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THE

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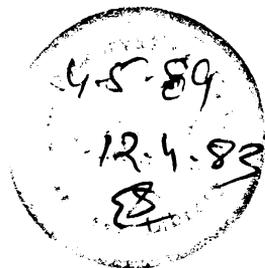
(6th February to 5th March, 1940)

ELEVENTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,

1940



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M2LAD

Legislative Assembly.

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THE HONOURABLE SIR ABDUR RAHIM, K.C.S.I.

Deputy President :

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Marshal :

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

Committee on Petitions :

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SYED GHULAM BHIK NAIRANG, M.L.A.

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

SIR ABDUL HALIM GHUZHNAVY, M.L.A.

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LEGISLATIVE ASSEMBLY.

Friday, 9th February, 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.

MEMBER SWORN:

Mr. Samuel Harrison Yardley Outsham, C.I.E., M.L.A., (Government of India: Nominated Official).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

POSTING OF MUSLIM OFFICERS TO THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.

43. *Mr. H. M. Abdullah: (a) Will the Honourable Member for Railways please state whether his attention has been drawn to Bulletin No. 9 issued by the General Secretary, North Western Railway Muslim Employees Association, Delhi?

(b) Is it a fact that the Divisional Transportation Officer, the Divisional Accounts Officer and the Assistant Transportation Officer No. 2, at present working on Delhi Division, are related to each other?

(c) Is it a fact that orders have been issued for another relative of these gentlemen to be posted to Delhi Division as Divisional Commercial Officer?

(d) Is it a fact that allegations have been made from time to time against the anti-Muslim proclivities of these officers?

(e) Are Government satisfied that from the administrative point of view, it is desirable that the Divisional Accounts Officer and the other Divisional Executive Officers should be related to each other?

(f) Is it a fact that the contemplated posting of the Sikh officer as Divisional Commercial Officer will mean the total extinction of Muslim Officers from the Personnel, Transportation, Commercial, Engineering and Accounts cadres?

(g) Do Government propose to consider the desirability of posting an adequate number of Muslim officers on this division?

The Honourable Sir Andrew Olow: (a) I have seen a copy of the Bulletin referred to.

(b), (c) and (f). Government have no information, but I would point out that a Muslim Divisional Commercial Officer was posted to the Delhi Division in November; he has at present been deputed for special duty to the Railway Board, and I understand that it is the intention of the General Manager, to repost him to this Division on the completion of his special duty.

(d) An allegation of this character is made against one officer in the bulletin to which the Honourable Member has referred, but I am not aware that it has any foundation in fact.

(e) It is not necessarily undesirable.

(g) The posting of officers to Districts or Divisions on any Railway is a matter for the General Manager, and Government cannot agree that such posting should be governed by communal considerations.

Mr. Lalchand Navalrai: May I ask if it is a crime or if there is any harm in keeping two relatives in the same Division?

The Honourable Sir Andrew Clow: What I said was that it is not necessarily undesirable.

Dr. Sir Ziauddin Ahmad: Is it the policy of the Government to make the Divisional Superintendent a family affair?

The Honourable Sir Andrew Clow: There is no such policy.

Dr. Sir Ziauddin Ahmad: The question implies that there are several relations, not only in the office, but in the officers' grades. Out of five officers, four belong to one family. Is it not a family affair?

The Honourable Sir Andrew Clow: I think there are three, but this is not out of five. I do not know the exact number of officers, but the number is probably over 20.

DIFFERENTIAL TREATMENT METED OUT TO MUSLIMS AND HINDUS BY THE DIVISIONAL SUPERINTENDENT, DELHI.

44. ***Mr. H. M. Abdullah:** Will the Honourable Member for Railways please refer to Bulletin No. 9 and state:

- (a) if it is a fact that a Muslim guard of Jind was reported by a senior subordinate as sleeping on duty and that he was awarded a punishment of reduction for six months for this offence;
- (b) if it is a fact that the Divisional Superintendent, Delhi, enhanced this punishment on appeal;
- (c) if it is a fact that in a similar case a Hindu guard of Ghaziabad who was reported as sleeping on duty by the same senior subordinate was let off scot-free? What are the reasons for this obviously differential treatment meted out to a Muslim and non-Muslim in the award of punishment;
- (d) if it is a fact that a Muslim Interlocking Fitter of Saharanpur who appealed to the Divisional Superintendent, Delhi, against the orders of his reduction was told in reply that his punishment had been enhanced;
- (e) if it is a fact that, on the contrary, a Hindu, at present Electrical in-charge at Simla, was arrested and challaned by the Government Railway Police for theft from a railway wagon;

- (f) if it is a fact that this clerk was also found guilty of tampering with railway records with a view to destroy the proof of misappropriation of railway materials while working at Rohtak and that the only punishment awarded to him for this offence was his transfer to the relief list as wireman? Is it also a fact that the same clerk was found travelling in a second class ladies compartment with a Hindu lady special ticket examiner and was discharged in consequence but has since been reinstated; and
- (g) if Government are satisfied that the punishment meted out to this clerk is adequate and that there has been no differential treatment in dealing with the case of the Muslim Interlocking Fitter of Saharanpur and this man?

The Honourable Sir Andrew Olow: (a) to (g). The matters to which the allegations relate are not matters which are reported to Government or which come under their review. I have, however, received informally certain information relating to parts (a), (b) and (c) which gives some indication of the reliability of the allegations. The facts, I believe, are that the incident relating to the Muslim guard occurred not merely "some months back" as the bulletin alleged, but in 1937, that the punishment originally awarded was not six months, but three months, that the Divisional Superintendent did not enhance it to one year but to six months, and that the personal file of the other guard mentioned does not indicate that he was found guilty of any such offence. The General Manager has full powers of control over the non-gazetted staff for disciplinary purposes and Government have no reason for supposing that any communal discrimination is shown in the matter of punishments.

Dr. Sir Ziauddin Ahmad: May I draw the attention of the Honourable Member that this question implies that there is a preferential treatment in the case of punishments in favour of the Mussalmans and against the Mussalmans in the case of promotion? Is it not a fact?

The Honourable Sir Andrew Olow: I have said that I have no reason for supposing that at all. The attempt is made, for example, in the first part of the question, to draw a comparison between two guards. In both cases the alleged offences must have been committed some time back, because the records of the actual proceedings are not available. But there is no evidence to show that the second man was guilty of any offence. I have looked into this matter of communal punishment in connection with other allegations not brought to my notice by the Members of the Assembly, and I have almost invariably found that they involve an inaccurate account of events which are frequently in the distant past.

Dr. Sir Ziauddin Ahmad: May I know whether the allegations mentioned in this particular question are or are not correct?

The Honourable Sir Andrew Olow: I have given some indications of the only set of instances on which I have information. I have shown that they cannot be described as entirely accurate.

Sardar Sant Singh: Is it not a fact, you cannot adhere to the principles governing such cases, because the facts of each case differ and the discretion of the officer should not be interfered with?

The Honourable Sir Andrew Olow: Facts do differ from case to case.

ALLEGED FAVOURITISM AND NEPOTISM IN THE OFFICE OF THE DIVISIONAL SUPERINTENDENT, RAWALPINDI.

45. *Mr. H. M. Abdullah: Will the Honourable Member for Railways please state:

- (a) whether his attention has been drawn to the article published in the *Daily Inqilab* of Lahore, dated 12th July, 1939, regarding the affairs in the office of the Divisional Superintendent, Rawalpindi; and
- (b) whether enquiries have been made into the allegations of definite instances of favouritism and nepotism mentioned in this communication; if so, with what result; if not, why not?

The Honourable Sir Andrew Olow: (a) Yes.

(b) No enquiries have been made. Government are not prepared to interfere with the discretion of the competent authorities in matters of this kind.

MISUSE OF CARD PASSES BY CERTAIN PERSONS ON THE NORTH WESTERN RAILWAY.

46. *Mr. H. M. Abdullah: (a) Will the Honourable Member for Railways please state whether his attention has been drawn to a communication appearing in the *Eastern Times*, dated the 5th May, 1939?

(b) Is it a fact that the rules of the North Western Railway provide for severe punishment for misuse of passes?

(c) Is it a fact that a Hindu Head Clerk of the Rate Branch was caught travelling on a duty card pass which was said to have been entrusted to him for safe custody?

(d) Is it a fact that one Mr. Ashwood, Office Superintendent of the Delhi Division, who similarly misused a card pass which had been entrusted to him for safe custody, was discharged straightaway?

(e) Is it a fact that this Head Clerk of Rate Register Section whose offence has been clearly established has not been similarly dealt with?

(f) Do Government propose to consider the desirability of reviewing all cases of persons discharged for similar offences? If not, why not?

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

(c), (d) and (e). Government have no information regarding punishments awarded to non-gazetted staff, who are under the control of General Managers, except in cases where an appeal lies to the Railway Board.

(f) No. It would be impracticable for Government to examine all such cases.

Dr. Sir Ziauddin Ahmad: The Honourable Member said that he cannot answer a question in which the General Managers have got the final responsibility. Now, this thing is not correct. May I just point out which we have said repeatedly on the floor of the House that the analogy taken from the Provinces is not correct in the case of the Railways, because, in the case of the Provinces, there is another Council where questions can be asked, but here we are the only body who can ask questions about the administration of the General Managers and other subordinates. Therefore, the statement of the Honourable Member, that because this case comes within the purview of the General Manager, he is unable to answer the question is not correct.

The Honourable Sir Andrew Clow: I did not make any such statement.

ALLEGATIONS OF CORRUPTION AGAINST A CLERK IN THE DIVISIONAL OFFICE, RAWALPINDI.

47. *Mr. H. M. Abdullah: (a) Will the Honourable Member for Railways please state whether his attention has been drawn to the news published in the *Daily Ihsan*, dated 8th August, 1939, and the *Daily Shahbaz*, dated 6th August, 1939?

(b) Is it a fact that several railway employees made allegations of corruption against a clerk in the Divisional Office of the Rawalpindi Division before the Retrenchment Enquiry Committee who decided that this clerk should not in future be given any responsible post?

(c) Is it a fact that Mr. Grindley, when Divisional Personnel Officer at Rawalpindi, ordered this clerk to be removed from the Establishment Branch to the Bill Section?

(d) Is it a fact that Mr. P. B. Chindwani, when Divisional Personnel Officer, Rawalpindi, reduced this very clerk for acceptance of a golden necklace as bribe while the person who gave the bribe was discharged?

(e) Is it a fact that this non-Muslim clerk is still working in the Establishment Section of the Divisional Superintendent's Office; if so, are Government prepared to consider his removal to some section where his corrupt practices may end?

The Honourable Sir Andrew Clow: (a) Yes.

(b) to (e). I am calling for information and will lay a reply on the table in due course.

INVOICE TYPISTS ON THE NORTH WESTERN RAILWAY.

48. *Mr. Lalchand Navalrai: (a) With reference to the answer to part (d) of my starred question No. 207, asked on the 19th September, 1939, will the Honourable Member for Railways be pleased to state what action the General Manager, North Western Railway, to whom a copy of the question was sent by the Honourable Member, has taken in the matter?

(b) Is it a fact that the Divisional Superintendent, North Western Railway, Karachi, in his letter, No. 522-E./20, dated the 20th September, 1939, had informed the Invoice Typists employed in his division that

their case for provision of some higher grade appointments will be reviewed in January, 1940? If so, what has been the result of that review?

(c) With reference to the Honourable Member's reply to part (c) of my starred question referred to above, is it a fact that more than one grade exists for the Invoice Typists in the Lahore Division? If so, why the typists in the Karachi Division are dealt with differently?

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

Mr. Lalchand Navalrai: Will the Honourable Member also kindly consider the information that was given which is contained in paragraph 2 with regard to the revision or rather giving some higher grades of appointments to these typists?

The Honourable Sir Andrew Olow: I have not been able to follow the Honourable Member's question. I said I have called for information and that related to all the parts of the Honourable Member's question.

TREATMENT GIVEN TO INDIANS RETURNED FROM GERMANY.

49. ***Mr. Lalchand Navalrai:** Will the Foreign Secretary be pleased to state what treatment was given to the Indians who returned from Germany and were held back and prosecuted? Were they convicted or acquitted and was the property in their possession restored to them?

Mr. O. K. Caroo: The Government of India have no information as regards the prosecution, conviction or acquittal of any Indians in Germany, nor do they know whether the property in their possession was restored to them.

Representations were, however, received by the Government of India regarding certain Indian students who left Germany for England before the outbreak of war and found themselves in straitened circumstances on arrival in England owing to confiscation of their funds by the German authorities. It appears that confiscation of currency from British Indian subjects leaving Germany had been made under German Exchange Regulations which prohibit the export of currency. It is not of course possible to make any suggestions regarding compensation in war time.

I lay on the table a copy of a Press note which shows what the High Commissioner for India is doing to assist Indians stranded in Germany.

PRESS NOTE.

Dated the 16th January, 1940.

INDIANS STRANDED IN GERMANY

HIGH COMMISSIONER TO ARRANGE RELIEF

The High Commissioner for India is in communication with the U. S. A. embassy in Berlin through the Foreign Office on the question of assisting all British Indians stranded in Germany. Arrangements have been made for the withdrawal of British subjects, wherever possible, from Germany through the good offices of the U. S. A. authorities, who have been requested to provide travelling expenses

where necessary and to give all proper and possible assistance. Measures are also being taken to provide funds for Indians who are still in Germany. In order to facilitate such assistance it is necessary that relatives in India who desire to remit money to an Indian in Germany should give some indication of the funds which would be placed at the disposal of the United States authorities through His Majesty's Government, to cover maintenance and travelling expenses in Germany, with a view to his eventual repatriation.

Before the war broke out there were in Germany 102 British civilians and 300 lascars. About seventeen of the civilians were students from India. Four of these managed to leave Germany before the war broke out but they were not permitted to take any currency out of the country. They are now in England and the High Commissioner for India is taking the necessary steps to assist them and to arrange passages for those desiring to return to India.

The U. S. A. Charge-de-Affairs has provided relief where necessary to the 300 lascars who have been removed from ships of German nationality. The British Government has arranged for the provision of funds to enable the U. S. A. Charge-de Affairs to continue to relieve distress. Arrangements for sending supplies from Great Britain are at present under discussion.

Mr. Lalchand Navalrai: May I know from the Honourable Member what the High Commissioner did with respect to the students who returned from Germany in a very precarious condition having lost all their money? Did Government give them any help?

Mr. O. K. Caroe: I think if the Honourable Member will look at the Press Note, which I have laid on the table, he will obtain the information which he seeks.

Dr. Sir Ziauddin Ahmad: Are Government contemplating to take any action to recover the money which private individuals might have got in the Banks or business firms in Germany?

Mr. O. K. Caroe: I do not think it is possible to take any action of that kind in war time.

RAISING OF A NEW LOAN FOR RAILWAYS.

50. *Dr. Sir Ziauddin Ahmad: (a) Will the Honourable the Railway Member be pleased to mention the amount they intend to borrow on behalf of the Railways during the years 1940-41?

(b) How the money borrowed on interest is proposed to be utilized?

(c) What is the amount of the loan which is proposed to be spent on remunerative work yielding income?

(d) Who is the authority which sanctions the raising of a new loan for Railways?

The Honourable Sir Andrew Olow: (a), (b), (c) and (d). In regard to railway capital expenditure next year, I would request the Honourable Member to await the presentation of the Railway Budget on the 16th of this month. The documents which will then be made available to the House will give full information regarding the works contemplated in 1940-41. Capital expenditure on railways is financed from funds provided by the Central Government, railway revenues paying interest thereon to central revenues. Should the provision of funds entail borrowing in the open market, the operation is arranged for by the Central Government in the Finance Department.

BREAKING OF JOURNEY BY RAILWAY EMPLOYEES TRAVELLING ON DUTY.

51. *Mian Ghulam Kadir Muhammad Shahban: (a) Will the Honourable Member for Railways be pleased to state whether any rules or instructions exist permitting railway employees in India travelling on duty to break journey after a certain distance to take rest? If not, why not?

(b) Is it a fact that under the present practice if a railway employee has to travel on duty he must continue to travel hundreds of miles at a stretch? If so, is the practice in accordance with rules? If not, does the Honourable Member propose to issue instructions that rules in this case be observed?

(c) If the practice is in accordance with rules, does the Honourable Member propose to revise the rules permitting the breaking of journey after a certain distance? If not, why not?

The Honourable Sir Andrew Olow: (a) No. Distance travelled is not a criterion of work done.

(b) and (c). I regret that I am not clear as to the meaning of these parts of the Honourable Member's question. If he has in mind officials such as drivers and guards concerned in the operation of trains, the distances for which they have to serve at a time are normally fixed and are not ordinarily exceeded. But there would be no point in restricting, for example, the distance officials might travel at a time when going to a place or places which they have to inspect, or on other occasions when there are duties which require their presence at a distance from the place where they happen to be.

TRANSFER OF ASSISTANT STATION MASTERS OR STATION MASTERS AS GUARDS ON THE NORTH WESTERN RAILWAY.

52. *Mian Ghulam Kadir Muhammad Shahban: (a) Will the Honourable Member for Railways be pleased to state whether rules exist on the North Western Railway for permitting transfer of Assistant Station Masters or Station Masters as Guards? If so, will the Honourable Member please refer to the specific rule or order?

