54 weeks for delivery. As early delivery was of the utmost importance the order was placed with next lowest tenderer who offered delivery in 36/38 weeks.
36 2 6 (British)	The two lowest tenderers each required 6 months for delivery. The third lowest offered 10 of 17 vices from stock and as the difference in price was small their tender was accepted for the full quantity.

is between foreign firms only.

Nil.

have been set aside in favour of foreign tenders.

Nil.

THE EXCESS PROFITS TAX (AMENDMENT) BILL.

The Honourable Sir Jeremy Raisman (Finance Member): Sir, I move :

"That the Bill to amend the Excess Profits Tax Act, 1940, as reported by the Select Committee, be taken into consideration."

Sir, as will be seen from the Report, the Committee has only found it necessary to make a few verbal changes in the Bill as referred to them. The only point of any substance which might interest this House arose in connection with clause 9 where the Bill gives power. It is sub-clause (d) which inserts a new rule, rule 11, in Schedule 1 of the Act. The effect of this amendment is to give power to the Excess Profits Tax Officer, when he finds that a large sum has been debited against the profits of an accounting period—it gives him power, if those expenses are of a nature which do not properly belong entirely to the period in question, to distribute that sum over other periods and thereby to reduce the amount which is debited against the profits of the accounting period in question. Now, as was mentioned in the Notes on Clauses, that provision is calculated to work both to the advantage of the assessee in certain cases and to the advantage of the revenue. We actually have had an important case in which a heavy item of expenditure or obsolescence which occurred or was liable to occur in an accounting period was due on equitable grounds to be so re-distributed that part of it fell in the standard period with the result that a more equitable computation of the excess profits was liable to be made if this power were given to the Excess Profits Tax Officer. But apprehensions were expressed on behalf of the assessees that this was a new and wide power which would enable the Excess Profits Tax Officer to override many of the rules which apply in the determination of profits for income-tax. That certainly is not our intention; in any case, the Bill provides for an appeal to the Board of Referees. Also it has to be remembered that this is practically the only provision which exists or which will exist in our excess profits tax legislation to safeguard the revenue against a type of action which unfortunately became familiar both during the currency of the last excess profits tax many years ago and also in more recent experience in the United Kingdom. In fact, we have taken this provision from the legislation in the United Kingdom. It was found that in the absence of such a provision it would be open to the assessee, when he found that his profits for a particular accounting period were likely to be large, to embark in that period on expenditure of a kind on which he would not normally have embarked or to an extent to which he would not have gone in normal times. That expenditure may be of a nature which under the ordinary income-tax procedure is admissible as reasonable deduction from profits. The only point that arises is whether it was reasonable for him to incur such very large expenditure of that nature in this particular year, and even if it was reasonable for him to incur it in this particular year, is the whole of this expenditure a fair charge against the profits of the year in question? Instances have been given in which, for example, a heavy repair programme is embarked on in a particular year. Repairs and reconditioning may be undertaken, which, whilst they are no doubt legitimately debitable to revenue, constitute a programme which under normal circumstances would not be undertaken out of the revenue of one single year. Well, Sir, in the absence of a provision of this kind the revenue authorities would be helpless to deal with cases of that kind and to secure an equitable readjustment on behalf of

the revenue. For this reason I do recommend to this House that this provision should definitely stand as it does in the Bill as reported by the Select Committee. There are no other points of substance which arise from the Report and I do not think I should detain the House further. Sir, I move.

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

"That the Bill to amend the Excess Profits Tax Act, 1940, as reported by the Select Committee be taken into consideration."

