

23rd November 1938

# THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

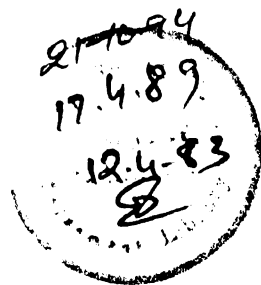
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Volume VII, 1938

*(10th November to 2nd December, 1938)*

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## EIGHTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, SIMLA.  
PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI.  
1939

M437LAD

# Legislative Assembly.

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RAI BAHADUR D. DUTT.

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MR. M. S. ANEY, M.L.A.

SYED GHULAM BHIK NAIRANG, M.L.A.

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

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# LEGISLATIVE ASSEMBLY.

Wednesday, 23rd November, 1938.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

## MEMBER SWORN.

Mr. James Snelson Hardman, M.L.A. (Government of India : Nominated Official).

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

#### RECRUITMENT TO THE INDIAN ARMY FROM THE CENTRAL PROVINCES AND BERAR.

1402. \*Mr. Govind V. Deshmukh: Will the Defence Secretary please state:

- (a) the centres in the Central Provinces and Berar for recruiting men for the Indian Army;
- (b) the classes from which such men are recruited;
- (c) the proportion of the men from the Central Provinces and Berar in the Army to the total strength of the Army, as well as to the population of these Provinces; and
- (d) the present policy of recruitment, and if it is going to be revised; if not, why not?

**Mr. C. M. G. Ogilvie:** (a) There are no recruiting centres in the Central Provinces or Berar. Men resident in the Central Provinces are in the area of the Recruiting Officer, Delhi, and those of Berar in the area of the Recruiting Officer, Poona.

(b) Mahrattas of Berar are recruited as a separate class. Other Hindus and Mussalmans who are recruited from the Central Provinces and Berar are classified as "Hindus" or "Mussalmans", and are not entered under any class denomination.

(c) The proportion to the total strength of the army is '08 per cent. and the proportion to the total male population of these provinces is '0004 per cent.

(d) There is at present no intention of revising the present policy the reasons for which were stated in my reply to a supplementary question arising out of Mr. Satyamurti's starred question No. 1060 on the 15th September, 1938, and in answer to part (a) of starred question No. 1086 asked by Mian Ghulam Kadir Muhammad Shahban on the same date, and in the reply of His Excellency the Commander-in-Chief to the debates in the Council of State on the Honourable Mr. Susil Kumar Roy Chaudhury's Resolution regarding military training for Indians on the 21st February, 1938, and on the Honourable Mr. P. N. Saprú's Resolution on the recruitment of all classes to the Indian Army in April, 1935.

**Mr. Govind V. Deshmukh:** May I know the procedure by which men in the Central Provinces are recruited at Delhi and men in Berar are recruited at Poona? How is this procedure carried on?

**Mr. C. M. G. Ogilvie:** If they are anxious to join the army, they proceed either to Delhi or to Poona.

**Mr. Govind V. Deshmukh:** Are these places advertised and is any propaganda carried on in the Central Provinces and Berar?

**Mr. C. M. G. Ogilvie:** I presume they are perfectly well known, as the arrangements have been in force for a very long time.

**Mr. Govind V. Deshmukh:** Can the Honourable Member inform me what is the procedure, who carries on the propaganda and how?

**Mr. C. M. G. Ogilvie:** I am not aware that any propaganda is carried on, but anyone who wanted to join the army could find out from any official where the recruiting office which dealt with that area was.

**Mr. Govind V. Deshmukh:** Is the recruitment annual or is it only resorted to only at the time when the war breaks out?

**Mr. C. M. G. Ogilvie:** No, the recruitment goes on in peace time. There are quite a number of these persons in the army at present. In fact, their proportion to the total strength of the army is '03 per cent.

**Mr. Govind V. Deshmukh:** Is the percentage a fixed one or does it vary according to the circumstances then prevailing?

**Mr. C. M. G. Ogilvie:** It might quite conceivably vary considerably: it is not fixed.

**Mr. Brojendra Narayan Chaudhury:** Are the expenses of the journey incurred by the candidates paid by Government?

**Mr. C. M. G. Ogilvie:** They pay them themselves.

**Mr. N. M. Joshi:** May I ask whether the policy regarding the recruitment will form part of the investigation of the Chatfield Committee?

**Mr. C. M. G. Ogilvie:** I must refer the Honourable Member to the terms of reference of the Chatfield Committee.

**Seth Govind Das:** Are Government aware that in the Central Provinces the aborigines, the Gonds, are the fittest race for military purposes and is anything being done to recruit the Gonds of the Central Provinces?