(b) If the reply to first part of paragraph (a) above be in the negative, is it a fact that Guards can be transferred as Assistant Station Masters? If so, why there are different rules for the two classes of staff?

(c) Who has issued orders referred to in paragraph (b) above, whether the General Manager or the Railway Board?

(d) Does the Honourable Member propose to remove the discriminatory treatment accorded to Assistant Station Masters and Station Masters? If not, why not?

The Honourable Sir Andrew Olow: (a) Government have no information with regard to the Subsidiary Rules on the North Western Railway, but in the Rules issued by the Railway Board relating to normal channels of promotion, there is no restriction on employees in one group who may be in every way qualified for a post in another group being appointed thereto.

(b) Does not arise.

(c) The Railway Board.

(d) I am not aware of any differential treatment. The group of Assistant Station Masters and Station Masters (Lower Grades) and the group of Probationary Guards and Goods or Passenger Guards form separate normal channels of promotion to a common group which includes Assistant Station Masters and Station Masters (Higher Grades).

PROVISION OF RENT-FREE QUARTERS TO INFERIOR SERVANTS ON THE NORTH WESTERN RAILWAY.

53. *Mian Ghulam Kadir Muhammad Shahban: (a) Will the Honourable Member for Railways be pleased to state whether under the present rules employees in the inferior service of the North Western Railway drawing less than Rs. 30 per mensem are entitled to rent-free quarters?

(b) If the reply to part (a) above be in the affirmative, are such employees who are not given railway quarters, entitled to house rent allowance in lieu thereof? If not, why not?

(c) Is it not a fact that some of them get free quarters, while others are given no quarters nor house allowance in lieu thereof? What steps does the Honourable Member propose to take to end this discrimination?

(d) Is it a fact that at certain stations the number of quarters is less than the persons employed in the inferior service? If so, what steps have been taken to remove hardship on the employees who go without railway quarters?

The Honourable Sir Andrew Clow: (a) All inferior servants who are given quarters get them rent-free, but they are not entitled to quarters.

(b) The answer is in the negative. As there is no right to quarters, there is no right to an allowance if quarters are not allotted.

(c) and (d). The answer to the first question in both parts is in the affirmative. Quarters are not available for all employees and the allotment is determined primarily by administrative requirements. When the necessity is established, additional quarters are provided from time to time as funds permit.

EDUCATIONAL ASSISTANCE TO THE CHILDREN OF EMPLOYEES ON THE NORTH WESTERN RAILWAY.

54. *Mian Ghulam Kadir Muhammad Shahban: (a) With reference to paragraph 593 (i) of the State Railway Establishment Code, regarding educational assistance to railway employees' children, will the Honourable Member for Railways be pleased to state whether any instructions have been issued or rules framed by the Railway Board, to define the words "School or Schools of requisite standard at the station at which he is posted" occurring therein?

(b) Is it a fact that on the North Western Railway, a school within a radius of five miles from the station of employment of the railwayman, is considered to be a school at the station, within the meaning of the wording of rules referred to in paragraph (a) above?

(c) Are Government prepared to consider that if a school is situated at a distance of one mile each way, from the station of employment of the child's parent, he should be made eligible to educational assistance?

(d) Will the Honourable Member please refer to figures of educational assistance given to Indians and Anglo-Indians during 1937-38 as Rs. 8,679 and Rs. 1,50,781, respectively, *vide* replies to the starred question No. 1887 during the last budget session, and state whether Government are aware of the feeling that the assistance given to Indian children under the rules referred to in part (a) is considered inadequate?

(e) What steps does the Honourable Member propose to take to revise these rules so as to allow the admission of educational assistance if the school is beyond a distance of one mile each way?

The Honourable Sir Andrew Clow: (a) Yes.

(b) Yes. Instructions were issued to this effect to the Railways concerned as a tentative measure.

(c) and (e). Government have considered the question and the conclusion, which was approved by the Central Advisory Council for Railways, was that the question was not one of distance, but of convenience. The issue of rules to give effect to this decision is under consideration.

(d) No. I was not aware of this feeling but am prepared to believe that most parents would always welcome further concessions.

Mr. Lalchand Navalrai: May I know, reading parts (b) and (c) of the question, whether "five miles" mean about "five miles", so that it may include "six miles" also? In the second part of the question, there is a question about "one mile"?

The Honourable Sir Andrew Clow: Six miles cannot be included in five miles.

Mr. Lalchand Navalrai: May I know whether the intention of the Railway is five miles exactly to an inch or a little more or a little less?

The Honourable Sir Andrew Clow: I explained in the answer to parts (d) and (e) that the issue of rules to give effect to the decision subsequently taken is under consideration. That will alter the position.

Dr. Sir Ziauddin Ahmad: May I ask whether the figures given in (d) are correct?

The Honourable Sir Andrew Clow: I do not think I have got the exact figures here, but I am not prepared to question their accuracy.

Dr. Sir Ziauddin Ahmad: May I also know at what meeting of the Central Advisory Committee the decision was arrived at which the Honourable Member has just referred to?

The Honourable Sir Andrew Clow: I do not recollect.

PROVISION OF RENT-FREE QUARTERS TO INFERIOR SERVANTS ON THE NORTH WESTERN RAILWAY.

55. *Mian Ghulam Kadir Muhammad Shahban: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that employees in the inferior service on the North Western Railway are entitled to rent-free quarters if they draw Rs. 30 or less per mensem?

(b) Is this concession of rent-free quarters allowed to them when they are promoted to subordinate service posts, which carried the concession of rent-free quarters before 1st August, 1928, like other staff? If not, why not?

(c) Is it a fact that under the revised rent rules of 1928, the privilege of rent-free quarters is a personal privilege carried by an employee when he happens to be posted to an appointment which carried the concession of rent-free quarters prior to the revision of rules in 1928? If so, why is this discrimination against members of inferior service? Does the Honourable Member propose to remove this? If not, why not?

The Honourable Sir Andrew Olow: (a) This appears to be the same question as that in part (a) of question No. 58 and I would refer the Honourable Member to the answer I have just given.

(b) and (c). The concession of rent-free quarters, after the introduction of new rules, i.e., from the 1st August, 1928, has been extended only to those categories of staff who were entitled to rent-free quarters or house allowance in lieu of free quarters, under the old rules. As this condition is not fulfilled in the case of the inferior staff, they are not entitled to the concession on promotion to subordinate grades. I understand, however, that the question of extending the concession to certain categories of inferior servants promoted to subordinate grades is at present under the consideration of the General Manager, North Western Railway.

RE-WEIGHTMENT OF LOADED WAGONS AT DELHI KISHANGANJ.

†56. ***Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please refer to the Circular No. 4758-C. G./39, dated the 3rd October, 1939, from the Divisional Commercial Officer, North Western Railway, Delhi, viz., "average difference of about three seers per *Kavara* booked from Quetta and about 1½ seers per *Kavara* booked from Chaman be taken as the basis for undercharges against re-weighments in reality"; and state:

- (a) the rule under which freight is charged as mentioned above;
- (b) the number of staff (supervisory, weighmen, paladars and labourers) employed on 29th September, 30th September and 1st October, 1939, at Delhi Kishanganj for surprise re-weighments;
- (c) the number of loaded wagons which arrived at that station on those dates;
- (d) the number of loaded wagons re-weighed by that surprise staff on those dates and the number of weighing machines provided during those dates;
- (e) the number of the staff, weighing machines, labourers, ordinarily provided for that work, during the preceding three years; and
- (f) whether the inspecting staff (General Manager, Chief Commercial Manager, Divisional Superintendent, Divisional Commercial Officer, Assistant Transportation Officers, Transportation Inspectors, Inspectors of Station Accounts) ever re-weighed such consignments during the preceding three years; if so, with what result?

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

The Honourable Sir Andrew Olow: I understand that no such Circular was issued, so that part (a) does not arise. The answers to the remaining parts are:

(b) On the 29th September, 1939, the number of supervisory staff was seven, on the 30th, six and on the 1st October, five. On each of the three dates, the number of luggage porters employed for the purposes of re-weighment was nine.

(c) The number of loaded "goods" wagons received was:

September, 29th	...	...	...	...	28
September, 30th	...	...	...	...	10
October, 1st	...	...	...	...	10

In addition, the following numbers of loaded fruit vans were received:

September, 29th	...	...	...	...	10
September, 30th	...	...	...	...	11
October, 1st	...	...	...	...	10

(d) A proportion of the contents of each of the fruit vans was re-weighed on one weighing machine.

(e) No staff are employed ordinarily on surprise re-weighments.

(f) There is no record available of the weighments and checks by inspecting officials during the preceding three years.

PERSONS KIDNAPPED BY THE TRIBESMEN FROM THE SETTLED DISTRICTS.

56A. *Bhai Parma Nand: (a) Will the Secretary for External Affairs be pleased to state the number of kidnapped persons men, women and children, from the settled districts by the tribesmen during the last year?

(b) What is the total amount of ransom that has been paid by the relations of these kidnapped persons in order to get their release?

(c) Is there any truth in the rumour that Government had to pay Rs. 30,000 or so as ransom money for getting the release of Major Duggal?

(d) Do Government propose to introduce a system of compulsory permits for every person belonging to the tribes for entry into the settled area? If that is not possible, are Government prepared to impose on these people restrictions similar to those that are imposed on criminal tribes in India?

Mr. O. K. Caroe: (a) 121 men, 9 women and 24 children.

(b) The total number of cases known to Government in which ransom was paid is 21, while the total sum involved which has come to the notice of Government is Rs. 2,225.

(c) No.

(d) Neither the introduction of a system of compulsory permits, nor the imposition on residents of the tribal areas of restrictions similar to those placed on criminal tribes is administratively feasible.

Mr. Lalchand Navalrai: With regard to part (a), may I know how many of the kidnapped persons have been restored?

Mr. O. K. Caroe: Of the kidnapped persons—121 men, 9 women and 24 children, during 1939, 98 persons were released.

Sardar Sant Singh: With reference to part (b), was it declared by the Government that part of the ransom will be paid by the Government and will be recovered from the offending tribes?

Mr. O. K. Caroe: No, Sir. The position was that at one time it was considered desirable to recognise that ransom had to be paid in certain cases and also that Government would recover from the tribe the amount of ransom paid. But it has since proved that that policy sets up a vicious circle and encourages kidnapping. Government's policy now is that they do not acknowledge the policy of ransom, although in every case in which kidnapping takes place an endeavour is made to recover a fine from the section of the tribe concerned.

Sardar Sant Singh: What amounts have been recovered from the tribe in that effort to recover some portion of the ransom?

Mr. O. K. Caroe: I want notice.

Sardar Sant Singh: May I know if it is a fact that Major Duggal paid some money as ransom?

Mr. O. K. Caroe: That is not a fact.

SCHOOLS, HOSPITALS AND ADMINISTRATION IN THE TRIBAL AREAS.

56B. *Dr. Sir Ziauddin Ahmad: (a) Will the Secretary for External Affairs be pleased to state (i) the number of schools and (ii) the number of hospitals which the Government of India have established in the tribal territories?

(b) What is the present policy of the Government of India about the administration in the tribal areas?

(c) Are they independent? If so, in what sense?

(d) Did they pay the custom duties for all the articles brought in tribal area from Afghanistan or Central Asia?

Mr. O. K. Caroe: (a) On the assumption that the Honourable Member requires information for the tribal areas on the border of the North-West Frontier Province only, the figures are as follows:

(i) Sixty-five schools plus one aided school in the Khyber.

(ii) Seventeen Civil Hospitals and twenty Hospitals for the Irregular Forces.

(b) The policy of the Government of India is to maintain the peace of the border and foster good relations with the tribes in the hope that in time civilisation will spread gradually through the tribal area.

(c) The tribal areas are part of India and at present are subject to the control of the Governor General in Council as prescribed in the Government of India Act, 1935. They cannot therefore be regarded as independent. The amount of control exercised over them varies according to circumstances such as agreements, geographical factors, etc.

(d) No. With the exception of a very limited schedule of articles, which are not imported into the tribal areas, there are no import duties over these land frontiers.

Dr. Sir Ziauddin Ahmad: With reference to part (d), customs duties are levied under the Tariff Act. Is customs duty paid on any article mentioned in the Tariff Act which is brought from outside India into the tribal areas?

Mr. O. K. Caroe: If the Honourable Member refers to articles brought over the land frontiers, I have already stated that there are no import duties over the land frontiers with the exception of a very limited schedule of articles, *e.g.*, sugar and saccharine; and the fact is that the tribes do not pay any import duties on articles brought into India or articles brought from Afghanistan.

Dr. Sir Ziauddin Ahmad: There is one Tariff Act in regard to articles brought by land or sea. So for articles brought from Central Asia into the tribal areas they have to pay customs duty.

Mr. O. K. Caroe: The Honourable Member is giving me information on a subject which is not really within the scope of my Department.

Dr. Sir Ziauddin Ahmad: I want to know whether they pay customs duty.

Mr. O. K. Caroe: I have endeavoured to answer the Honourable Member.

Dr. Sir Ziauddin Ahmad: If they do pay customs duty, the Government of India have got a responsibility to maintain schools and hospitals.

Mr. O. K. Caroe: I have not said that they do pay customs duty. I have endeavoured to explain what the position is.

Sardar Sant Singh: Who pays for the maintenance of these schools and hospitals?

Mr. O. K. Caroe: The Government of India pay.

Sardar Sant Singh: Are any taxes levied from these people?

Mr. O. K. Caroe: In certain areas land revenue is taken, but in most of the tribal areas, no.

Mr. N. M. Joshi: May I ask the Finance Member whether no customs duties are levied on articles imported into India from the tribal areas?

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

CONDITION IN WAZIRISTAN AND THE TRIBAL AREAS.

560. *Mr. Lalchand Navalrai: (a) Will the Foreign Secretary be pleased to state the present condition in Waziristan and the tribal areas? What have been the casualties there during the time between the last sitting of the Central Assembly at Simla and now?

(b) What measures did Government take to quell the disturbances and the abductions during the aforesaid time and what further precautions do Government propose to take?

Mr. O. K. Caroe: (a) Waziristan is still somewhat unsettled and offences continue, particularly raids into the settled districts. These offences are the work of individual hostiles whom the Maliks find it difficult to control. Except the Shabikhel Mahsuds no tribal section as a whole is hostile to Government, and there is reason to hope that the Shabikhel will make their peace at an early date. Outside Waziristan complete peace reigns in the tribal areas on the North-West Frontier. The casualties sustained by all Forces and the public in and on the borders of Waziristan between the 1st of October and the 31st of December, 1939, were:

Killed	...	...	...	...	48
Wounded	...	...	...	...	82

These figures include 14 civilians killed and two wounded.

(b) Government have been employing both regular troops and Civil Armed Forces in large numbers to maintain order in Waziristan and prevent raiding into the settled districts. Further special measures, including an increase in the strength of the Frontier Constabulary, are now being taken.

Mr. Lalchand Navalrai: With the measures adopted by Government during last year, have these casualties decreased?

Mr. O. K. Caroe: I have not got the figures with me, but, to the best of my recollection, the figures of casualties in 1939 were almost exactly the same as those in the preceding year.

Mr. Lalchand Navalrai: Are they increasing or decreasing? And are any further measures required?

Mr. O. K. Caroe: I have told the Honourable Member that the figures are the same as they were last year and, therefore, it may be taken that they are neither increasing nor decreasing.

Mr. Lalchand Navalrai: Will the Honourable Member take some stricter measures to stop them?

Mr. President (The Honourable Sir Abdur Rahim): Order, order.

UNSTARRED QUESTIONS AND ANSWERS.

ABOLITION OF POSTS IN GRADE V OF ASSISTANT STATION MASTERS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.

13. **Mr. Muhammad Ashar Ali:** Will the Honourable Member for Railways please refer to the information given on the 30th August, 1939, in connection with the reply to unstarred question No. 76 asked in this House on the 12th April, 1939, viz.:

“and involved the abolition of a grade of Assistant Station Masters,”; and to letter No. 200/83-R., dated the 2nd

January, 1940, from the National Federation of Railwaymen, Delhi, to him; and state

- (a) the total number of posts in grade V of Assistant Station Masters before abolition;
- (b) the total number of posts in that grade which were abolished;
- (c) the total number of posts in that grade after abolition; and
- (d) the number of persons affected by that abolition?

The Honourable Sir Andrew Olow: 57 posts of Assistant Station Masters were merged in grade IV, so that no posts of Assistant Station Masters remained in the grade. I am unable to state the number of persons affected by the abolition as the abolition of these posts affects not only those holding them but others who might have held them in the future.

SCALES OF PAY OF STATION MASTERS ON THE EAST INDIAN RAILWAY.

14. Mr. Muhammad Ashar Ali: Will the Honourable Member for Railways please refer to the circular No. 359-E. of 1928, dated the 28th November, 1928, from the Divisional Superintendent, East Indian Railway, Moradabad, regarding revised scales of pay for subordinate staff and state:

- (a) the number of posts of station masters in scale Rs. 425—25—475 or Rs. 400—20—500;
- (b) the name of the stations of those posts; and
- (c) the reasons for posting (old) East Indian Railway employees on those posts with an increased expenditure of Rs. 80 per mensem?