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, when this Bill was introduced in this House, we did not press our points inasmuch as we knew that the great businessmen in this House at least were sitting on the Select Committee. I am glad that those Honourable Members of this House, who are men of great business acumen, have examined this Bill, and they find it not very unsatisfactory. But still there are two points which I would like to touch upon. The first one is about the retrospective effect given to this Bill. I think that it may work a little hardship, it may be difficult for accounts to be sufficiently adjusted. Therefore, I submit that if this excess profits tax is to be levied under this Bill, as from the time when the Excess Profits Tax Act came into force, it will involve hardship to the people. The other point is this. There is a minute of dissent by my Honourable friend, Dr. Sir Ziauddin Ahmad, wherein he says :

"There exists at present a tendency to spend large sums of money in extravagant buildings, decorations and unnecessary equipments with the object of showing lower profits. In the assessment of excess profits tax, unnecessary expenditure of extravagant nature should be excluded."

I think this is a point which the Government should take into consideration. It is quite possible, as the Honourable the Finance Member has just said, that ordinary repairs may be permissible, but if great buildings are taken up and profits are shown less—and that profit is spent on great buildings and unnecessary equipment—equipment may include very valuable furniture, equipment may include other things that ought to be excluded. Therefore, I hope that this note of dissent will be considered by the Government in the light in which my Honourable friend has put it. I would press these two points for the consideration of the House.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : I would like to draw the attention of the Honourable the Finance Member only to two points to which I have already made some reference, one on the occasion of the Finance Bill and the other on the occasion of the discussion of the Public Accounts Committee Report. The first point, which I said also when this Bill was first introduced, is that he ought to have exceeded the quantum of the excess profit. He had a surcharge of 25 per cent. on all kinds of taxes except the excess profits tax and this is one of the taxes which ought to have been cent per cent, not 50 per cent, which is not enough. Now, I am not really taking him by surprise. Cent per cent. is a reasonable suggestion and this for two reasons. In the first place, cent per cent. is the tax in England on the excess profits. I do not think we should have anything lower than that. The second thing is, it will automatically solve a number of difficulties which we raised on the floor of the House about the Supply

[Sir Ziauddin Ahmad.]

Department. After all a tax of cent per cent. on the excess profits will remove most of the troubles and difficulties of his Honourable colleague in the Supply Department. I do beseech him to consider very seriously that he should increase this excess profits duty from 50 to cent per cent. Even 62½ per cent. surcharge will not do. We want cent per cent., nothing short of it.

The second point to which I would like to draw the attention of my Honourable friend is the provision of section 6 (2) (d) to which I referred on the occasion of the discussion of the Public Accounts Committee Report. There I showed him that my friend, the Finance Member, admitted that he had made a mistake in putting down this particular clause or in giving his consent to it. If the mistake was made, as he admitted indirectly in the Public Accounts Committee, it is high time for us to correct that particular mistake by omitting sub-section (d) of this particular clause. In fact, it would have been simpler if these accounts had been calculated on the average of the last four years which I myself suggested when I moved an amendment to this effect when this Bill was first considered. It was not accepted by the House at that time. I think when an amending Bill comes in it should be considered in the light of experience gained. Therefore, these are the two points to which I wish to draw attention. There is one point more and that relates to the amendment which I have tabled. It is a fact that at present there is a very great tendency to misuse the profit in order to show lower margin of profits. My friend may tell us that we have given instructions to the Income-tax Officers but to my mind it is not enough. There ought to be explicit provision to this effect in the Act itself, so that the assesses may practically put themselves on their guard and may not do a thing of this kind, which is now being done. I will enlarge on this particular point when I move my own amendment and give definite instances to show how the assesses are trying to evade this excess profits tax. With these words, I resume my seat.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : I want to touch briefly on one or two points in connection with the Bill which is now being enacted which will cause inconvenience and harassment to the persons who have to pay this excess profits tax. Sir, it is said that ordinary repairs would be allowed, but anything more, which would be considered as unnecessary or extravagant, should not be allowed. Now, in the first place, what that expense would be, which is beyond ordinary, is a question which ought to have been defined, and it would otherwise be very easy for the income-tax officers to do as they like, at their discretion. The income-tax officers are known not to consider questions in which the income-tax is reduced, but they consider generally the questions in which it is increased. From that point of view, it is necessary that there ought to be some rules laid down to guide these officers. Otherwise, at any time, they will say this expense is not ordinary at all, and they will not give any deduction with regard to that expense. I submit that at present we are leaving everything absolutely in the hands of the income-tax officer who ought to be controlled in some way. I expect, therefore, that the Central Board of Revenue should make certain rules under this proviso and at any rate put down certain lines by which one could easily understand as to what is expensive and what is extravagant. Now, it may be that a man might build a house and have some ornamental structure over it,