**Mr. C. M. G. Ogilvie:** Gonds are not one of the classes enlisted.

**Mr. S. Satyamurti:** With reference to answer to clause (a) of the question and the answer to the supplementary question of my Honourable friend, Mr. Joshi, may I know whether, apart from the terms of reference, which we have all read, the Honourable the Defence Secretary is in a position to tell the House whether any evidence is being placed before the

Chatfield Committee, either by the Department or by others, with regard to the question of getting the best value for the money now being spent on Indian defence, and whether in that category the present classes from whom recruitment is made should be extended, or whether that question is being examined by the Chatfield Committee with a view to getting the best value for the money spent?

**Mr. C. M. G. Ogilvie:** We are getting the best value for the money spent. The question of the extension or the alteration of the classes who are now enlisted in the army has nothing to do with the terms of reference of the Chatfield Committee.

**Mr. S. Satyamurti:** May I take it, therefore, that the question of recruiting for the army from all provinces and communities is not a subject of investigation by the Chatfield Committee?

**Mr. C. M. G. Ogilvie:** The Honourable Member could see it for himself by reference to the published terms of reference.

**Mr. S. Satyamurti:** The published terms of reference include the best value for the money being spent on the Indian defence forces. May I know, therefore, whether the question whether the Government of India are getting the best value of the money that they are spending is being investigated by the Chatfield Committee as an expert Committee from their point of view?

**Mr. C. M. G. Ogilvie:** As far as I know, not. I cannot speak for the Chatfield Committee but I should imagine that on a point of that sort they would gladly accept an assurance by those who know.

**Mr. Govind V. Deshmukh:** Will Government increase the number of recruiting centres for the army in the Central Provinces and Berar so that it may facilitate the increase in the army of the men from these Provinces?

**Mr. C. M. G. Ogilvie:** There is at present no idea of doing so.

**Prof. N. G. Ranga:** Why is it that the Government of India have never thought it fit to make Jubbulpore or any other equally suitable place as one of the recruiting centres for the Central Provinces?

**Mr. C. M. G. Ogilvie:** The Honourable Member asked for certain information which I gave him. The reason, I suppose, why no further recruiting offices in Jubbulpore or elsewhere are opened is largely financial and because the present arrangements are sufficient to cope with the limited number of persons enlisted from those provinces.

**Mr. T. S. Avinashilingam Chettiar:** May I ask whether the Government have considered the claims put forward by the various provinces that they should be given greater chances of joining the army?

**Mr. C. M. G. Ogilvie:** I submit that that does not arise from this question.

**Mr. T. S. Avinashilingam Chettiar:** It does. The purpose of the question is only this that the Central Provinces and Berar do not get the proper chance of supplying recruits to the army.

**Mr. O. M. G. Ogilvie:** I submit that this question refers only to the Central Provinces and Berar.

**Prof. N. G. Ranga:** Are we to understand that the military authorities who are stationed at Jubbulpore are not competent to examine these would-be recruits and find out whether they will make good recruits or not?

**Mr. O. M. G. Ogilvie:** No, it is not a legitimate assumption at all. The fact is that there is a recruiting office within measurable distance and that is sufficient for these limited purposes.

**Mr. S. Satyamurti:** When was this policy of recruitment last laid down by the Government of India, and when was it re-examined? May I know the reasons why Government do not propose to re-examine this policy of recruitment, in view of the extraordinary claims made by the Punjab Premier that he has got a dominant voice in the defence policy of the Government of India?

**Mr. O. M. G. Ogilvie:** I submit that that does not arise. At least the latter part of the Honourable Member's question does not arise. As regards the policy of recruitment, I have already given very full answers indeed, and if the Honourable Member will look up the references here, he will see the reasons stated categorically and in detail.

**Mr. S. Satyamurti:** I submit that the second part of my question does arise. The question, you will see, in the original form is:

"The present policy of recruitment, and if it is going to be revised; if not, why not?"

My Honourable friend said that it was not going to be revised. I am asking him to state the reasons why they do not propose to revise this policy, in view of the extraordinary claim made by Sir Sikandar Hayat Khan, the Punjab Premier, that he has got a dominant voice in the defence and military policy of the Government of India.

**Mr. O. M. G. Ogilvie:** I am afraid that I read this question of the present policy of recruitment as referring to the Central Provinces and Berar.

#### SECURITY DEMANDED FROM THE KEEPER OF THE PRESS AND THE PUBLISHER OF THE NAVJYOTI, AN AJMER HINDI WEEKLY.

1403. \***Mr. Abdul Qayum:** Will the Honourable the Home Member state:

- (a) whether the Government of Ajmer-Merwara have demanded any security from the keeper of the Press and the publisher of the *Navjyoti*, an Ajmer Hindi Weekly;
- (b) the amount of the security; and
- (c) the reasons therefor?

**The Honourable Mr. R. M. Maxwell:** (a) Yes: *Navjyoti* is presumably a mistake for *Navajoti*.

(b) Rs. 3,000.