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

UNIFORMITY IN RESPECT OF SENIORITY, ETC., IN EACH DIVISION OF THE EAST INDIAN RAILWAY.

15. Mr. Muhammad Ashar Ali: Will the Honourable Member for Railways please state:

- (a) whether it is a fact that each branch or Department or Division on the East Indian Railway has its own policy laid down in respect of seniority, channel of advancement, confirmation, etc.; and
- (b) the reasons for not having a uniformity in policy?

The Honourable Sir Andrew Olow: (a) The answer is in the negative as regards staff controlled by the Government of India, the Railway Board or the Financial Commissioner of Railways. As regards other non-gazetted staff Government have laid down no rules regarding seniority or confirmation and General Managers have full powers. I have no reason for supposing that on the East Indian Railway the General Manager has laid down a different policy for each branch or Division. Government have issued general orders regarding normal channels of promotion of various categories of subordinate staff which are contained in the Rules for the recruitment

and training of non-gazetted staff (except apprentice mechanics, trade apprentices, labourers and inferior staff) on State-managed Railways, a copy of which is in the Library of the House, and have no information which would lead them to believe that these orders are not being carried out.

(b) Does not arise.

RELIEVING GUARDS IN CERTAIN DIVISIONS OF THE EAST INDIAN RAILWAY.

16. Mr. Muhammad Ashar Ali: Will the Honourable Member for Railways please lay on the table a comparative statement of the Relieving Guards on the Moradabad, Lucknow, Allahabad, Dinapore, Asansol and Howrah Divisions of the East Indian Railway, showing *inter alia*:—

- (a) sanctioned strength in 1937, 1938, 1939 and on 1st February, 1940;
- (b) actual strength in 1937, 1938, 1939 and on 1st February, 1940;
- (c) class, grade and cadre whom they relieved during those years and on 1st February, 1940;
- (d) nature of their duties; and
- (e) pay and allowances admissible and paid during those periods?

The Honourable Sir Andrew Olow: (a) to (e). Government have no information, and I regret that it is not practicable to undertake the research that would be necessary to procure the particulars specified.

MESSAGES FROM H. E. THE GOVERNOR GENERAL.

Mr. President (The Honourable Sir Abdur Rahim): I have received two Messages from His Excellency the Governor General. The first Message runs thus:

"In pursuance of the provisions of sub-section (3) of section 67-A, as set out in the Ninth Schedule to the Government of India Act, 1935, I hereby direct that the heads of expenditure specified in that sub-section, other than those specified in clause (v) thereof, shall be open to discussion by the Legislative Assembly when the budget for the year 1940-41 is under consideration.

NEW DELHI;

The 25th January, 1940.

(Sd.) LINLITHGOW,
Governor General."

The second Message is:

"In exercise of the powers conferred by rule 2 of the Indian Legislative Rules, I, Victor Alexander John, Marquess of Linlithgow, hereby appoint the Honourable Sir Andrew Olow to perform the functions assigned to the Finance Member under rule 46 of the said Rules on the occasion of the general discussion appointed for Thursday, the 28th February, 1940, on the statement of the estimated annual expenditure and revenue of the Governor General in Council in respect of Railways.

NEW DELHI;

The 31st January, 1940.

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

ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR ROADS.

Mr. President (The Honourable Sir Abdur Rahim): I have to inform the Assembly that upto 12 Noon on Thursday, the 8th February, 1940, the time fixed for receiving nominations for the Standing Committee for Roads, two nominations were received. As the number of candidates is equal to the number of vacancies, I declare Sardar Bahadur Captain Dalpat Singh and Dr. Sir Ziauddin Ahmad to be duly elected.

COMMITTEE ON PETITIONS.

Mr. President (The Honourable Sir Abdur Rahim): I have to announce that, under sub-order (1) of Standing Order 80 of the Legislative Assembly Standing Orders, the following Honourable Members will form the Committee on Petitions, namely:

- (1) Mr. A. Aikman,
- (2) Syed Ghulam Bhik Nairang,
- (3) Mr. N. M. Joshi, and
- (4) Sir Abdul Halim Ghuznavi.

According to the provision of the same Standing Order, the Deputy President will be the Chairman of the Committee.

HOME DEPARTMENT DECLARATION OF EXEMPTION LAID ON THE TABLE

The Honourable Sir Reginald Maxwell (Home Member): Sir, I lay on the table a copy of the Home Department Declaration of Exemption No. 21/68/39-Political (W.), dated the 2nd February, 1940.

No. 21/68/39-Political (W.).

GOVERNMENT OF INDIA

HOME DEPARTMENT

New Delhi, the 2nd February 1940.

Declaration of Exemption.

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors who are not foreigners, shall not apply to, or in relating to, the officials attached to foreign Consulates in India mentioned in the annexed list and their families so long as they hold the posts noted against their names.

H. J. FRAMPTON,

Deputy Secy. to the Government of India.

List.

1. Mons. Ibrahim El-Dessouky Imam, Secretary of the Consulate General of Egypt at Bombay.
2. Mons. I. S. Dugin, Acting Consular Attaché de Carriere at the Consulate of France at Calcutta.
3. Mons. Jalal Abdul Ma'jeed, Secretary of the Consulate General for Iraq at Bombay.
4. Dr. D. Bocchetto, Chancellor de carriere at the Consulate General for Italy at Calcutta.
5. Mons. F. Camilli, Acting Chancellor de carriere at the Consulate General for Italy at Calcutta.
6. Cav. Uff. E. Benasaglio, Secretary of the Consulate General for Italy at Calcutta.
7. Cav. Silvio Marabelli, Chancellier, Consulate General for Italy at Bombay.
8. Mons. Procolo di Matteo, Secretary of the Consulate General for Italy at Bombay.
9. Mons. Raimondo Stuparich, Consular Agent for Italy at Karachi.
10. Mr. J. Yamamoto, Technical Expert at the Consulate General for Japan at Calcutta.
11. Mr. K. Tachi, Chancellor, Consulate General for Japan at Calcutta.
12. Mr. T. Inui, Chancellor, Consulate General for Japan at Calcutta.
13. Mr. T. Takeuchi, Chancellor, Consulate General for Japan at Calcutta.
14. Mr. M. Hirata, Chancellor, Consulate General for Japan at Calcutta.
15. Mr. K. Utsumi, Chancellor, Consulate General for Japan at Bombay.
16. Dr. T. Lisiecki, Commercial Officer at the Consulate General for Poland at Bombay.
17. Mr. J. Jakimowicz, Commercial Officer at the Consulate General for Poland at Bombay.
18. Mons. P. Ekstrom, Chancellor Consulate General for Sweden at Calcutta.
19. Mons. Jean Studer, Chancellor, Consulate General for Switzerland at Bombay.
20. Mons. Ernest Wanner, Chancellor, Consulate General for Switzerland at Calcutta.
21. Mr. Don. C. Bliss, attached to the Consulate General for the U. S. A. at Calcutta.
22. Mr. Barry T. Benson, attached to the Consulate General for the U. S. A. at Calcutta.
23. Mr. Hal N. Deaton, attached to the Consulate General for the U. S. A. at Calcutta.

THE EXCESS PROFITS TAX BILL.

Babu Baijnath Bajoria (Marwari Association: Indian Commerce): Sir, when the House adjourned on Tuesday afternoon, I had explained to the House that the Honourable the Finance Member had made out no case showing the financial necessity of this measure as shown by the figures which had been published till November, 1939. I also showed that Government had been much better off during this year than they had been during the corresponding period last year. I also explained that in the previous Excess Profits Bill, in 1919, Sir James Meston had recognised the principle that either a super-tax or an excess profits tax should be levied. I also explained in short that this Bill would have a very pernicious effect on the Indian industries, in as much as there will be very little enthusiasm or encouragement for further extension of the industries in future, with

[Babu Baijnath Bajoria.]

the result that the British industries will have an advantage over Indian industries for years to come.

After all, what are the countries which are now most benefiting from this war? India as an industrial country is still in its infancy, and, therefore, it is the neutral countries that have most benefited from this war, because they are much more industrialised and they have been supplying orders which formerly used to go to the continental countries which are now at war. India has got orders only for 14 crores of rupees. This was given in answer to a question yesterday or the day before

The Honourable Sir Jeremy Raisman (Finance Member): Those are only direct Government orders already placed.

Babu Baijnath Bajoria: I have also mentioned that they got 14 crores orders directly from the Government. Out of 14 crores how much profit can be made? Even at 10 per cent. the profit will not be more than 1½ crores of rupees, whereas this Bill would take away several times that amount.

An Honourable Member: How?

Babu Baijnath Bajoria: The Honourable the Finance Member made great capital out of the fact that only 5,000 assesseees will be affected by this measure. That is absolutely wrong.

Mr. N. M. Joshi (Nominated Non-Official): What is your estimate?

Babu Baijnath Bajoria: If each of the big industrial companies, like the Tata Steel Company or the big cotton and jute mills is to be classified as one assessee, each of them has got thousands of shareholders on their list and each of these shareholders will be directly affected by this measure. So, hundreds of thousands of persons will be directly affected by this measure, and inasmuch as this Bill has already had the direct effect of causing a fall in prices of staple commodities and agricultural produce in this country, it can be said that even the dumb millions have been affected badly by this measure.

Then, we have to see which of the other dominions have enacted a measure of this nature. As far as my knowledge goes, no other dominion has yet passed such a measure. Ceylon, which is a crown colony, directly under the British Cabinet, has thrown out such a measure. Why should India come first in the field and propose such a measure and tax the people of this country to such an extent? If Government cares for public opinion in any way, the chorus of protests which have come against this Bill from one and all has been unanimous. If we exclude the Europeans, because they have got good reasons for supporting the principle of this measure because they think that the profit which will come out of this Bill will be utilised for the benefit of England, their own country; Indian commercial opinion has been absolutely unanimous—with an unanimity which has never been known before. The depth of their indignation and resentment can be gauged from the fact that on the 6th February, when

this Bill was introduced, there was a hartal in practically all the principal markets of this country—in Calcutta, Bombay, Lahore, Delhi, Ahmedabad and many other places. They are not like strikes created by my friend, Mr. Joshi

Mr. N. M. Joshi: The difference is that your hartal was artificially created.

Babu Baijnath Bajoria: These hartals are not like the strikes which my Honourable friend, Mr. Joshi, manages to get up every now and then. As far as my knowledge goes, for the last 10 or 15 years this has been the only hartal or strike of this nature against a measure of taxation. Even the Income-tax Bill, which was very drastic and which was resented by the commercial people did not force them to such a drastic action, because businessmen stand to lose by these hartals.

It is also a matter of great regret that though the Honourable the Leader of the Opposition in this House—I refer to Mr. Bhulabhai Desai—has made speeches against this Bill outside this Assembly, he is absent here. That fact is significant

An Honourable Member: You must appeal to the Congress Working Committee.

Babu Baijnath Bajoria: I have got no confidence in the Congress Working Committee.

The Honourable the Finance Member said that he wants this measure to be enacted because war profits have been made. I want this to be very clearly made out—whether he wants to tax war profits or all excess profits. There is a very great distinction between these two. War profits would mean those profits which would not have accrued but for the war, whereas excess profits will include the profits of several businesses which have gradually developed and have got normal increases in income; in my opinion they should not be touched if this is to be called a war measure. I will specify such a business. Take insurance companies: they get premiums from day to day and the funds accumulate and there is a natural increase in the business income of such companies. The same can be said about the banks and investment companies and various other businesses: it can be truly said of them that their profits have got no relation whatever to the circumstances created by the war. In all fairness therefore, if the Honourable the Finance Member wants to tax only war profits, he should exempt such businesses whose income has nothing to do with circumstances arising out of the war.

Now, Sir, I propose to make a few suggestions for the modification and improvement of this Bill. In the first place, with regard to the chargeable accounting period, it has been said that this tax will be levied from profits arising from the 1st of April, 1939. There was no war at that time. So any profits made from that date cannot be called war profits and cannot be included in this measure. I would also suggest that this Bill should not have retrospective effect on profits made in previous years. Therefore, Sir, the natural thing should be that the operation of this Bill should begin from the 1st April, 1940. I think it will be agreed that this is a most reasonable

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suggestion, but if the Government are not prepared to accept it, the least they can do is to take the 1st of October as the date from which profits can be calculated.

Again, Sir, there is the statutory percentage. The percentage which has been allowed here is very low, and it is not sufficient to encourage business people to invest money in business. I would suggest that the statutory percentage should be at least ten per cent. for companies and twelve per cent. for individuals or registered firms. Sir, this Bill is a very complicated Bill. I am not a lawyer, and I cannot understand the implications of each and every clause of it. I would, however, like one point to be made clear by the Honourable the Finance Member. In the case of registered firms, I should like to know whether the profits made by them are going to be assessed collectively or the profits will be assessed after the profit is distributed to the individual partners, as is done in case of income-tax or super-tax. I pause for an answer.

The Honourable Sir Jeremy Raisman: I think collectively is the answer to that.

Babu Baijnath Bajoria: That, Sir, I will say is the unkindest cut of all, because it will mean that a new class of assesseses is going to be created by this Bill. At present registered firms are not assessed as firms, but the total income of the firm derived from the joint efforts of the partners is divided in proportion to the respective shares of the partners and then the partners are assessed on their respective incomes. If the firm is assessed collectively on its total income, it will mean a great hardship. I should like to illustrate it by a concrete example. If a registered firm has made a profit of Rs. 30,000 during the standard period, and if supposing the profit is Rs. 50,000 during the chargeable accounting period, then according to this Bill, Government will take half of the excess profit, that is half of Rs. 20,000 or Rs. 10,000 from that business; whereas if there are four partners in that firm, and if the individual share of the partners previously was Rs. 7,500, and if the profits is say even Rs. 50,000 now, the share of income of each partner from the firm will be Rs. 12,500, which will be below the minimum amount of Rs. 20,000 provided in this Bill. Whereas on the one hand none of the partners have earned more than Rs. 20,000 they will be exempt from the operation of this measure, on the other hand full Rs. 10,000 will be chopped off from this firm which will mean a great hardship to the firm. I hope, Sir, the Honourable the Finance Member and also the Select Committee will give their serious consideration to this matter.

Then, there is the standard period. I do not know whether it is inadvertently done or it has been done purposely, the year 1938-39, that is to say from the 1st April, 1938, to the 31st March, 1939, has been excluded from the standard period or from the years of option. I do not understand the reason for it. The year 1938-39 was surely a period which had no connection whatever with war or with abnormal profits which the Finance Member thinks people have made. Therefore, I strongly urge that the year 1938-39 must be included in the years of option given to the assesseses.

Then, Sir, there is the case of companies or business started after the 31st March, 1936. There is an anomaly in clause 6(1) (a) or (b). Section

6(b) provides that new business started after the 31st March, 1936, will be allowed the statutory percentage only. But supposing during this standard period the profit of such business was more than the statutory percentage, still will it be denied to deduct what is called the standard profits under section 6(1) (a), whereas the older business will be allowed to take standard profit if the percentage of profit is more than statutory percentage; whereas if the new companies happen to make more profit than the standard profits, they will be denied that right. They will have to be satisfied with only the statutory percentage as provided in section 6 (1) (b). I do not think that can be the intention of the framers of this Bill. The idea should be that newer companies should be given the option of either taking the statutory percentage or the standard profits, whichever may be to their benefit. I explained the other day that so far as companies are concerned, though this is said to be only 50 per cent. of the excess profits, still their share will come to about 62 per cent. of the excess profits. In the case of registered firms or individuals, from what I gathered from the answer which I just got from the Honourable the Finance Member, that they would be taxed collectively, the percentage will be about 75 per cent. of the excess profits which they make. I shall just explain this point. First of all, 50 per cent. will be taken off. Supposing the excess profit comes to Rs. 2 lakhs, one lakh will be taken off as excess profits tax, and on the other one lakh, the maximum rate of income-tax will be levied, and though there is what is called the sliding scale of super-tax to higher incomes, it works out to six or seven annas in the rupee, and so collectively as between income-tax and super-tax about half the profit will be taken as income-tax, and super-tax. So, out of the balance of one lakh excess profit, another Rs. 50,000 will be taken. Therefore, out of two lakhs, Rs. 1 lakh and fifty thousand will be taken which will mean 75 per cent. Sir, this rate is absolutely preposterous, to say the least, and it will have to be substantially reduced. A reduction of 10 or 20 per cent. cannot be called a substantial reduction, but it will have to be very considerably reduced.

Then, there is the point made by Mr. Aikman and Sir Homi Mody, that this measure should be reviewed every year as the income-tax, super-tax and other financial measures are reviewed by this House. There is no doubt that the working of this Bill is sure to disclose hardships in many cases and if this House has got that power of revision or review, then the cases of hardship which may come to light during the working of this Act can be reviewed and adjusted.