which may be necessary. Then, to say whether it is unnecessary or not is left to be decided by the income-tax officer who can hold one way or the other. There ought to be something which would show us that justice has been done. If it were to be said that there will be an appeal, we have known how appeals are decided. The first decision that is made is generally upheld by these appellate officers, and in this case the appellate officer will not be in a position to know whether the repairs or additions that one has made are such for which no allowance should be given. I would, therefore, request that some rules or some instructions of that nature should be made.

The Honourable Sir Jeremy Raisman: As regards the first point taken by Mr. Azhar Ali, namely, retrospective effect and the possible hardship, I should perhaps point out that we have not yet made assessments and that the Act as amended by this Bill will be the enactment which will be applied in making assessments, so that no question of hardship can arise from the fact that these amendments will have retrospective effect.

I am grateful to Sir Ziauddin Ahmad for his constant concern for the revenue and I am very interested to hear that he is entirely in favour of a cent per cent. excess profits tax. I know he will not expect me to enter into a full exposition of my views on that point at this time but I am certainly interested in what he thinks on this subject.

He raised the point about the standard period and the mistake which I made at the time of the passing of the original Bill. Well, Sir, we are all human and I do not pretend not to make mistakes but since this House dealt with that point and decided to extend the additional option to the assesseses, I am afraid that it would be little use for me now to put on the cloak of repentance and come to this House and hope that they would guide me on to paths of greater austerity than those which I followed at that time. Sir Ziauddin Ahmad referred to his Note of Dissent and I regret to say that owing to the way in which it has been printed, although I ought to have noticed it, I did not do so when I was making the motion for consideration but it is virtually the same point as that which is dealt with in sub-clause (d) of clause 9 and if my Honourable friend moves the amendment of which he has given notice, we shall endeavour to explain to him why we cannot make a provision on the lines which he suggests.

As regards the issue of instructions regarding the application of new Rule 11 to Schedule I, which was the point dealt with by Mr. Lalchand Navalrai, I can only say that that will be borne in mind and that the Board of Revenue will no doubt issue instructions for the guidance of officers in applying that provision.

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

"That the Bill to amend the Excess Profits Tax Act, 1940, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

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

"That clause 4 stand part of the Bill."

Mr. J. D. Boyle (Bombay: European): Sir, I beg to move:

"That in part (d) of clause 4 of the Bill, in the proviso to the proposed sub-section (8), after the words 'make any', occurring in the seventh line, the word 'such' be inserted."

[Mr. J. D. Boyle.]

Sir, this is a purely grammatical amendment which is designed to bring the meaning of the word "modifications" in the seventh line into line with the use of the same word in other portions of that clause. Sir, I move.

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

"That in part (d) of clause 4 of the Bill in the proviso to the proposed sub-section (8), after the words 'make any', occurring in the seventh line, the word 'such' be inserted."

The motion was adopted.

Mr. J. D. Boyle: Sir, I beg to move:

"That in part (d) of clause 4 of the Bill, in the proviso to the proposed sub-section (8), for the words 'one month' the words 'forty-five days' be substituted."

Sir, elsewhere in the Bill, in clause 8, sub-clause (c) and in clause 9 in the new rule the period during which it is possible to put in an appeal has been increased to forty-five days. I do not know whether it was an oversight here but to bring it into line with the provisions in the rest of the Bill for a time-limit, I move that the period of one month be extended to forty-five days.

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

"That in part (d) of clause 4 of the Bill, in the proviso to the proposed sub-section (8), for the words 'one month' the words 'forty-five days' be substituted."