(c) For publishing remarks likely to bring into hatred and contempt the Government established by law in British India.

**Mr. Abdul Qaiyum:** With reference to the answer to part (c) of the question, may I know if it is a fact that the security was demanded because there was an article written against the army recruiting Bill which was recently passed?

**The Honourable Mr. R. M. Maxwell:** No. I have not seen the whole article, but that is not my impression.

**Mr. Abdul Qaiyum:** Then what were the reasons for demanding this security—it is a very wide term to say, in the interests. . . What were the particular charges against this paper?

**The Honourable Mr. R. M. Maxwell:** The order requiring security specifies the exact nature of the sentences to which objection is taken and it is open to the paper from which security is demanded to approach the High Court and show that the remarks were not of the nature which makes it liable to security.

**Mr. Abdul Qaiyum:** Does the Honourable Member mean that this demand for security had nothing to do with the army recruiting Bill? That is what I wanted to know.

**The Honourable Mr. R. M. Maxwell:** I have already said that I have not seen the whole article, but that is not my impression.

#### APPOINTMENT OF A PERSON OF THE FINANCE DEPARTMENT TO THE CHATFIELD COMMITTEE.

1404. **\*Mr. Abdul Qaiyum:** Will the Defence Secretary please state:

- (a) whether any one belonging to the Finance Department of the Government of India has been appointed on the Chatfield Committee;
- (b) if not, the reasons therefor; and
- (c) whether the Government of India were consulted about the composition of the Chatfield Committee; if so, what was their advice, and whether the same was accepted?

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

(b) The views of the Finance Department of the Government of India will be placed. . . .

**The Honourable Sir James Grigg:** . . . . have been placed. . . .

**Mr. C. M. G. Ogilvie:** . . . . have been placed before the Committee, but actual representation has not been considered necessary.

(c) The Government of India were informed of the proposed composition of the Committee and were invited to nominate a representative.

**Mr. Abdul Qaiyum:** With reference to the answer to part (a) of the question, is it a fact that a Financial Adviser to the War Office in England has been appointed to this Committee as Assistant Secretary?

**Mr. O. M. G. Ogilvie:** There is an officer appointed as Assistant Secretary, but he has nothing to do with the policy of the Committee.

**Mr. Abdul Qaiyum:** Was he on the staff of the War Office in England?

**Mr. O. M. G. Ogilvie:** Yes.

**Mr. Abdul Qaiyum:** On the financial side?

**Mr. O. M. G. Ogilvie:** Yes.

**Mr. Abdul Qaiyum:** Then, what are his functions?

**Mr. O. M. G. Ogilvie:** As Assistant Secretary.

**Mr. Abdul Qaiyum:** Was it not possible for the Government of India to appoint a similar official from the Finance Department of the Government of India?

**Mr. O. M. G. Ogilvie:** It was not necessary.

**Mr. Abdul Qaiyum:** May I know if the initiative for the appointment of this Committee was taken by the Government of India or by the Home Government?

**Mr. O. M. G. Ogilvie:** By the Government of India.

**Mr. Abdul Qaiyum:** Did the Government of India ask for a Committee constituted as it is at present, excluding entirely the Indian element?

**Mr. O. M. G. Ogilvie:** Not in the least. It was not the concern of the Government of India to ask for the Committee to be constituted in any particular manner. It asked His Majesty's Government to send a Committee out here to investigate for themselves the problems of Indian defence.

**Mr. Abdul Qaiyum:** May I know the reasons why the Government of India did not press the fact that Indians should be represented on that Committee by Indian nationals?

**Mr. O. M. G. Ogilvie:** I have already answered that question. The reason is to be found in the terms of reference.

**Mr. Abdul Qaiyum:** Is it not a fact that the composition of the Committee indicates that this Committee will have a purely imperialistic outlook;—will look at things more from the imperial point of view than from the purely Indian point of view?

**Mr. O. M. G. Ogilvie:** That, I suggest, is not a question but an insinuation.

**Mr. Abdul Qayyum:** Is it not a fact that officers who had something to do with Iraq and other parts of the British Empire—people who are dealing with the present rearmament policy in England, namely, the imperial policy, have been appointed to this Committee to the utter exclusion of any Indians?

**Mr. O. M. G. Ogilvie:** Persons were appointed to this Committee who, in the opinion of His Majesty's Government, were best qualified to advise them: and as regards the technical side of Indian defence, we have our own representative.

**Mr. Abdul Qayyum:** Did the Government of India, after the Committee was constituted, protest against the exclusion of Indians from this Committee?