Then, there is another point and that is about the capital in the business. It has been provided that the rate for the ordinary share capital of the company will be eight per cent. and for other business it will be ten per cent. But, as was rightly pointed out by Sir Homi Mody, the paid up capital of the Company bears absolutely no proportion or relation to the actual amount invested for the running of the business of the company. It is so obvious, I think, to Income-tax experts like Mr. Chambers and Mr. Sheehy that I need not explain this point at great length. The business of the company makes profits but it does not distribute the entire profit. It gradually builds up its reserves and that is also invested in the business.

Then, there is the question of the borrowed capital. I daresay that most of the companies or most of the business have to borrow from banks

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on secured loans or unsecured loans and in the case of an individual he has to borrow from his friends or get a credit in other possible ways. So, this statutory percentage should be allowed on the entire capital which is being involved in running the business. In the case of companies, it will be block account *plus* the working capital which is employed for stocks and other purposes. This requires a very careful consideration and I have no doubt that the present Finance Member who is not of Griggian temperament will look into the matter thoroughly. He has an amiable nature and as has been pointed out by Sir Homi Mody, he was in a very great haste to present this Bill before this Legislature and so he has only copied the English Act which bears very little relation to the conditions obtaining in this country. I am sure that when we point out to him inequities in this measure, he will surely do away with its anomalies and the hardships which this Bill would entail on the general business community of this country.

There is, then, the question of agricultural income from Burma and the Indian States. Of course, this is a point which will be decided by the Select Committee, but I would like to know whether the agricultural income accrued in Burma or in an Indian State will be included in the business income and whether it will be liable to taxation under this measure.

Mr. S. P. Chambers (Government of India: Nominated Official): May I rise, Sir, on a point of explanation. In the example given by the Honourable Member, I am afraid it would depend upon the circumstances of the case. It depends whether the business is assessed under one section of the Indian Income-tax Act or under another section. I am afraid the details of this point are hardly relevant to the main discussion whether the Bill should be sent to the Select Committee. If the Honourable Member wants some further details, perhaps he might ask me in the lobby and I will then explain the matter to him in detail.

Babu Baijnath Bajoria: Sir, I have explained some of the points on which this Bill requires modification. In conclusion, I will say that the Honourable the Finance Member has made out no case in his speech nor in the aims and objects of the Bill for the imposition of such a measure at the present stage and has not disclosed his financial necessity. So, I cannot lend my support to this Bill.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadian Urban): Mr. President, there must have been very few Bills indeed, presented by any Government Member, the provisions of which were inconsistent with the preamble and the Objects and Reasons. I am afraid this Bill is one of those exceptions. If one looks at the preamble of the Bill, I think the Finance Member himself will admit, it is very vague. It merely says:

"Whereas it is expedient to impose a tax on excess profits arising out of certain businesses, it is hereby enacted....."

What does that mean? One is at a loss to know, but when one refers to the Objects and Reasons one realises what that preamble is meant to represent. The Objects and Reasons state that the object of this Bill is

“to secure for the Government considerable portion of the additional business profits which accrue as a result of the conditions prevailing during the war”. As every Honourable Member knows, it is the preamble that will remain on record and not the Objects and Reasons. Before I come to point out some of these inconsistencies, I believe that a great deal of the criticism levelled against this Bill, and also these inconsistencies are due to a blind and faithful copy of the English Act of 1939. It reminds me of a Chinaman who was given an old suit to copy. He copied not only all the patches on the trousers of the old suit, but, when he came to the coat, he actually made holes and darned them up as he found them in the sample, with the result that the suit was a very bad misfit. This blind copy of the English Act has also been a misfit for our country. There are several schools of thought with regard to this Bill, and opinions have been expressed in fairly strong terms notwithstanding the very short time that was given to the public to study such a complicated measure.

There is a section of thought which believes that this measure will retard the progress of industries, will stop new industries from coming into existence and, generally, will be harmful to the interests of our country. They also pertinently ask that if Government desire to share in actual and real war profits, will they be prepared to share in losses that will accrue, due to the cessation of war? There is another school of thought that believes that the State is justified in demanding a share in profits that accrue really from the war. Personally, I am inclined to agree with the latter school of thought. The State is entitled to a share, a reasonable share, in those profits but that school of thought desires to be assured that those profits are war profits and not normal profits.

Now, Sir, I will turn to some of these inconsistencies. As has been said on more than one occasion during the discussion of this Bill, profits are to be collected from the 1st April, 1939, that is to say, five months of pre-war period are taken as if it were war period. Now, if you are to take war profits, how can you contend that in a country like India there were any profits for at least five months before war was declared? The conditions in England are totally different. War preparations began in right earnest from September, 1938. It was owing to the neglect of war preparations before 1938 that England today has cause for complaint, but after September, 1938,—after the Munich affair, England went full steam ahead preparing for war. Did those conditions prevail in India? Except the order for a few sand bags, there was no preparation for war in India until a month or two after war was declared. According to the Objects and Reasons only actual war profits are desired to be obtained.

The Honourable Sir Jeremy Raisman: If there were no excess profits, there will be no tax.

Sir Cowasji Jehangir: There will be normal profits and you will get hold of them. That is my point. You will get at these normal profits believing them to be war profits.

The Honourable Sir Jeremy Raisman: Normal excess profits?

Sir Cowasji Jehangir: There is a normal increase in profits which every business hopes to make, which is not war profit. Now, look at the Statement of Objects and Reasons. You say:

"The outbreak of war, while it has necessitated greatly increased expenditure by the Government on defence and other services, has simultaneously created opportunities for the earning by companies and persons engaged in business of abnormally large profits".

You refer to the outbreak of war in your own Statement of Objects and Reasons, and when you come to the provisions of the Bill you tax five months of pre-war period. I call that inconsistent, and I call it a faithful copy of the English Act without considering Indian conditions. I think that this House will be justified, and the public will demand that you change that date, and I trust that that will meet with the views of Government when we come to discuss this question after the Select Committee report. Now, Sir, I would suggest along with several of my friends here that the date should be 1st April, 1940.

Now, we come to the standard period. Again as Mr. Bajoria has very pertinently pointed out 1938-39 has been omitted. One cannot but become suspicious that the Government desire to get at normal profits. Why has 1938-39 been omitted, or the calendar year 1938? We very well know that the other years mentioned in the Bill were years of severe depression for Indian industries—1935-36, 1936-37, 1937-38. They were not normal years. There were losses in many concerns,—leave aside profits. They were the worst years of depression we have experienced within the last ten years, and those are the very years that Government take as a standard for profits. That is inequitable, and the one year in which there was a little revival of trade—1938-39—the Government deliberately omit. Why? Because the English Act omits that year and why does the English Act do it? Because there were war profits in 1938-39 in England, or it was supposed to be so. There were preparations for war. Large orders were placed. Large factories came into existence through Government assistance, with Government money. Surely you cannot so blindly follow the English Act. You must consider Indian conditions. The Act is meant for India. I believe that the Finance Department had not sufficient time to prepare an Act like this. They found a very good measure passed in England, and like the Chinaman, they copied it, but it is our duty to consider the conditions of our country, and, moreover, it is our duty to see that the Bill is suitable to Indian conditions. Now, take the corresponding section in the Act of 1919 passed in this country. There, three war years were taken as the standard years, and over and above that another option was given. It was ten per cent. on the capital employed in companies. Therefore, the Act of 1919, in India, had a standard period to guide them, a standard period which was a reasonably profitable period for industries in this country, but they also give assesses the option of taking ten per cent. on the capital employed in companies. I lay emphases on the word "employed". It is not my business today to explain to any Honourable Members who may not really understand the difference between employed capital or the block account or the share capital. I am not going into these details. I advisedly used the word "employed capital". I think that option should be given in this case, and I see no reason why it should not be.

Mr. M. S. Aney (Berar: Non-Muhammadan): If the Honourable Member wants the other Members of this House to understand fully the implication of this argument, may I ask him to explain the distinction?

Sir Cowasji Jehangir: I will certainly do so, but I must not be blamed for taking too much time of the Honourable House. Well, the share capital of a company is the monies that go to the company as subscribed by the shareholders. The block account of a company means all the expenditure that may have been incurred by the company for machinery, and buildings, not only from the shareholders' money, but from other sources.

Mr. N. M. Joshi: What is the block account?

Sir Cowasji Jehangir: You do not understand anything about the subject. Let the Honourable Member devote his attention to Russia.

The block account, therefore, is the total expenditure, regardless of where the money comes from, on buildings and machinery. Then, there is money used for other purposes; they may be debts due to the company for sales made and which have not been received. You do not get hard cash when you make sales; it comes six months or a year afterwards. There may be money employed on your unsold stocks, on stores, on raw materials. Therefore, all that money is money employed in the company. I have already explained what the share capital is, and I have explained what the block account is. Now, Sir, several Honourable Members have already noted the inconsistency in the Bill with regard to depreciation. As this Honourable House knows, the method of counting depreciation was changed in the last amendment to the Income-tax Act. There, the depreciation is counted on the written down value. In the old days, depreciation was counted and calculated on the cost. Now you must compare like with like. If you calculate your depreciation for your standard period in one way, you must calculate your depreciation in the same way when you come to your chargeable accounting period. There is no provision in the Bill for that. The result in short is that, if the Bill is not amended, the profits for the chargeable accounting period will be artificially inflated in comparison with those of the standard period. I am certain Government never meant that. They could not have done so; it is impossible to believe they could. Therefore, such an inconsistency with the objects and reasons must be amended, and I trust they will do so.

Now, Sir, coming to this question of depreciation, I think that the best thing would be to leave the depreciation on the cost value so long as this Bill remains on the Statute-book and make your change afterwards. We were given to understand, when the Income-tax Bill was being amended, that this change of method would make no effective difference to the industries. I am not alone in that recollection; I think others also have the same recollection as myself,—that that assurance was given to us. Why, I am even reminded that we were even asked to have it put into the minutes, but we said that the Finance Member had given such an assurance and it was not necessary to put it in the minutes. My attention was drawn to that by a friend in Delhi

Mr. S. P. Chambers: May I rise to a point of explanation, Sir? I was a member of the Select Committee to which Sir Cowasji Jehangir has referred and so was Mr. Sheehy and we have no recollection whatever of any assurance having been given by the Finance Member that in making the change in the depreciation basis from the cost basis to the written-down basis that that would make no difference whatever to industries.

[Mr. S. P. Chambers.] Certain assurances were given, and my recollection is that those assurances were as follows. First of all, Sir James Grigg assured this House and on the floor of this House he made a statement that the new rates on the written-down value basis would not be fixed without consulting the interests concerned. That was one assurance given. Another statement which was made was that taking all years together the full allowance for depreciation would be the same in both cases. The full amount allowed for depreciation, taking all years together, would be unchanged, because the full amount of the cost of the assets is allowed over the period of the life of the assets. In that respect the new law is, as Honourable Members at that time agreed, superior to the old law, in that the residual value is given in any case whether the asset is obsolete or not, but my recollection and that of Mr. Sheehy is that no assurance was made that the change would make no difference. May I add further that the suggestion made by the Honourable Member is to my mind almost incredible, because, if there was to be no difference in the amount allowed each year, why would either the Select Committee recommend, Government propose, or this House agree to the alteration in the basis of computing the depreciation, which means so much work not only to industry but also to the Income-tax Department? May I also remind the House that on the floor of this House, standing in this seat, I pointed out that in many cases the rates of depreciation were too high. That statement is also contained in the Income-tax Enquiry Report of 1936. Those statements were made on the floor of the House and we have no recollection of any statement being made inconsistent with those statements.

Sir Cowasji Jehangir: My recollection is not the same that Mr. Chambers and Mr. Sheehy evidently have. I remember the words "effective difference", and my attention has also been drawn to the speech made by the Honourable the Leader of the Opposition, who has now disappeared into vapour, that he had studied this question and he had assured himself that no injustice or no harm would come to industries.

An Honourable Member from the Government Benches: That is a different matter of course.

Mr. President (The Honourable Sir Abdur Rahim): Was this assurance given in the House?

Sir Cowasji Jehangir: No—in the Select Committee. At any rate with regard to this Bill you will have to make an amendment. The present Bill as it stands is completely inconsistent with your policy. You must compare like with like, and how is it that you have forgotten to do it? You were experts—how did you forget to do it? I can point out several other things which you have forgotten.

I come now to the most important issue before us, *viz.*, that this Bill is intended to get for Government a share in the war profits, profits due to the war, but it is not intended to get for Government a share in the normal profits. That is what the Statement of Objects and Reasons says,—that they want a share in the war profits. Now, I will give you many instances where Government will get a share in the normal profits. This Government, while they talk of social justice and rightly too perhaps, are out to get, over and above the income-tax, a portion of the ordinary profits such

as would have accrued had there been no war. I will give you two or three instances. A company enlarges its business, increases its outturn, hoping to get very good profits out of that increased outturn. It spends lakhs, crores of money in machinery, in extra buildings, in the expansion of its business. The machinery was ordered out long before the war was thought of, the buildings were constructed say, before the war broke out, the machinery also came into operation before the war broke out. But the profits from that increased outturn will accrue in the chargeable accounting period. What is the allowance allowed by this Bill? A petty amount of percentage on the increased capital. Is not that taking a part of the profits not due to the war? By all means, take your profits on that outturn which is due to the war, but do not take such part of the profits which would have accrued from that extra expenditure had there been no war. Then take the case of a windfall to a company, a firm or an individual. I am going to give you a concrete instance. There may be claims by a firm against another firm, by one company against another company. The case may go to a court of law,—to the High Court. The decision may go in favour of the plaintiffs, and the court may award a certain amount of money to the plaintiffs. That money may not be capital, the Income-tax Department may hold that it is income and say, your income should go up by that amount. Nothing to do with the war; merely, to do with certain legal claims made by one party against another, which may benefit one party at the cost of the other party. Such income will go into the chargeable accounting period, it will not be in the standard period and Government will promptly seize 50 per cent. of it. There is no provision in the Bill for such a case.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): How would you define war profits?

Sir Cowasji Jehangir: I will come to that, but let me just finish this question. I will give you a concrete instance of what happened. There is a very big company. It has got preference shares. The point in dispute was whether those preference shares were income-tax free or not. Certain shareholders went to court. The court held that at least three years of income-tax should be returned to the shareholders. It amounted in that case to something like Rs. 25 lakhs. There are some shareholders who will get a lakh of rupees. That lakh of rupees would be held by the Income-tax Department to be income and will go into the chargeable accounting period and there will be nothing to compensate in the standard period and Government will get half of it.

Mr. M. A. Jinnah: No. That is not business.

Sir Cowasji Jehangir: That is business according to Government.

Mr. M. A. Jinnah: Supposing I am a shareholder and because of this decision I get a dividend on my shares, which I otherwise would not have got

Sir Cowasji Jehangir: No dividend.

Mr. M. A. Jinnah: I am talking of the Act.

Sir Cowasji Jehangir: I am talking of the case which I was citing.

Mr. M. A. Jinnah: It cannot come under this Act.

Sir Cowasji Jehangir: It will be added to the income in the chargeable accounting period and because that income is a windfall, there is nothing to compensate in the standard period. It increases your income by a lakh of rupees or Rs. 50,000, or whatever it may be, and when you compare the standard period you are taking half of it.

The Honourable Sir Jeremy Raisman: Clause 25.

Sir Cowasji Jehangir: How does it apply?

The Honourable Sir Jeremy Raisman: Hard cases.

Sir Cowasji Jehangir: Board of Referees?

The Honourable Sir Jeremy Raisman: No, the Central Board of Revenue.

Sir Cowasji Jehangir: But surely there ought to be some provision for such a case. I will give a more glaring instance, which I cannot understand the Finance Department overlooking. Under the amendment of the Income-tax Act all foreign incomes were taken to be accruing in this country on which income-tax was assessed. I would give you a concrete instance. A firm has an income of a lakh of rupees in India and has investments yielding Rs. 25,000 in England. Under the amendment of the Income-tax Act, the income of that firm will be a lakh and a quarter on which income-tax will be charged. Before the amendment of the Act, the Rs. 25,000 was not taken into calculation at all, it did not appear in the Indian books of the company, it appeared in a separate set of books showing to the Income-tax Department what was the income from foreign sources. That change came into operation this year. Income-tax on that has had to be paid this year, and in an attempt to compare like with like what would you compare? In the standard period you have only your Indian income, while in the chargeable accounting period you have got to calculate your foreign income as well, with the result that Government will get half of your foreign income which had been accruing to you or to the firm for the past number of years. No exception has been made for that. Is that a hard case?

The Honourable Sir Jeremy Raisman: There is a Select Committee stage surely.

Sir Cowasji Jehangir: There is a Select Committee stage. I am very glad that my Honourable friend has made that admission, but when we have Finance Department—not the Finance Member—manned by experts, we expect that they should not tamely copy the English Act, but they should consider our conditions. The amendment was fought out in this House last year and still the Finance Department forgot about it and no exception was made and they say it is a hard case, and now my Honourable friend, the Finance Member, very frankly—let me give him credit for his frankness—says there is a Select Committee for you.

The Honourable Sir Jeremy Raisman: I do not admit that the point has not been met.

Sir Cowasji Jehangir: Where is it met?