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

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

"That in part (d) of clause 4 of the Bill, in the proviso to the proposed sub-section (8), for the words 'one month' the words 'forty-five days' be substituted."

The motion was adopted.

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

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clauses 5, 6 and 7 were added to the Bill.

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

"That clause 8 stand part of the Bill."

Mr. E. L. C. Gwilt (Bombay: European): Sir, in connection with the presentation of an application under this section, if, under present war circumstances or any other beyond the control of the assessee, he were unable to present the whole of his case within the time allowed, I believe the Central Board of Revenue will accept a provisional application without

the application becoming time-barred due to absence of precise detail in such provisional application. I would appreciate confirmation on that point.

The Honourable Sir Jeremy Raisman: If I understand the Honourable Member aright, his point is that whilst the assessee might be aware that he would wish to make an application, he might not have the whole of the material ready for such application and therefore he might be allowed to put in a provisional application within the permissible period and follow it up with further detailed material later?

Mr. E. L. O. Gwilt: That is so, Sir.

The Honourable Sir Jeremy Raisman: Sir, I should think that would be reasonably within the administration of this provision as drafted.

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

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

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

"That clause 9 stand part of the Bill."

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

"That in part (a) of clause 9 of the Bill, after the proposed proviso to Rule 1, the following further proviso be inserted:

'Provided further that any expenditure of extravagant nature intended to reduce the profit shall not be excluded in the calculation of Excess Profits Tax.'

Sir, it has come to my notice that several companies, in order to show lower profits so as to avoid or to evade income-tax, are now spending money in extravagant undertakings. They are building houses with marble floors and marble chips while in previous years they were living in huts and corrugated iron sheets

Mr. Lalchand Navalrai: How many such cases have you seen?

Dr. Sir Ziauddin Ahmad: If I have seen one case, that is quite enough; the exact number does not matter; I have seen one. The other thing is that if a company has been spending money on decorations which they really do not need or has been spending money in putting up new machinery while they know that all that is not really needed, they are spending money very extravagantly in order to avoid income-tax and I think it is desirable that the Income-tax Officer should be given clear instructions that they should see the expenditure under these heads during the last five or six years and see if there is anything which is of an abnormal nature which cannot be justified. If an expenditure is met out of the Depreciation Fund, of course that is justifiable, and we have no objection to that, but if anything is paid out of the current expenditure, out of the revenue, with the object of showing lower profit, then I think the taxpayers will have something to say because this expenditure is met, or at any rate fifty per cent. of the expenditure is met, by the taxpayer and not by the company itself

Pandit Nīkārtha Das (Orissa Division: Non-Muhammadan): How can houses be built and machinery be purchased out of the revenue account? It must be the capital account.

Dr. Sir Ziauddin Ahmad: This is just my point. If they borrow fresh capital or raise their capital amount in order to build these houses or purchase machinery, that is a different story but if they pay for it out of the revenue to show lower profit, that is what I object to. Therefore, it is very desirable that the Income-tax Officers should be specially warned, because more instructions by Central Board of Revenue they might overlook. I apprehend that instructions may be overlooked, unless this is provided in the Act itself. Therefore, the provision proposed here will be a clear indication to the Income-tax Officers to look into a matter which they are likely to overlook if instructions were merely issued by the Central Board of Revenue. Now they ought to see what has been the expenditure under those heads during the last few years and if there is any abnormal departure, then there should be some good justification for it, and if they find that there is no good justification, then I think it is fair and reasonable that these things should not be spent at the cost of the tax-payers of this country. This matter, therefore, is rather important and I think the tendency which is everywhere will practicably be checked if my amendment is accepted. My friend, the Finance Member, said, that he did not want to raise this question because the House had accepted it. Now, we know and he knows very well that in the House, as now constituted, we will accept and endorse the suggestions of the Finance Member. Therefore, he should not put blame on us when the whole blame falls upon him.

The Honourable Sir Jeremy Raisman: I did not notice that this House quietly accepted the last financial proposals which I put before it.