Mr. S. P. Chambers: This is hardly the place to discuss the details of the Bill

Sir Cowasji Jehangir: I would ask Mr. Chambers to sit down; I am not giving way. I am coming to Mr. Chambers very soon.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member (Mr. Chambers) has raised a point of order that the Honourable Member (Sir Cowasji Jehangir) is discussing the provisions of the Bill in detail. I think he wanted to point out only certain general features of the Bill, but if he makes any attempt to discuss any of the provisions in detail, then the Chair will have to intervene.

Sir Cowasji Jehangir: I trust that the Honourable the Finance Member will keep that point in mind and see

The Honourable Sir Jeremy Raisman: Clause 5 shows that we were thinking of that.

Sir Cowasji Jehangir: I am very glad to hear that and I have full confidence in the Honourable the Finance Member, and I do trust that he will look into that point.

The next point I come to is the paying of double-tax on profits. I think that should be avoided under all circumstances, and no company, firm or individual should be made to pay double profit tax. I know in certain cases there are provisions in the Bill, but as a general principle, I would beg of the Finance Member to consider in the Select Committee that he sees to it that no company, no firm or individual is made to pay double profits tax. One gets his dividends, from a company that has paid profits tax, the dividends are calculated in the case of the individual in his own profits, do not let him have to pay profits tax again. That is a point worthy of consideration. I would beg of the Members of the Select Committee not to forget it.

Then, Sir, there is one more point in the Bill which requires the serious consideration of the Finance Member and of the House. There is a provision in the Bill, sub-clause (4) of clause 8 which we believe will hinder the transfer of business, especially in these times of war. There is a business the block account of which may be say ten lakhs. A man thinks it worth his while to buy it at 15 lakhs, paying five lakhs profit because he may be of the opinion that in these times greater prospects are before him. Under this clause that I have quoted no allowance is given to him for the extra five lakhs which he has paid. If the original owner had spent five lakhs in the expansion of his business, certain allowances would have been given to him, but if he sells it at five lakhs profit the buyer gets no allowance. It will have the effect of stopping a number of transactions or sales of business, which I do not think advisable either for this country or for the Government.

Mr. F. E. James: The buyer may be a mug.

The Honourable Sir Jeremy Raisman: He may be a crook.

Sir Cowasji Jehangir: I know what the Honourable the Finance Member is driving at. The seller may make fictitious sales. For instance if this clause disappears, I might sell a business to my own son at 20 lakhs. The capital block account may be ten lakhs and then I may claim allowance on the ten lakhs excess, but that would be criminal. It would be the work of a crook. Prevent that by all means. But do not stop *bona fide* sales.

* **Sir H. P. Mody** (Bombay Millowners' Association: Indian Commerce): Even crooks must live!

Sir Cowasji Jehangir: We all live. Now, Sir, I have complained that there has been a blind copy of the English Act, but where there was a provision which went to the advantage of the assessee, I see that it has been dropped from this Bill. In the English Act there is provision for special depreciation for the excessive wear and tear of machinery during the period of war. That is allowed in the English Act, but that has disappeared from this Bill. I would ask the Honourable the Finance Member to restore that in this Bill.

The Honourable Sir Jeremy Raisman: I know the history of that point.

Sir Cowasji Jehangir: Perhaps the Honourable Member would tell us what that history is, and tell us exactly how it is not suitable to India. We shall be prepared to take his opinion on this matter. I have been rather severe in attacking this Bill saying that it was a mere copy of the English Act, but where the English Act contains any provision in our favour, I see the Finance Department has been quite wide awake to drop it out.

I will now come to one or two general aspects of the case and before I do that, I think I had better refer to the classes of business which can never make war profits, such as Insurance companies, Cinema companies, etc. I would ask that these companies be exempted from the mischief of this Bill. So far as Life Insurance companies are concerned, it is quite evident from the experience of the last Great War that the only profit life insurance companies can make during War periods, is the normal increase of profits, which have been made for a series of years. There is not the remotest chance of profiteering, and it will be definitely inequitable to tax such a normal increase.

This Honourable House knows that during war time there is every chance of serious depreciation in the value of Government securities. The House also knows that the Insurance Act of 1938 requires 55 per cent. of the liabilities of a life insurance company to its policyholders in India to be kept invested in Government and other approved securities, which, if the experience of the last war is any indication, are likely to depreciate. In practice, however, life assurance companies in India have invested up to 60 per cent. of their total assets in Indian Government securities, and in Municipal, Port and Improvement Trust securities. Their experience,

therefore, is likely to be even worse than that of the companies established in the United Kingdom. These companies at any rate cannot, therefore, look forward to any abnormal profits as a result of the War.

Now, I should like to draw the attention of the Honourable the Finance Member to what I am going to say now because it will be very pertinent to the discussion of this Bill in the Select Committee. According to Schedule I in the case of Life Assurance business, the profits shall include all income received from investments, but it is not explicitly stated in Schedule II which contains the rules for computing the average amount of capital employed that as far as Life Assurance companies are concerned, the Life Assurance fund representing roughly the liability of the company to its policy-holders is to be included in the average amount of capital employed along with the paid up share capital. The peculiar nature of life assurance business has already been recognised by Government, and a special basis for assessing such companies to income-tax has been laid down. To deem, therefore, for the purposes of excess profits tax, the entire invested income of life assurance companies as profits without at the same time including the life assurance fund in the average amount of capital employed would be rightly unjust. I would, therefore, suggest that life assurance companies should be exempted from the operations of the proposed Excess Profits Tax Act, which would only mean that companies which can only make a normal profit should not fall within the mischief of this legislation.

Now, I will say a few words about Cinema companies. I do not think that due to the war, they can put up their rates of entrance, nor due to the war will the number of people who go to cinemas increase. At the same time there are a large number of companies who, I am told, are in a very bad way, and in order to improve their prospects, they ordered new machinery and they employed more skilled labour which have just begun to operate. Their capital cost has gone up with no prospects of much larger revenues. How is the war going to affect those cinema companies and why should half the benefit of expenditure incurred within the last two years and of better experienced men being employed in the business go to Government because they make larger profits than the standard period? I would ask the Finance Member to consider this case. Perhaps he will find an equitable way out with no injustice to such companies which have been struggling hard for existence and which have had many handicaps to contend with.

Now, I shall deal with some other aspects of the case with regard to this Bill. I presume Government will have to borrow money. If our expenditure is to be on so large a scale due to the war, borrowings will be inevitable. Has the Finance Member considered what effect this Bill will have on such borrowings? I would ask him and Government to consider as a broad policy the effect of this Bill on their borrowing powers. It may be that they will have curtailed those facilities which they may have for borrowing at the most urgent time. This Bill may be an easy way of getting some money, but it may create difficulties for getting much larger sums when the emergency arises and may even necessitate a higher rate of interest having to be paid by Government than they would have otherwise done.

Another point is the method of collecting this tax. The Income-tax Department is to be used as the machinery for collecting it. The

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remarks I have to make, I make with the greatest regret, and remarks such as these I have had no occasion to make during my life in this Assembly for the last ten or eleven years. I say without the slightest doubt in my mind that the administration of the Income-tax Department, at least in the Presidency of Bombay, since the amendment of the Act took place last year has been thoroughly demoralised. It has resulted in loss to Government and inconvenience and even harassment to the assessee. And this is the department that has to collect this important tax.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member may continue his speech after Lunch.

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

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

Sir Cowasji Jehangir: Sir, just before Lunch, I was touching on rather a delicate point which I would like to finish. I had said that the machinery provided in this Bill for collecting this tax will be the Income-tax Department, and I had said that so far as Bombay is concerned—I cannot speak with any first-hand knowledge of other parts of India—since the passing of the last amendment to the Income-tax Act, the department had become demoralised and this had resulted in inconvenience to the assessee and even harassment. In all the ten years that I have been a Member of this Honourable House, I have had nothing but praise for the Income-tax Department. I have never had occasion to draw the attention of the Honourable the Finance Member to the administration of that department

Mr. M. S. Aney: Others had!

Sir Cowasji Jehangir: Others had. But today it is really my painful duty to draw his pointed attention to the state of affairs that prevails in Bombay. If this tax is to be collected by that department, we want men of experience, men of capacity, above all men with a wide vision. We do not want the office-clerk mentality in the Income-tax Department. This office-clerk mentality must disappear both for the advantage of the assessee as well as of the Government. The assessee are thoroughly dissatisfied. Sober men, men who always were prepared to do justice to the department which had a very difficult task to perform now feel that this office-clerk mentality makes the officers grasping, merely desirous of collecting revenue, justly or unjustly. They seem to have forgotten that they are not only servants of Government but also servants of the public and that it is their duty in this important department to see that justice is not only done to Government but also to the assessee. Compare this department with the department in England. In England, the officer makes it his business and considers it his duty to assist the assessee and at the same time to see that the proper revenue is collected. There are men there at the head of the department, men of vision, men with a broad outlook. This office-clerk mentality must now disappear, and I would like the Honourable the Finance Member to give us an assurance that he

will see that this department is manned by men of capacity, men of ability and above all men with experience, who will regain the confidence of the vast number of assesseses all over India. If you gain the confidence of assesseses and make them believe that your officers are out to do justice, you will benefit Government much more than by making your department believe they are merely office clerks

Mr. N. M. Joshi: Mr. Deputy President, I rise to protest against the implied libel on the clerical profession. Clerks are as honest, as industrious and as public-spirited people as the officers of the department.

Mr. Deputy President (Mr. Akhil Chandra Datta): Is that a point of order?

Mr. N. M. Joshi: It is a point of order.

Mr. Deputy President (Mr. Akhil Chandra Datta): I do not think it is a point of order.

Sir Cowasji Jehangir: There was no intention of libelling a very excellent class of men who do great service to Government, and to private offices such as the clerks. But the vision of a clerk remains the vision of a clerk; the vision of an officer remains the vision of an officer; and if all clerks were capable of doing the work of officers, well, then, the I. C. S. examination must disappear. I have nothing further to say in this matter except to draw the pointed attention of my Honourable friend, the Finance Member, to something done lately which has created a very bad impression. The House will remember that a central section was brought into existence by the amendment of the Act. It was contended that the new central section had no jurisdiction over cases transferred to it from the wards. This was upheld by the High Court and Government lost their case. To set matters right, an Ordinance was immediately issued. To my recollection this is the first time an Ordinance has been issued in a financial matter of this kind. Although the Act gives power to Government to issue Ordinances even under these circumstances, I thought that Ordinances were meant for much more important matters. The upsetting of a High Court decision by an Ordinance is a matter so serious and has created so bad an impression, throughout Bombay at least, that I would like my Honourable friend, the Finance Member, to realise the position. I hope and trust that no Ordinance will be used with regard to this Bill when it becomes an Act. There are times and places where Ordinances are required in this country. The use of the Ordinance to which I referred was in the spirit unconstitutional. Legally it was right.

I have been told, and rightly perhaps, that I have taken up a great deal of time of this Honourable House; and although there are many points which ought to be brought to the attention of this House, I do not propose to do so. I will conclude by saying that the final few words of the Honourable the Finance Member have given us great encouragement, and I congratulate my friend, Mr. Bajoria, whom I do not see here now, for having coined a new phrase "Griggian temper". That day has gone. The final few words of the Finance Member assured us that he was out to do justice, that he was out to look into hard cases, and I feel confident that when this Bill comes back to this Honourable House, it will meet

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with a better reception than it has met with on its introduction. I cannot agree with my friend, Sir Homi Mody, that we should be frightened of certification, and that anything we say or ask must result in certification. Those days, I trust, have gone with the new Finance Member. We must forget the days of certification

Sir H. P. Mody: Get an assurance from him.

Sir Cowasji Jehangir: and that sweet reasonableness will be the order of the day. The days of 'I will punch you if you say a word' have gone

The Honourable Sir Jeremy Raisman: At that rate you would have got a lot of punches today!

Sir Cowasji Jehangir: There were honest criticisms, and I trust, as I have said before, the days of certification and the days of Ordinances, even under the present regime, however long it lasts, have gone, and that the days of sweet reasonableness, with a desire to meet the views of the Opposition—a characteristic of this Government until five or six years ago—with sincere attempts to meet the Opposition half way,—will again be revived, and that we shall not, during my friend's tenure of office, have budgets certified or Ordinances thrown at us or at the public. With the sincere desire and conviction that we shall work on financial matters in an atmosphere of help and co-operation, I conclude my remarks, trusting that this Bill will fulfil the objects which the Government have in view, namely, merely to share in war profits and to leave normal profits to men who sweat and work to obtain them.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, we have so far heard the views of the people who are engaged either in industries or who are capitalists, but we have now to look to the views of the general taxpayer of this country. We all know that the war has brought out at least one thing with which everybody is familiar and it is . . .

An Honourable Member: Sand-bags!

Sir Muhammad Yamin Khan: . . . that imports into this country are falling every day, and the income which we would have got from this source is also rapidly falling. Then we also know that the expenditure of the Government of India is going up every day, with the result that on the 29th of February we will be faced with a deficit budget. The result will be that the burden will fall on the general taxpayer. He is already suffering from various difficulties, particularly owing to the rise in prices of imported articles. Merchants who hold large stocks of imported goods are today making not only cent per cent. profit, but they are making sometimes 500 per cent. or even a thousand per cent. profit on the stocks they hold. I will give a few instances to convince the House. A medicine which cost say one rupee in July last was charged and sold for Rs. 40 in September at Simla. I knew a glaring case at Simla. A poor man was prescribed a medicine for his child which was dying, and he could not

purchase it because the price of the medicine had gone up from one rupee to Rs. 40, and this scandalous thing came to the notice of the public which created a sensation in Simla

Lieut.-Colonel M. A. Rahman (Nominated Non-Official): What is the name of that medicine?

Sir Muhammad Yamin Khan: I think some doctor will remember it; I remember only the case. I myself paid for a certain medicine Rs. 8 in August last, while I paid only Rs. 3 for it in the previous month. This is the manner in which people who hold stocks are treating the poor consumers. I shall give another instance to show how the poor people are affected by the war. Wheat was sold at 23 seers to the rupee in May last, and the people who had large stocks of this produce have been selling their stock at eight seers to the rupee. This has been hitting very hard the poor consumers of this country, and if the Government had not come to their rescue in time, the prices would have risen much higher. There was a tendency for the prices to rise from day to day until the Government intervened, but when they did actually intervene it was somewhat late. The Government do not move quickly in these matters because they have to depend upon the reports of their subordinate officers, reports which start from the Patwari go through various channels, and it naturally takes much time for the Government to take the necessary action to control the prices, because they have to consult, they have to appoint committees, and then only they can come to the help of the poor people. I will give another instance. Sugar which was sold at Rs. 8 per maund last year, being made out of the cane crop of last year, is now sold at Rs. 18-8-0 per maund. We have got in the neighbourhood of Delhi several sugar factories which produce large quantities of sugar, and that sugar was really made out of the cane of last year, and it is now being sold at Rs. 13-8-0 per maund. Thus these people are making something like 60 per cent. profit. Now, with these figures it is really shameful for anybody to come here and ask that industries should be encouraged, that subsidies and protection should be afforded to industries in this country. There is nobody here who would not like to help the development of indigenous industries so that they may be able to compete favourably with foreign industries: we shall all give our wholehearted support to a demand for help to indigenous industries but cannot be a party to help exploitation. The sugar manufacturers, when they found that Java sugar was not coming in, began to charge exorbitant rates in this country and nobody could have any sympathy with that sort of industrialist who wants a lot of money to go into his own pocket without parting with a part of it for the benefit of the State. Another instance. The Tatas were selling steel girders at Rs. 8 a maund and now their price since the war has risen in Delhi to something like between Rs. 11 and 12 a maund.

Sir H. P. Mody: Their fault or the middleman's? Whose fault is it?

Sir Muhammad Yamin Khan: Again, iron bars used to cost about Rs. 7 a maund and are now selling at Rs. 13 a maund. Still we have got people here getting up one after another and bewailing how their pockets would be affected if this duty were put on. Certainly the Government and the public must benefit and get a proper share from these robberies which

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are being committed. These are daylight robberies which are being committed through the connivance or on account of the sleepiness of the Government which allowed these things to continue in this country. What I am submitting is the view point of those who cannot shout a lot, who do not control the press, and who are not able to bring to the notice of those who are the real judges of their destinies. Only those have got a great voice in this country who can spend money, who can ask papers to write down their view points and shout everywhere. If these people have made excess profit there is no reason why they should be left out. At least the poor consumer must be saved so much that he may not have to bear an extra burden of new taxation in order to meet extra expenditure. If the consumer is saved this extra burden, if excess profit duty is not levied to meet those expenses, the result will be that the poor consumer will have to pay again. I think the reply to my Honourable friend, Sir Cowasji Jehangir, when he said, what are you going to do, it will affect the borrowing capacity of the Government if the Government taxes these excess profits—my reply to him is that the amount which the Government will collect in the shape of this excess profits duty will never have to be borrowed or paid interest upon from the pockets of the consumer, and this amount will be collected from those people who have shown no mercy to India or to the people of this country. I have heard two or three arguments. One argument advanced by Sir Abdul Halim Ghuznavi was, the agriculturist is losing, has not the price of cotton fallen on account of this? The reply which an intelligent man like my friend should have given to himself is, whose fault is it? The price of cotton has fallen but the price of manufactured cotton goods has gone up.

Sir H. P. Mody: Who says that?

Sir Muhammad Yamin Khan: The result is that the man who manufactures is gaining doubly. He pays less for the raw material and makes a lot of profit on the manufactured goods, he is doubly gaining. As the imports have been stopped, there is no competition and the manufacturer here wants to exploit the poor people by taking undue advantage of the circumstances, because the poor cotton grower cannot store cotton in his godown for a long time, he must come to the market and sell his cotton. This clique of the merchant class are not prepared to pay this duty. They say, look here, our industries will fail because nobody will come in to put his money into industry because you stop the 500 per cent. which we are making. That is a ridiculous argument. People will invest their money and have been investing their money in the expectation of a proper dividend in normal times and not based on abnormal times. The poor cotton grower has been hit very hard by those people who can dictate their own terms to him because other countries are not purchasing Indian cotton. My Honourable friend, Mr. Bajoria, says, supposing four partners have ordinarily an income of Rs. 30,000 a year during the last three years and this year it has gone up to Rs. 50,000, then out of this Rs. 20,000 the Government propose to take away Rs. 10,000. This they should not do, that is what he says, and that the Government should consider that the income of each individual is Rs. 12,500. That is his argument, but I

think these four partners, who combined together to get out of the pockets of other people all this money, should be made to give up half of the amount in order to save the poor people from further taxation. Mr. Krishna Kant Malaviya had a peculiar kind of objection to this Bill. He said that this Bill is intended to meet the extra expenditure which is involved on account of the war, and because the war was started by Great Britain without consulting India, therefore, India should not pay this excess profits duty. This argument appears to me to be too far fetched. The war was not started by Great Britain. Germany attacked Poland overnight and the Allies were forced to give them ultimatum that either they should stop the war or else the Allies will come in. This House took Great Britain to task for not intervening when tyrannies were committed in Abyssinia and China. They got the view of this country that they should not allow this sort of thing to go on and when Great Britain intervened on Germany attacking Poland, Great Britain was perfectly justified. Do the Honourable Members mean to say that Great Britain should have advertised in the papers and that they should have consulted the different bodies in this country and ascertained their opinions before they entered the war? To my mind such an argument can have no bearing on the question before us. Here are people who have made excess profits on account of the war. Whether the war was started with or without our consent is immaterial. Government is perfectly justified in asking for a good share of those profits in order to save the general taxpayer from further taxation which may or may not prove to be a necessity later on. I do not know what the budgetary position is going to be but any one with brain can see that the customs returns are falling and Government have no means of meeting the extra expenditure. We know that Government is spending more money now than they did last year. That being so, I thought that I should express here the viewpoint of the ordinary man in the street and of the ordinary consumer. At any rate in order to create a situation in which they may save themselves from this excess profits duty, the assesses will have to pay larger share in the shape of wages in their industrial concerns and they will incur more expenses rather than accumulate the whole wealth. I think the consumer will benefit and the workers will benefit. The workers will get living wages.

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): May I know if the money from the excess profits will be earmarked for the promotion of industries?

Sir Muhammad Yamin Khan: I do not know whether it will be so earmarked but I say that the money that has been taken out of the pockets of the general taxpayer should revert to the taxpayer. The Honourable Member is perfectly right in saying that this money should be used for the promotion of industries but it should be on national lines and not simply to enrich the pockets of a few selfish people who can shout the loudest. The viewpoint I have placed before the House is that of the ordinary man whom you pick up in the street, who has to pay all indirect taxes. Other speakers have expressed their points of view from different angles but the viewpoint I have expressed is that of men who cannot look after themselves. It is in their interest that I have spoken. With these words, I resume my seat.

Mr. N. M. Joshi: Mr. Deputy President, when the Honourable the Finance Member in explaining his Bill stated that one of the objects of this Bill was to promote social justice, I welcomed the statement as an indication of a change of angle of vision of the Government of India. I hope that this statement shows a genuine change in attitude of the Government of India towards the masses of people in this country and is not only a cover to hide their doubtful motives. I also hope that this change, if it is a genuine one, will be a permanent one and that their desire to do social justice will not evaporate with the passing of this Bill.

Sir, the taxation system of this country, as it is admitted by the Taxation Inquiry Committee, is iniquitous in its incidence. It falls upon poorer people, considering their ability to pay, more heavily than upon those who are better able to bear the burden of taxation. This Bill, if it is passed, will correct, to some extent at least, the iniquitous nature of the taxation system of this country. I, therefore, hope that this Excess Profits Tax will be made a permanent one.

Sir H. P. Mody: Don't incite the Finance Member.

Mr. N. M. Joshi: He does not require any incitement or provocation from me. I am in favour of this Bill.

I have listened very carefully to the arguments used by the critics of this measure. The main argument seems to be that if you take away a part of the excess profits from those people who are engaged in trade, commerce and industry, the development of new industries in this country will be retarded. As one who takes interest in labour matters I shall not do anything by which the development of industries in this country will be retarded. I know that the working classes of this country require employment and more employment; but, Sir, the critics of this Bill have not shown that if an excess profits tax is not levied, all the money that is saved will be invested for the development of new industries. In the first place, as we all know, if the men who are engaged in trade, commerce and industry get more money and excessive money it is quite natural that they and their children should spend at least a part of the money in luxuries. Sir, in modern times the means of spending away money in luxuries are growing. The money spent away in luxuries by the previous generation was not so large as at present. The means of enjoyment were not so plentiful and, lastly, the present generation of the industrialists and others engaged in trade and commerce are spending at least double the amount of money in luxuries, and their children will spend still more. Sir, there is no guarantee that the money which industrialists and the men engaged in trade and commerce will get by excessive profits will be spent in the development of industries. Moreover, Sir, we have also found by experience that the money obtained very easily as excessive profits has been spent in the past in speculation and speculative undertakings. Mr. Deputy President, you may have heard, when excessive profits were made in the last war, how new companies were started and poor people were induced to invest money in concerns which were supposed to be very lucrative. But soon afterwards the investors found that a share worth Rs. 10 became worth only Rs. 1.

Sir Cowasji Jehangir: You speak from experience?

Mr. N. M. Joshi: I speak from the experience of others—that is much better and safer. Sir, a portion of the excessive profits, I have absolutely no doubt in my mind, will be wasted in speculation and speculative undertakings. My Honourable friend, Dr. Banerjee, and some other Members also in their speeches had said that capital in this country is shy. It may be shy. But if people have lost their money in speculative undertakings, what other result do you expect but that the capital should be shy? Sir, if I had to advise a man who has to invest a small amount of money, say Rs. 10 or Rs. 100, well, I shall ask him to beware of speculators. It is quite natural that after the experience of a few years ago capital should be shy. People who have got some money to invest have no confidence in industrialists and in those who are engaged in trade and commerce.

An Honourable Member: And in Labour Leaders.

Mr. N. M. Joshi: Well, if confidence is to be produced in the hearts of the investors, it is better that the industry should make reasonable profits and those profits should be continued year after year rather than that the industry should make excessive profits which may come to an end at any time when the war ceases. I, therefore, feel, Sir, that, if capital is to be attracted to Indian industries, a reasonable rate of profit is enough. It should serve as a good stimulant, but if, because capital is shy, we try to give a stronger dose of the stimulant, well, it will go to the head, and especially go to the head of shy maidens. I have learnt from my neighbour a good deal. My Honourable friend, Sir Cowasji Jehangir, in his speech referred to Russia and he said I should go to Russia and study Russian conditions or something of the kind. As Russia and Moscow are not the spiritual homes of my Honourable friend, the Baronet from Bombay, I suppose his spiritual home is Germany and Berlin. May I, Mr. Deputy President, ask the Honourable the Baronet to study what has been done in Germany? Hitler, his Prophet, restricts the profits, and has done that for some years

Sir Cowasji Jehangir: My Prophet is the Honourable the Finance Member.

Mr. N. M. Joshi: to six per cent. He does not allow more than six per cent. profits to be made by any industrialist or other people engaged in trade and commerce in that country. The Government of India at least allow you to keep at least one-half of the excessive profits. I, therefore, feel that there is nothing wrong in the Government of India taking for public purposes a half of the excessive profits. If the industries in India, on account of the excessive profits, are forced to restrict their dividends to a reasonable rate, I think not only the public will gain by means of the excessive profits tax but even the industry will gain. Mr. Deputy President, I have already said that I am in favour of the development of industries in this country, and I am as keen if not keener for the development of the industries in this country than those who speak in the name of industry. Sir, some critics of this Bill may be interested in the development of industry for the sake of profits as an addition to their very large incomes, but I am interested in the development of industry as the only source of maintenance of the

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working classes of this country. I, therefore, feel that, although Government is entitled to take to themselves a part of the excessive profits, Government must do everything in their power to help the development of industries in this country. Sir, whether the Government develop the industries of this country or not will depend upon the use of the proceeds of this tax. If the proceeds of this excess profits tax is spent on various purposes of this war, I shall not be pleased. This war is claimed to be waged for the maintenance of the independence of the weaker nations and for the protection of democracy. Unfortunately, India has not got the independence to maintain and if we can judge from the present political situation in this country, there does not seem to be much likelihood of India having independence to be maintained within a short period. Similarly, there is not much democracy to be maintained or to be protected in India. I would, therefore, not like the proceeds of this tax to be spent on war purposes. As this excess profits tax is being imposed to promote social justice, I would suggest to the Government of India that the proceeds of the excess profits tax should be spent not only in maintaining the standard of life of the masses of the people in this country which may go down on account of the prices going up, but I would like the Government of India to spend that money in bettering their standard of life. I would suggest, therefore, to the Government of India that they should take all steps to see that the standard of life of the masses of people in this country does not go down but to see also that it goes up. This war is a great opportunity when the standard of life of the people of this country could go up, and it can go up if the Government is sympathetic and take all the necessary steps. I would suggest to the Government of India that this is a suitable occasion for them to introduce a system of social insurance, giving security of proper life and security of employment to the working classes of this country. I hope that the Government of India will use a portion of the proceeds of this tax for this purpose. May I also suggest to the Government of India that a portion of the money which they will obtain on account of this tax should be spent for the development of industry in this country. There is no proper balance between agriculture and manufacturing industry in this country. India wants greater industrialisation. I, therefore, feel that the Government of India will be using the proceeds of this tax very properly if they lend money to the industrialists for the development of industry or they themselves should undertake the development of the industry in this country. My fear is that the Government of India may not spend their money for the development of the industry in this country. In that case, they will be doing an injustice to this country. There is a war in Europe. And this war is a great opportunity for India to develop her industries. Unfortunately, the Government of India is following a wrong policy in their Supply Department on account of which there is no encouragement for the development of industry in this country. They are purchasing articles for people who are known as Allies, Great Britain and France, and even for neutrals at rates which do not enable this country to make the best of this war. I would like the Government of India to allow the people of this country to make the best of this war so that industries in this country will be developed and the excess profits tax will not be used as an instrument to discourage the development of industries in this country. If the Government of India

do not use their power for the development of industries in this country and do not also use a part of the proceeds of this tax for the development of the industries in this country, they will be doing not only an economic wrong to this country but also a political wrong. I, therefore, hope that the Government of India will use the proceeds of this tax, which in itself is a very right and just tax, in a proper manner in the interests of this country and in the interests of the industry in this country.

I expressed a hope at the beginning of my speech that this measure, which in itself is a right measure of taxation, should be made a permanent one. It is a measure which brings about to some extent a more equitable distribution of the burden of taxation among the various sections of the population in this country and it deserves to be put permanently on the Statute-book. Pressure is being exerted on the Honourable the Finance Member for giving on behalf of the Government of India a promise,—if he does not agree to put a provision in the Bill,—that the tax will be withdrawn after the war. Sir, I would like the present Finance Member to remember how his predecessor on account of the reckless promises made by the Government of India got into difficulties about the income-tax surcharge. I, therefore, warn him not to make any promises of that kind. This excess profits tax is a good tax and therefore no promise should be made that it will be withdrawn at the end of the war. If Government has to reduce taxation, there are many very inequitable, very wrong, taxes in this country which can be reduced and which can be removed. Therefore, I would not like the Government of India to make any promise that this tax will be withdrawn after the war.

I have great pleasure in supporting this Bill at this stage. When the budget will be introduced, we shall know how the Government of India will spend the money which is being given to them by means of this tax. My future attitude towards this Bill, when it goes to further stages, will be determined by what the Government do in their budget as regards the expenditure of the proceeds of this tax. Sir, I support this motion.

Maulvi Abdur Rasheed Chaudhury (Assam: Muhammadan): Mr. Deputy President, this is a measure which has created a commotion in the country. It has come so suddenly and so unexpectedly that it is working something like a bombshell. Never in recent years has any Government measure done so much harm to the country as the present measure has already done. Sir, the measure is not a new one. But the suddenness with which it has been brought has surprised many people and it has created panic in the country. If Government would have given out their intention at the proper time, then the country would have been prepared for it.

The Honourable Sir Muhammad Zafrullah Khan (Law Member): Would they have made no excess profits or would they have taken care to conceal the profits?

Maulvi Abdur Rasheed Chaudhury: Excess profits or no excess profits, I am speaking of facts. But as the Government did not notify their intention, there has been great discontent from one end of the country to the other. The result was that this had had effect. The share markets got paralysed; jute, tea and other markets felt this measure. Speculators.

[Maulvi Abdur Rasheed Chaudhury.]

middlemen and foreign purchasers took advantage and began to purchase in huge quantities at low prices. This has done great harm to the poor producers because they could not get proper price for their produce in the open market. In this way a great deal of money which should have remained in the country is going out. Chambers of Commerce, Trade Associations and other bodies are raising hue and cry. Similar measures introduced in other parts of the world have been opposed. Even in Ceylon a measure like this has been thrown out recently. But in this country this measure is going to be placed on the Statute-book.

The Honourable the Finance Member showed in his sympathetic speech the other day that this measure would not affect the poor at all. Certainly, as was expected, he has a soft corner for the poor. But whether the poor will actually be benefited by this measure remains to be seen. Of course, if it is beneficial in any way so much the better. We would thank the Honourable the Finance Member. But if we analyse the measure critically, we find that the poor producers will be hard hit. On account of the low prices, the speculators and foreign purchasers and others took advantage of the market and purchased a lot of their requirements during this period. Over and above this the Government Supply Department and other purchasers for foreign countries have been making advance contracts for these commodities, six months or one year ahead. The result is that the poor producer cannot get good price for his commodities. The contractors would say "we are not having higher prices in the near future and so we cannot increase the price for your commodities". The poor producer, as I have said cannot make arrangements for storing his stock and he will have to sell his commodities at the price dictated by the Supply Department and other foreign purchasers. So, Sir, the poor has not been left untouched by this measure.

Now, let us see what is the condition of the rich. The Honourable the Finance Member said that he has calculated, probably rightly, that about 5,000 assesses will be affected by this Excess Profits Bill. I admit that he may be correct. I submit these 5,000 people are the brain of the country on whom depends the development of the country. The country looks to them to develop the country with the resources and financial backing at their disposal. If the rich are taxed abnormally the country will look at this measure with some amount of suspicion. Let us see how much these 5,000 people will have to pay. The Honourable the Finance Member wants these 5,000 assesses to pay Government at least 50 per cent. of their profits in this period of war. Let us calculate how much they are paying now. They pay income-tax, super-tax and they will be paying Excess Profits Tax and, in my part of the country, namely, Assam, they are paying tax on agricultural incomes. Supposing a man earns two lakhs profit. First of all one lakh will be taken by the Government as Excess Profits Tax. Then, out of the remaining one lakh, the assessee will have to pay super-tax, something like ten per cent. under the existing rate. If the enhanced rate which is contemplated for income-tax and super-tax is taken into consideration, it will come to about 75 per cent. out of two lakhs as calculated by my Honourable friend, Babu Baijnath Bajoria. The Government will thus take away about $1\frac{1}{2}$ lakhs and only 50 thousand will be left for the man. For India, I should say this 50,000 is not a very small amount and at the same time it is not much. The first thing to be considered is what right have the Government to take up

75 per cent. of the profits of the assessee. In the case of Assam it will be more because we have to pay agricultural income-tax. In the case of Assam it may be about 80 per cent. One has to part with 80 per cent. of the profits to Government who are thus made the bigger partner in the business. If Government had helped in any way to make those profits that would be something but we find no sign of that.

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

How will this action of Government in taking 80 per cent. of the profits affect the taxpayers? These 5,000 people are the shrewdest people in the country and this will not be an encouragement to them for investment. People invest money to get something in return but the assessee will think ten times before investing money in a business, 80 per cent. of the profits of which will be taken by Government. The result will be that trade and industry will suffer and money will be diverted to Government securities and loans, this raising the credit of Government. They will, of course, get money out of this tax but money is not their main object. The real object is to divert money from trade and industry to Government securities and loans to help in the prosecution of the war. Thus, they kill two birds with one stone. We remember after the last war people started different industries which failed for want of experience. This time they have experience but their resources are going to be curtailed. So this Bill has to be looked at with an eye of suspicion.