Dr. Sir Ziauddin Ahmad: I am referring to the House as it is now constituted. I know this that when the Excess Profits Tax Bill was passed, the House was as it is now constituted.

The Honourable Sir Jeremy Raisman: It is still constituted the same way.

Dr. Sir Ziauddin Ahmad: Any proposals which come from him in a House with its present attendance will be accepted, as he commands the majority. But I do hope that in the interests of the tax-payer he will accept my amendment. I know he has got a very soft corner for the wealthy and rich people.

The Honourable Sir Jeremy Raisman: No.

Dr. Sir Ziauddin Ahmad: Not only has he got a soft corner in his heart for people who are rolling in wealth but he has got a still softer corner in his heart for those on whom wealth is rolling. But he has got a very strong heart for those who, like myself, have got very little to pay. Therefore, I suggest that he should care more for the smaller people in his income-tax proposals than for those who can easily afford to pay and especially those on whom the wealth has been rolling on account of war conditions.

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

"That in part (a) of clause 9 of the Bill, after the proposed proviso to Rule 1, the following further proviso be inserted:

'Provided further that any expenditure of extravagant nature intended to reduce the profit shall not be excluded in the calculation of Excess Profits Tax.'

Mr. C. W. Ayers (Government of India: Nominated Official): Sir, it might be of use to the House if I were to explain what the position is at the present time without the acceptance of this amendment. Rule 1 of the First Schedule of the Excess Profits Tax Act provides for the computation of profits for the excess profits tax purposes for any period on income-tax principles. If we turn to what the income-tax principles are and look at section 10 of the Income-tax Act, 1922, we find that in sub-section (2), clause (xii), which deals with the profits of business, it provides for the allowance of "any expenditure (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of such business, profession or vocation". Now, from that the House will see that capital expenditure, such as, the building of quarters, houses, offices, and expenditure on plant, machinery, factories and all that sort of things, is already debarred from allowance for excess profits tax purposes, because capital expenditure itself is debarred in computing profits for Income-tax purposes. Personal expenses, which might be suggested to be extravagant, are not allowed. Anyhow, they are not business expenses.

Then, we get a further class of expenditure, expenditure not wholly and exclusively laid out for the purpose of the business. If you have an expenditure of that kind, it is not allowable for income-tax purposes and it should not be and would not be allowed for excess profits tax purposes. Now, under the United Kingdom Excess Profits Duty Act of the last war there was a case of this character and it depended upon similar words, whether the expenditure was wholly and exclusively incurred for the purpose of business. Shortly, there was a case where a person in trade, who had employed three members of his family, raised their remuneration from a few hundreds in the pre-war period to something in thousands in the accounting period. The Commissioners held, and the Court supported them, that that excess remuneration was not expenditure incurred wholly and exclusively for the purpose of business. I, therefore, suggest that that type of expenditure, which is unnecessary and which is not really incurred for business purposes, can be disallowed for income-tax purposes and the excess profits tax will follow it. Then, Honourable Members may say: "Well, you still have expenditure which does not fall under these heads but is extravagant". I will suggest to the House that in so far as it is humanly possible to tackle that sort of a case, we can tackle it in two ways. In the first place, we have to find out whether it is incurred for the purpose of business. If the answer is 'Yes', then you fall back on Rule 11 which has just been added to the Bill and in the second place, we have to find out whether it is appropriate to that particular period. Are you going to put the assessee at the mercy of the Excess Profits Tax Officer to say that it is extravagant, and that he will not allow it? But if you establish as a fact that it is extravagant and not necessary for the business, then I do suggest to the House that the existing provisions, properly carried out, should give all that the Mover of this amendment desires.

The Honourable Sir Jeremy Raisman: Sir, I only wish to add an emphatic repudiation of the point of view attributed to me by Dr. Sir Ziauddin Ahmad of excessive tenderness for the Croesuses who are rolling in wealth and of a corresponding obduracy of heart in dealing with the poor millions, of whom he claims to be one. I claim that everything that I have done since I took on myself the responsibilities of this office points in exactly the opposite direction.