Coming now to the Bill itself, it is strange that in the Statement of Objects and Reasons, no facts and figures are given to justify the introduction of this Bill, as is usually done in the other Bills like the last Income-tax Bill. However, it has been introduced and we have to take it. There is a motion for circulation in the name of my Honourable friend, Dr. Banerjea, but, in my opinion, there is no good circulating it and the Select Committee motion is sure to go through. Whatever we may say now is only to influence the Select Committee so that we may get a little relief here and there. I will, therefore, urge a few points for the consideration of the Select Committee although many of them have been mentioned by previous speakers also, for the sake of emphasis. In the Statement of Objects and Reasons reference is made to increased expenditure by Government on defence and other services. We do not raise the question of defence now in view of the war but we have a good deal to say about the services. Before this taxation measure was introduced did Government try to effect economies by cutting the high salaries of officers?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member should not go into that now. This is not the occasion for it.

Maulvi Abdur Rasheed Chaudhury: In the Statement of Objects and Reasons there are many anomalies, many of which have been explained by previous speakers.

Mr. President (The Honourable Sir Abdur Rahim): Then the Honourable Member need not repeat them.

Maulvi Abdur Rasheed Chaudhury: No, but I will emphasise them because the Select Committee will have to come to a finding. First of all,

[Maulvi Abdur Rasheed Chaudhury.]

with reference to standard profit, I fail to see why standard profit is taken to be the profit of the years 1936, 1937 and 1938 and not 1939 or 1940.

In the Statement of Objects and Reasons it has been distinctly said that Government want to take a considerable portion of the extra income that will be made by business concerns during the period of the war, We have nothing to say about that. Let Government take it, if any extra income is made. But why should the year 1936 be taken? It was a depression year. Depression began in 1929 and went on till 1936. If 1936 is taken for standard profits, it will be very hard. Take a concern whose normal profit is 50,000 rupees but which made, during that depression year, only 20,000 rupees. If 1936 is taken as the standard year for calculating profit, then that concern will be a great loser. The profit of 1939 will be compared with the profit of 1936. The Select Committee should see that no injustice is done in this matter. I say it will be injustice even if 1938 is taken. The just thing will be to take the profit of 1940 and not even 1939.

Then the standard profit is going to be calculated differently for different concerns. Take a concern started in 1936. The profit will be calculated by taking the capital invested in it. That is unjust. In order to bring any profit not only capital is required but many other things in addition. That is another point for the Select Committee to consider.

There is also a provision that if anybody has any complaint he can appeal to a board of referees. But we have got experience of how expensive it is to bring anything to the notice of a board or even of a High Court

Mr. President (The Honourable Sir Abdur Rahim): That is a matter for the Select Committee to consider. Those are all details.

Maulvi Abdur Rasheed Chaudhury: Therefore, the less opportunities are given to go to the board of referees the better. The Select Committee will be doing a service to the country if they look at things in such a way as to give relief in all these matters.

Another point on which none of the previous speakers has laid stress is as regards this limit of excess profits mentioned in this Bill. When the Act of 1919 was introduced the minimum was fixed at Rs. 30,000. Now the minimum is fixed at Rs. 20,000. I would request the Select Committee to see if they cannot go back to the former level and make it Rs. 30,000 this time also.

One thing more and I have done. So far as the composition of the Select Committee is concerned, I would request the Honourable the Finance Member to take one or two more business men on the Committee. We have one or two, but I would like one or two more to be taken and they will be of considerable help to the Honourable the Finance Member, during the Select Committee discussions. With these words, Sir, I support the motion.

The Honourable Sir Muhammad Zafrullah Khan: Sir, from the number of Honourable Members who appear to be anxious to speak on this matter,

it is fairly certain that this debate cannot possibly be concluded this afternoon. On the other hand there is this difficulty, that the Select Committee when it is set up will have to meet during the Session, naturally, as it has to report during the Session, and will, therefore, have to find odd days and half days for its sittings; and everybody realises that this is not a matter which can be disposed of in Select Committee in half a sitting. Therefore, it is necessary that some means should be adopted to conclude this motion fairly early, and I would suggest one of two arrangements, whichever appeals more to Honourable Members—either that the House should sit late today till the debate is concluded, or if that is considered unlikely,—personally I consider that it would be unlikely—I think that the number of Honourable Members is such that it will not be possible to finish the debate by a late sitting—there should be a sitting tomorrow.

Honourable Members: No, no.

The Honourable Sir Muhammad Zafrullah Khan: Unless Honourable Members are prepared to sit late this evening, I would request that you fix tomorrow for a sitting as an official day.

Honourable Members: Monday.

Mr. M. A. Jinnah: Sir, I have tried to ascertain the views of various Members of this House and I am very glad that the Leader of the House considers that his first proposal is not a practical one, namely, to sit up late till we have finished the motion today. We need not trouble about that. The only other point is whether we should sit on Saturday or Monday

The Honourable Sir Muhammad Zafrullah Khan: We are sitting on Monday in any case.

Mr. M. A. Jinnah: I mean on this motion. We are sitting on Monday and we can go on with this motion on Monday. The question, therefore, is Saturday or Monday. I have tried to ascertain the views of Honourable Members on this side, and it is impossible to sit on Saturday, because there are various reasons: they have made their engagements and commitments and so on and really I cannot understand why the Government seem to think that this Bill should be rushed through like this. Is this House entirely at the mercy of the Government that they should lay down the time table that we should not have full discussion on a Bill of this importance?

The Honourable Sir Muhammad Zafrullah Khan: I never hinted that there should not be full discussion.

Mr. M. A. Jinnah: I quite understand that Government are anxious that this Bill should go through as quickly as possible. The real business commences in the Select Committee and that will begin after the budgetary position is exposed and that will not be until the beginning of March. The real business of the Select Committee will begin then. I quite agree that we should not be a party to undue delay. Remember that if the House had been full, this Bill would have been debated for two or three days more

The Honourable Sir Muhammad Zafrullah Khan: In that case the Session would have begun earlier by a week.

Mr. M. A. Jinnah: Who asked the Government to cut it down? Therefore, I do think that we cannot go on. I personally am quite willing to sit tomorrow. That is speaking for myself. You must, however, consult the convenience of other people.

Mr. M. S. Aney: Sir, the same difficulty confronts me also. So far as personal convenience is concerned, one would not have minded it and would forego that convenience. But in view of the engagements made by other Members which they have to observe tomorrow, I cannot accept the suggestion made by the Honourable the Leader of the House that the House should sit tomorrow. Sitting late today, that is also impracticable. Therefore, the only course left is to proceed with this Bill not tomorrow but on Monday next.

Mr. President (The Honourable Sir Abdur Rahim): What strikes me is this. That if the Select Committee has to finish its work by the time mentioned in the Bill, then I take it that the debate on this motion must be concluded in proper time. But I have also to consider the convenience of the Members of the House generally. As the Leaders of two Groups think that it will not be convenient for them to sit tomorrow, all that I can say is this. I am prepared to sit a little bit late today and then on Monday I think Honourable Members might try to conclude the debate as soon as possible. If that meets with the wishes of the House, I am prepared to sit till six of the clock today.

Mr. M. A. Jinnah: On Monday I can say that this motion must be disposed of finally. There will be no question of going beyond Monday.

Mr. President (The Honourable Sir Abdur Rahim): I do not know whether it will suit Government Benches to sit late today.

The Honourable Sir Muhammad Zafrullah Khan: If Honourable Members find it inconvenient to sit tomorrow, I shall not insist upon a sitting. The trouble always is that towards the end of the Session one begins to be pressed with requests that this measure should be given up or that Bill should not be taken up and so on and that the Session should be concluded. I was only making the suggestion for the convenience of everybody. But if it does not suit the House, I am not going to press it.

Mr. President (The Honourable Sir Abdur Rahim): Then Honourable Members do not consider it necessary that the House should sit late today. The debate will now go on as usual.

Sir Syed Raza Ali (Cities of United Provinces: Muhammadan Urban): Sir, there are two outstanding features which would occur to everybody in connection with this Bill. The first point is: have the Government satisfied the House that they want money? That is question No. 1. The second question is, is the method of taxation proposed in the Bill free from objection? Sir, to me it seems that the first question that I have mentioned is at least as important as the second question.

Mr. M. S. Aney: The first is more important.

Sir Syed Raza Ali: As my Honourable friend interjects, the first is even more important than the second because if the Government have failed to make out a case that they want money, there is no reason why fresh taxation should be levied and why the provisions of this Bill should be carefully considered at all. Now, let us see on the first question what is the Government's case. The Government's case is unfolded in the statement of objects and reasons. It says:

"The outbreak of war, while it has necessitated greatly increased expenditure by the Government on defence and other services, has simultaneously created opportunities for the earning by companies and persons engaged in business of abnormally large profits".

The only other reference to this matter that I find in the speech of the Honourable the Finance Member made the other day was the very casual manner in which he referred to additional expenditure on defence that was necessary. Sir, that is all. We know nothing else. Can the Government say fairly and squarely in the House that they have made out a case in favour of the levy of fresh taxation? I submit, Sir, it will not be difficult, so far as I can see, for any Honourable Member of the House on this material to say, 'no, the Government have not made out any case and, therefore, it is not even necessary to send this Bill to the Select Committee'.

Now, Sir, let us see what the position is. It is a most important measure we have before us. We know that this unfortunate war is raging in Europe. We also know that England is one of the belligerents on the side of the Allies. Beyond this, we know nothing which would justify us in voting money and passing this special measure to enable the Government to raise vast sums of money. What is the Government's case? Unlike the position obtaining in the Dominions like Canada, Australia, and South Africa, the unfortunate position is that this House is not responsible for the defence policy of the Government. It is very fortunate that the Government have come out with this statement, namely, "we want additional money for defence and other services". On defence questions we are not consulted, our votes are not taken. The money earmarked for defence purposes is spent without our advice being sought. That is the position. Fortunately for us this measure has come to us. Government say that they want this money for war purposes. So far so good. But what are your war purposes, please? What do you want this money for? What is going to be your policy? The first question that I will put is, what is going to be India's policy towards this war? The least that Honourable Members of this House expect is for the Commander-in-Chief, who though not a Member of this House has the right to address the House or for the Defence Secretary, Mr. Ogilvie—I notice he is also not present here—to address the House on the requirements of war, which India is expected to undertake. That is the least we expect. They ought to throw some light on their requirements. Now, I have to ask the Honourable the Finance Member one question, because there is nobody else present to answer it.

May I ask the Honourable the Finance Member why he wants this money and on what object he proposes to spend it? Everything is left

[Sir Syed Raza Ali.]

to a guess. Honourable Members are required to make a guess for themselves as to why the Government want this money. Not a word specifically and definitely is told us as to what the requirements of the Government are. If we are left to guess, I can guess surely that more money in all likelihood will be required for feeding and clothing the army. I believe that every one of us can make that guess as well as the Finance Member can or the Commander-in-Chief can or the Defence Secretary can, but, besides that, do we know anything as to what the objects are on which this money is going to be spent? And if we know nothing, why should we give the money? Is there any point in voting this money to Government? I see absolutely none. There are a number of policies one of which the Government of India can adopt with reference to India's attitude towards the war. We know within the British Commonwealth of Nations there are three different sets of policies that are being pursued by various units of the Commonwealth. I am not expressing any opinion at this stage as to what policy will suit us, but I am just describing the various policies that have been adopted by the different units of the British Commonwealth of Nations. First, there is the policy that has been adopted by Eire, that is, Ireland, namely, neutrality. Ireland is not a belligerent at all.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member should not go into all that. All that has no relevance to the motion before the House.

Sir Syed Raza Ali: Sir, I thought that it was relevant to the question, why should we give money?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can say that the objects are not stated and, therefore, he is not going to vote the money. But he cannot discuss the merits of the war now.

Sir Syed Raza Ali: That is what I am doing. We are not at all satisfied why we should give this money. What do the Government propose to do? What are the Government's requirements? What will the Government do with this money? Are they going to invest it in America? I am sure no case has been made out by Government for the incurring of additional expenditure. In fact, I do not think the Government have treated the House with that courtesy which is its due. Why should we not be told? I have not reached the second point, because, unless Government have made out a case for this money being given to them, why should we consider the second point? The second point does not arise, unless the House is satisfied on the first.

Mr. N. M. Joshi: Social justice.

Sir Syed Raza Ali: I will say a few words on the second question too, now that I am addressing the House, but to me it seems that the procedure that has been adopted, by Government is a strange procedure. It reminds me of putting the cart before the horse, but this is much worse than that. They say, they want money, but they do not make out a case. And,

yet unfortunately, almost every Member, if my Honourable Colleagues will allow me to say so,—almost every Member has assumed that the Government want money. Why should that assumption be made? Where is the point in that assumption? After all, they ought to prove their case. Before I leave this point and come to the second, I allow myself to make one observation and it is this. Since the defence policy of this country is not in the hands of the representatives of the people, therefore, it is all the more the duty of the Government not to act in a manner which will go to make the position worse and confirm the doubts and suspicions that sometimes—indeed more than sometimes—occur to the minds of the representatives of the people with reference to the defence policy of the Government of India. The position is that here we can exercise some control on the defence policy of the Government of India by not taking action on this Bill unless we are satisfied as to what the money is wanted for and I think we will be using our power in a perfectly constitutional manner by refusing to proceed with this Bill unless assurances are forthcoming on that point. That is the constitutional position. If this debate is going to be adjourned, after some time, and if it is going to be resumed on Monday, I think the defence authorities, whether it be His Excellency the Commander-in-Chief or the Defence Secretary, owe it to this House to come here on Monday and make out a case for additional expenditure without disclosing their detailed plans about which we do not want to make enquiries. But they should satisfy us generally that the money if voted will be spent to good purpose. I have not the least doubt that this is what the defence authorities owe to us.

I come to the second point, namely, the matter of taxation and I will say a very few words on that question. I am neither a capitalist
 4 P.M. nor an industrialist and there is absolutely no danger of my name being included among the list of 5,000 and odd people who are going to be taxed if this measure is placed on the Statute-book. Let us analyse briefly

Sir Cowasji Jehangir: Have you got any shares in any company?

Sir Syed Raza Ali: Let us analyse the arguments on both sides.

Sir Muhammad Yamin Khan: What about your shares, dividends on your shares?

Sir Syed Raza Ali: Any more interruptions? I am waiting for more. I will now resume. The main argument in favour of the Bill, if we are assured on the first point which I consider is very, very important and on which we have been unceremoniously treated is that money should be raised by putting the burden on those shoulders that are most able to bear it. Whether that canon applies to the provisions of the Bill under discussion every Member can see for himself. Now, this much is clear that nobody will be affected by the provisions of this Bill whose income is less than Rs. 20,000 a year, and I believe Rs. 20,000 a year is rather a large sum for a poor unfortunate country like India.

Sir H. P. Mody: This is mostly for companies.

Sir Syed Raza Ali: Yes, that is so. It is for companies, but how many of these 5,000 proposed assesseees will be individuals, and not companies, in receipt of income exceeding Rs. 20,000 a year? Very few, therefore, most of those in receipt of incomes more than Rs. 20,000 a year will be companies. What is the grievance? That is the point. Sir, the tendency all over the world is to tax the rich more and more. I believe the rich are taxed the least perhaps in India. If you take most of the countries of Europe, you find that there are very heavy burdens on the rich. Even so, I do not think we should be unfair to the rich, though the rich are as a rule unfair to the poor in this country. If they have any legitimate grievance under the provisions of the Bill, there is no reason why those provisions should not be modified and improved upon. I believe that the points that have been raised in favour of the industrialists are (1) that industries will have a tendency to be driven to Indian States in order to escape taxation, (2) that there will hardly be sufficient money left after the payment of the Excess Profits Tax to be devoted to the development and growth of industries, (3) that these companies and these industrialists will not be able to build up large reserve funds to meet the requirements after the war. Every big war is followed by a slump. That is quite true. The argument is that after the war when the slump comes and if there are no large reserves left most of these companies will come to grief, (4) the last point is that the rate of taxation is very high and that the minimum amount of Rs. 20,000 should be raised to Rs. 25,000 or 30,000. Now, all these four are substantial points and I am sure that if the Bill goes to the Select Committee all these points and other important points, to which reference has been made in the course of the debate by various speakers, will have to be carefully considered in the Select Committee. So far as the principle of the Bill is concerned, let me say it clearly, that if Government want money for a purpose which commands our support, I, personally, have no objection to the principle underlying the Bill. When I say that I do not mean that I am prepared to swallow the Bill, lock, stock and barrel as it stands. It can be improved and considerably improved but I do not see any objection to the principle underlying the Bill which is to tax the rich so that the burden should not fall on the shoulders of the poor or those who can pay additional taxation only with very great inconvenience to themselves and their families. In India, as in every other country, it is a case of the fight being between the haves and have-nots. In this case the have-nots have escaped for the time being but the haves insist on having what they have, which is not the right thing to do. After all, in every country the rich are being taxed. I do not think that my mentioning the case of Germany is likely to give a fright to any section of the House. I believe that in Germany rich men of the position of those who are sought to be taxed by this Bill have to pay taxes up to a limit of 80 per cent. of their income. It used to be 50 per cent. three years ago and now it appears to have gone up. Germany is now in the thick of the fight. Fortunately we are not.

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Do you want to imitate Germany?

Sir Syed Raza Ali: Certainly in the matter of discipline, organisation, education and hard work. In these matters I want to imitate Germany and I want all my countrymen to follow Germany. Let us not take

fright at the mere mention of the name of Germany and Germans. That is not the right attitude to take up. In England itself people are paying more than we do here. England is in the thick of the fight. We are not. I do not know what our position towards the war is. You think, Sir, that discussion on that point cannot come within the four corners of the present Bill. If that is so, I must refrain from making further remarks. My object was simply this. I do not understand what India's position towards the war is. Are we at war in the same sense in which Canada is?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has said that already.

Sir Syed Raza Ali: I shall not dwell on that further. Speaking for myself my position is this. If the Government fail to satisfy us on the question that they want this money for a legitimate war purpose, I am not prepared to support this measure at all. If they give us assurances on that point, then my vote would be in favour of this motion going to the Select Committee.

Rai Bahadur Seth Bhagchand Soni (Ajmer-Merwara: General): Sir, a Bill of this nature cannot simply be judged by the fact that Government need money for war finances on the one hand and by the taxpayers feeling that after so many lean years they would prefer not to pay a high tax as proposed in the Bill under debate on the other. Assuming that a tax on abnormal profits arising from possibilities created by war is reasonably to be expected, I would like to elucidate now its main economic implications and gauge whether its introduction is a timely one. Combining the aspects of financial needs of Government during a war and the possibilities arising out of actual economic events, I strongly feel that the business structure of the country should recover and get consolidated first before an excess profit tax is applied. A retrospect of the business ups and downs in India, the so-called trade cycles, reveals at a glance that industry and commerce in this country perhaps more than elsewhere lives on the reserves created during boom periods. Business conditions in India are really most unstable owing to a number of causes too lengthy to enumerate now. This consideration applies in general, but in particular it deserves notice that, whatsoever options are availed under clause 6(2), the new tax will always hit the weaker industries. Industries having had a sort of boom since the armaments have commenced in Europe, say, from 1936 onwards, will pay less in proportion than industries having gone through a crisis during the years immediately preceding the war. This is true apart from the fact that the former industries built up reserves prior to the war when the latter ones were living on reserves. The Statement of Objects and Reasons of this Bill states that:

"The outbreak of the war has created opportunities for the earning of abnormally large profits."

I venture to point out that these abnormally large profits are being earned mainly by the primary producers and not "by companies and persons engaged in business." As regards agricultural income, the Honourable the Finance Member as well as the Economic Adviser to the Government of India have clearly stated in their broadcast speeches that it is not intended to curtail the rising income of the ryots. In any case,

[Raj Bahadur Seth Bhagchand Soni.]

this is outside the scope of the Bill. Apart from professional income, these abnormal large profits refer undoubtedly to industry and commerce.

It is, I believe, known to all Honourable Members that the rise of the prices of raw materials in the course of this war is far greater than the increase of the price level of manufactured goods. In other words, there is practically no manufacturing profit at present in case of most of the industries.

It is true that industries as well as merchants made some profit on their initial stocks after the outbreak of the war, but they had to be replaced very soon by new and large stocks at a much higher price level since no business man ventures to carry on during a war without ample stocks. Consequently the losses on the high-priced large stocks at the end of the war will be most certainly greater than the windfall profits made at the initial stages of the war.

My words should not be interpreted as stating that there will be no war profits at all: on the contrary, as it appears, this war may last for many years before achieving victory. I am sure that in the course of these years excess profits will be made, considerable reserves will be built up, and the business structure of the country will consolidate itself. Then, according to my humble opinion, will the time come to tax excess profits. Now, I think Government should take advantage of the low interest rates still prevailing and finance war expenditure by loans which in later years can partly be repaid by charging a tax on excess profits when such profits will have come into being.

It is evident that the sensitive markets of India have already reacted to this tax proposal and, instead of abnormal profits, abnormal losses have recently been made.

With all my appreciation of Government trying to balance the Budget, I do believe that it would be wiser to give a chance to the business structure of India to consolidate itself first and to make profits out of which special war taxes will be easily paid. The recent collapse of all markets should serve as a warning.

Mr. N. M. Dumasia (Nominated Non-Official): Mr. President, in every age and in every country taxation proposals are always viewed with disfavour, and if this Bill has evoked protests from industrial and commercial classes and given rise to agitation, that is only human. We are living in abnormal times. We have to concentrate our attention on the defence of the country which involves heavy expenditure. In this connection, we should not forget that His Majesty's Government have recently made a magnificent gift of thirty-three crores of rupees to India and further given a loan of eleven and a half crores of rupees without interest in order to equip India for her defence. His Majesty's Government have thus done their duty towards India in a handsome manner at an appropriate moment and India has now to do her duty and to organise her defence in an effective manner, for nobody knows what may happen tomorrow. It is, therefore, right and proper that India should adequately maintain her defence. We cannot, therefore, either in logic or equity object to the Government of India imposing a reasonable tax in the way of an Excess Profits Tax to recover from those who are benefiting by this war a contribution towards expenditure on the defence of the country.

That tax should not be oppressive or unfair. It must be remembered that this boom will not be everlasting. Depression may follow, a long period of slump may ensue, wiping out much of the gain made during the war. An opportunity must, therefore, be given to industrial concerns to husband their resources. As it is the duty of the Government to equip the country for defence, it is also their duty to protect industries and help to develop them to the fullest extent and I hope the Honourable the Finance Member will give sympathetic and favourable consideration to the criticisms that have been offered on the floor of this House as well as outside it. It is complained that Government have not placed the Members in possession of all details connected with the defence, but no Government can divulge the plan of defence. It would be highly injudicious and exceedingly indiscreet to reveal plans of defence, but the great military activities that we see all around in the country are apparent to everybody and these measures of defence must entail considerable expenditure. Nobody would or should grudge outlay.

The complicated Bill seems capable of improvement in several directions and it is satisfactory to note that the Honourable the Finance Member is alive to the fact that some of the details of the measure might be found imperfect and inappropriate to the conditions of India. We welcome his assurance that he is ready and indeed anxious to give full consideration to all points of view in the Select Committee. I hope that he will give full weight to the opinions and protests of the commercial and industrial communities of India. Many of the industrial concerns have hardly recovered from the long spell of depression and if they are to do service in the war, they should be fostered and encouraged by the Government. I would request the Honourable the Minister in charge of the Bill not to discount opinion which is fully and justly expressed. I would request him to accommodate his Bill to such an extent as will meet legitimate objections. I would like to suggest that the year 1938-39 should be taken as a period of standard profit because the years of 1935 and 1936 were not years of prosperity but of definite depression and it would be unfair to regard them as years of standard profit. These years should be eliminated and the years of 1937-38 and 1938-39 should be substituted, with the right of option to the assessee to choose either of these years.

Sir, I further suggest that the chargeable accounting period should commence from the date of the outbreak of the war. It is but fair that profits made after the outbreak of the war should be subjected to Excess Profits Tax, and not profits made prior thereto. This would be in consonance with the professed object of the Bill. There is a further reason for this, inasmuch as on account of the outbreak of the war it is difficult for industries to obtain raw materials such as chemicals, bleaching powder, colour, etc. I need not dilate upon the other details of the Bill, as the Select Committee will give due attention to the several representations made by commerce and industry for modifying the existing provisions of the Bill. What India wants today is the co-operation of all classes and communities in organising the defence of India. I appeal to the Honourable Members of this House to extend their co-operation to the Government in this hour of emergency. Non-co-operation is not in the interest of the country. If we reject this Bill, as Sir H. P. Mody has said, the Government will have to certify it and I agree with Sir H. P. Mody that we should avoid that contingency.

[Mr. N. M. Dumasia.]

The defence of India is the real and vital need of the hour and it is the sacred duty of every patriotic Indian to help effectively in organising the defence of our motherland. Equally, it is the duty of the Government to nurse the natural growth of the industries of India. With all the earnestness at my command, I appeal to the Honourable the Finance Member to respect public opinion and to see that the Bill is shorn of all its objectionable features in the Select Committee. This is the first important financial measure introduced by him and I hope he will bring into full play his financial acumen which, when serving to help India to organise her defence, will satisfy the just demands of the commercial and industrial world of India. If he succeeds in securing essential modifications, I am sure he will obtain the co-operation and goodwill of every patriotic Indian in organising the defence of India and prosecuting the war to a successful end. With these remarks I support the motion for reference of the Bill to the Select Committee.

Mr. Lalchand Navarai (Sind: Non-Muhammadian Rural): Sir, I rise not to support the motion for Select Committee. This is a very important Bill from the point of view of the public though the Government want to hurry it up. I hold in my hands several telegrams and representations from the public asking that the Bill should not be hurried through and that they should be given an opportunity to express their views. They maintain that this Bill operates very hard and it should be refused. It has been said in the discussion that if the Bill is rejected by the House, it will be certified. I, for one, would not care for that. Let it be certified. Those who wish that this Bill should not be certified seem to have some object of their own in it. Perhaps they think that if this Bill is not certified, they might ask for some concession for themselves. I am not one of those who would like to follow such ways which are not straight.

An Honourable Member: What do you mean by "public"?

Mr. Lalchand Navarai: By "public" I mean except those who have not listened to the public voice and have come here to support this Bill. So far as I am concerned, my constituency has put into my hands material to show that this Bill will work very hard on them and, therefore, it should not be referred to the Select Committee.

Now, Sir, the motion before the House is not only that the Bill be referred to the Select Committee but that there is a motion for its circulation and not many Members have addressed themselves on it. What I submit is that they should have given full consideration to that matter also. They ought to consult the public opinion first before coming to any conclusion. After all, this is a Bill for imposing a heavy tax and I still maintain that the Government should agree and the House should also agree to send it for eliciting public opinion on it. Now, there is a very strong point in favour of its circulation, namely, that it was given to the Members only a few days ago. In evidence of that fact, I might mention that one Member was not even supplied with a copy of the Bill. That only goes to show that an important Bill of this nature has come before the House without giving to the public the idea of that Bill by publishing it earlier. Now, Sir, that is not the only reason. An important Bill like this should not be considered by a House which is so thin now. It would

have been more graceful and more courteous on the part of the Government not to have brought this Bill at this moment. I know the Government would say that it is no fault of theirs if the Congress people do not come to the House at present. But the Government know that they have a reason for absenting themselves at the present moment. If Government were wise, then they should have had some regard for the public and their representatives in this country. We know that talks are actually going on between the Leaders of the Congress Party and the Government . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member need not go into that matter. It is not relevant to the motion before the House.

Mr. Lalchand Navalrai: May I request the Chair to hear me. I am only submitting

Mr. President (The Honourable Sir Abdur Rahim): I have heard the Honourable Member. He is referring to certain negotiations which are supposed to be going on between the Government and the Leaders of Parties. That is not relevant to the Bill before the House.

Mr. Lalchand Navalrai: I only say that that is all the more reason for circulating the Bill. It is just possible that they may come to certain terms and then we will have the Congress Members in the House and then the Bill can be considered fully. I am arguing on that point. I do not care whether they agree or not amongst themselves. That is a different question. My point is that that is also one of the reasons for not hurrying the Bill but for its circulation.

Then, Sir, another reason which has to be considered is this. There is a great cry in the country that this measure should not be hurried through in the manner it is proposed to be done. Of course, there will be a few chosen Members of this House in the Select Committee, but they will be very few in number. Why should not the Government elicit the opinion of the people affected by this measure? Therefore, I think this is another reason why Government should accept the proposition for circulation.

Again, ever since this Bill has been taken up, from the very first day we have been inundated with telegrams and representations; the Government have also received several representations from the various commercial bodies and others affected by this Bill. That shows the strong feeling that exists against a measure of this character and it is only fit and proper that Government should respect the public feeling outside. Sir, I have also received several telegrams and representations. I have got a telegram from my own constituency, the Buyers and Shippers Chamber of Karachi. This is an established Association and it has sent me a telegram, and I have no doubt it has also sent a similar telegram to the Honourable the Finance Member. It says that this Bill should be placed before the country after the Budgetary position of the Government is made known to the public and after the public has had an opportunity to scrutinise it. I think it is a very reasonable request, because even in this very House many Honourable Members have said that we are proceeding to enact this measure without any data. We do not know what the financial

[Mr. Lalchand Navalrai.]

position is, we do not know how much money Government want. we do not know what is the exact amount of deficit, but you merely come forward with this Bill and tell us that you want 50 per cent. of the excess profit tax. You don't tell us how you have hit upon the 50 per cent. figure. Why do you ask for a blank cheque from us? I do not know why the House should agree to sending this Bill to a Select Committee.

Then, Sir, I was surprised to hear my friend, Sir Raza Ali, when he said that we do not lose anything by sending this Bill to a Select Committee. He asked—what if we admit the principle of the Bill? If we admit the principle of the Bill, then we give away our whole case; that means we agree to the levy of the tax; they may make a few changes here and there, but those modifications will not serve our purpose. If you admit the principle of the Bill subject to certain modifications you will have to pass it. Sir, if ever there was an important Bill to be circulated for public opinion, it is this. I, therefore, strongly urge that this Bill should be circulated for eliciting public opinion. Now, what do the Government want by this Bill? It is stated in the Objects and Reasons that the country is now engaged in a war and it will inevitably involve it in additional expenditure. Now, Sir, God forbid, this country is not involved in war, and let us hope that it will not be involved in war. We do not wish that any such dire calamity should befall us. It is absolutely wrong to say that the country is involved in war, and, therefore, there is no justification for the Government to come here and ask for money by means of a measure like this. Of course, if there is war and if the country is involved in it, the Government will require additional expenditure, but since there is no war, I don't see why we should agree to give more money to the Government. The Government of India must cut their coat according to the cloth. Many methods of retrenchments have been advocated from time to time in this House, and if all those methods are adopted, there will be no need whatever for raising money in this manner. Of course, owing to the present European situation anything might happen here also, and the Government will have to strengthen their defences in India, but we have already been saying for the defence of India. If they prepare their budget properly and adopt all the recommendations which have been made by us on the floor of this House, there will be no need whatever for raising more money in this manner. The 50 per cent. tax that they are asking for must be justified.

Then, Sir, it is said that the measure is not premature. I submit it is very premature. In the first place, as I have shown, there is no need for it. If they want it in anticipation of expenditure, they must prove it, which they have not done. They have also not shown what they have actually spent in anticipation of sanction. So I submit no case has been made out for this Bill.

It was also said today that the prices have gone up enormously and people have made huge profits at the expense of the poor people. My Honourable friend, Sir Yamin Khan, said, he had to pay twice the price for a certain article. That is absolutely correct. But it is the Government who were responsible for it. When the prices began to rise the country wanted some control but Government turned a deaf ear to it. Now they want 50 per cent. of the profits made by these people. So it is the poor consumers who will have to pay it and there would be some

justification for the tax if the proceeds were given back to the poor consumers.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Non-Muhammadan Rural): Will it satisfy the Honourable Member if it is given to the taxpayers?

Mr. Lalchand Navalrai: It should be returned to the poor people rather than to the taxpayers. The point is that there is no justification in not controlling the prices and then demanding 50 per cent. of the profits.

Therefore, this Bill should be considered by commercial and industrial people and by the consumers and agriculturists and the whole country.

Then, Sir, I come to a constitutional point. This Excess Profits Tax, by whatever name it may be called, is to be levied as a tax on income, and under section 138 of the Government of India Act, as modified by the Niemeyer Award and the Order in Council, 50 per cent. of the income-tax is to go to the provinces. As this is also going to be a tax on income, are the Government of India going to give half of this 50 per cent. Excess Profits Tax to the provinces? If they do not it will be constitutionally wrong, unjust, and illegal. Only a manoeuvre has been done to make it legal. That is the second constitutional point. This Bill has come in after the Excess Profit Tax Act has been passed in England. According to the Government of India Act the Governor General has power to levy taxes. Why have they not done it under the Act of 1935 if they want to levy this Excess Profits Tax also? What has happened is this: this Bill followed an announcement that His Majesty's Government had inserted in clause 1 of the Government of India Act and Burma Miscellaneous Amendments Bill a proviso to enable the Government of India if they so desired to introduce an Excess Profits Tax such as that introduced in England. The necessity for the amendment does not appear to be clear. The Government of India in their powers under the Taxes on Income as included in the federal list must be held to possess sufficient rights to levy such taxes. Tax on income must include taxes on excess profits. Therefore, I submit, this is being done unconstitutionally. When the country has cried hoarse that the Government of India Act is not suitable and should be amended, this should not have been done. When they had these powers under the Act of 1935, what did they do? Did they exercise those powers? Why not? Why should they follow Britain? Because Britain is involved in a war, we are not involved in the war: if the main ground in England is that they are engaged in a war there and they wanted money for that purpose, it cannot be the same here. If the money was wanted for any purpose the Government of India had power to get it in exercise of the powers of the Governor General. I, therefore, submit, this constitutional point, and from this point of view this Bill ought not to be sent to the Select Committee: Now, I find. . . .

Mr. President (The Honourable Sir Abdur Rahim): Does the Honourable Member wish to conclude his speech today?

Mr. Lalchand Navalrai: No, Sir.

The Assembly then adjourned till Eleven of the Clock on Monday, the 12th February, 1940.