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

"That in part (a) of clause 9 of the Bill, after the proposed proviso to Rule 1, the following further proviso be inserted:

'Provided further that any expenditure of extravagant nature intended to reduce the profit shall not be excluded in the calculation of Excess Profits Tax.'

The motion was negatived.

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

"That clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Clause 10 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Jeremy Raisman: Sir, I move:

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

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 *sine die*.

CORRIGENDA.

In the Legislative Assembly Debates, Budget Session, 1940, Volume I, No. 4, dated the 9th February, 1940, page 236, in the first line of the answer to unstarred question No. 13, for the figure "57" read "58".

In the Legislative Assembly Debates, Autumn Session, 1940,—

(1) Volume IV, No. 1, dated the 5th November, 1940,—

(i) page 43, in the last item No. 15, for "Legislative" read "Legislative Assembly";

(ii) page 61, column 1 of the statement, under "Head-quarters", delete "(Ind.)" against "Meerut", "Decan", "Peshawar", "Kohat", "Waziristan", "Lahore", "Madras", and "P. & A.";

(2) Volume IV, No. 2, dated the 6th November, 1940, page 190, line 6, for "by old friend", read "my old friend,—";

(3) Volume IV, No. 4, dated the 8th November, 1940,—

(i) page 238, line 15, delete the word "that";

(ii) page 245, line 22 from the bottom for "enbales" read "enables";

(iii) page 247, line 23 from the bottom, for "what" read "water";

(4) Volume IV, No. 6, dated the 12th November, 1940, page 421, line 11, for "Dr. Sir Ziauddin Ahmad" read "Dr. Sir Ziauddin Ahmad";

(5) Volume IV, No. 7, dated the 13th November, 1940,—

(i) page 425, line 12, for "Yes." read "Yes,";

(ii) page 454, line 14, for "facism" read "fascism";

(iii) page 467, line 27 from the bottom, for "merge" read "emerge";

(iv) page 474, line 9 from the bottom, put a full stop after "Unfortunately";

(6) Volume IV, No. 8, dated the 15th November, 1940,—

(i) page 515, line 18 from the bottom, for "Madras." read "Madras,";

(ii) page 526, line 18, put a full stop after "years";

(iii) page 527, line 20, for "European" read "Europeans";

(7) Volume IV, No. 9, dated the 16th November, 1940,—

(i) page 589, in the first line of unstarred question No. 47, for "Nalchand" read "Lalchand";

(ii) page 611, line 17, for "Invader" read "invader";

(iii) page 642, line 16 from the bottom, for "diference" read "differences";

(8) Volume IV, No. 10, dated the 18th November, 1940,—

(i) Page 688, in part (e) of reply to starred question No. 133, for the concluding sentence, viz., "Levelling and cleaning, if required, are matters for the Public Works Department." read the following:—

"As regards the levelling and cleaning (if required), Government will consider this.";

(ii) page 724,—

(a) line 10, for "contex." read "context.";

- (b) line 23, for " defied " read " deified ";
- (iii) page 733, in the first line from the bottom, for " bead " read " bad ";
- (iv) page 748, in line 19 from the bottom, for " outweigh " read " outweigh ";
- (9) Volume V, No. 1, dated the 19th November, 1940—
- (i) page 816, line 14 from the bottom, for " consuled " read " consulted ";
- (ii) page 824, line 23, for " independent " read " independence ";
- (iii) page 826, line 14 from the bottom, for " supporting " read " sporting ";
- (iv) page 828,—
- (a) line 2, for " uselsss " read " useless " ; and
- (b) line 9, for " Indepence " read " independence " .
- (10) Volume V, No. 4, dated the 22nd November, 1940, -
- (i) page 967, line 15 from the bottom, for " hought " read " thought " ;
- (ii) page 977, line 19 from the bottom, for " O " read " Of " ;
- (11) Volume V, No. 6, dated the 27th November, 1940, page 1108, in the first line, for " at " read " as " .