**Mr. O. M. G. Ogilvie:** No.

**Mr. Abdul Qayyum:** They simply acquiesced in it?

**Mr. O. M. G. Ogilvie:** Certainly.

**Sardar Sant Singh:** If the Government of India asked for the appointment of this Committee, may I know what was there to prevent the Government of India from appointing a Committee by themselves without consultation with His Majesty's Government?

**Mr. O. M. G. Ogilvie:** The Government of India can appoint any Committee they like, even hundreds of them; but in this case they asked His Majesty's Government to appoint a Committee.

**Sardar Sant Singh:** What was the reason for asking His Majesty's Government to appoint a Committee?

**Mr. O. M. G. Ogilvie:** I think that matter ought to have been fully clear from the speech of the Honourable Member for Finance on September the 18th.

**Mr. S. Satyamurti:** May I ask for some elucidation of the answers with regard to the relationship of the Finance Department of the Government of India to this Committee? I thought that my Honourable friend said, "views", "representations", and so on. May I know if this Committee is acting in concert with the Finance Department of the Government of India so far as the financial side of this enquiry is concerned, or does the Finance Department only appear as a supplicant or as a witness?

**Mr. O. M. G. Ogilvie:** The views of the Finance Department of the Government of India have been placed fully before this Committee. More than that, I cannot say.

**Mr. S. Satyamurti:** I want to know whether they were placed merely in the position of witnesses appearing before them, or it was a case of the members of the Committee meeting my Honourable friend, the Finance Member, and his Secretary and discussing with them the whole question and trying to see the point of view of the Finance Department of the Government of India.



**Mr. C. M. G. Ogilvie:** I do not propose to disclose the exact methods by which the Committee works, and I must limit myself to stating—and I hope my Honourable friend will be satisfied with that—that the views of the Finance Department have been fully placed before the Committee.

**Mr. S. Satyamurti:** May I know if the Honourable the Finance Member had any discussion with that Committee or he appeared only as a witness before it?

**Mr. C. M. G. Ogilvie:** The Honourable Member had better address any questions he wishes to ask on that matter to the Honourable the Finance Member.

**Mr. S. Satyamurti:** I am doing that.

**The Honourable Sir James Grigg:** I am not sure I can distinguish the two functions, but I can repeat the Defence Secretary's assurance that the views of the Finance Department of the Government of India have been placed fully before the Committee.

**Mr. Manu Subedar:** May I know whether these views of the Finance Department of the Government of India which have been placed before the Committee will be made available to the Leaders of Parties in this House?

**The Honourable Sir James Grigg:** No.

**Mr. Manu Subedar:** Why not?

**The Honourable Sir James Grigg:** Because the enquiry is confidential.

**Mr. Abdul Qaiyum:** Is the mere fact that any talk took place between the Finance Member and the Committee also confidential?

**The Honourable Sir James Grigg:** I cannot hear the Honourable Member and so I cannot answer.

**Mr. Deputy President (Mr. Akhil Chandra Datta):** Next question.

#### SAVINGS DUE TO THE TRANSFER OF CERTAIN BRITISH TROOPS OUT OF THE INDIAN ESTABLISHMENT.

**1405. \*Mr. Abdul Qaiyum:** Will the Defence Secretary please state:

- (a) the number of British troops in India before the transfer of the four British battalions to the Imperial establishment;
- (b) their number after such transfer;
- (c) whether this transfer is likely to result in some relief to the Indian budget; and
- (d) if so, the amount thereof, both immediate and prospective?

**Mr. C. M. G. Ogilvie:** (a) 47,692.

(b) 44,799.

(c) Yes.

(d) It will reduce the cost of British troops borne by Indian revenues by 25 lakhs in the current year and by 78 lakhs in subsequent years. There will also be an ultimate saving in non-effective charges.

**Mr. Abdul Qaiyum:** In view of this happy result that there is some reduction, will the Government of India pursue the subject by reducing the British troops still further?

**Mr. C. M. G. Ogilvie:** I do not see that it arises in any way from this question.

**Mr. Abdul Qaiyum:** It arises from the last part of this question and also from part (a). It is, after all, economy which is the object. (After a pause) I want an answer—"both immediate and prospective".

**Mr. C. M. G. Ogilvie:** The question, which presumably was framed by the Honourable Member himself, clearly relates to the four British battalions mentioned in part (a).

**Mr. Deputy President (Mr. Akhil Chandra Datta):** Does the Honourable Member (Mr. Abdul Qaiyum) insist upon an answer to his question?

**Mr. Abdul Qaiyum:** I do, but I am really surprised that there is some sort of co-operation between all the Members sitting on the front Benches opposite, not to give any information.

**Mr. Deputy President (Mr. Akhil Chandra Datta):** Then, next question.

#### POOL OF OFFICERS FOR THE FINANCE DEPARTMENT.

**1406. \*Mr. T. S. Avinashlingam Chettiar:** Will the Honourable the Finance Member state:

- (a) whether they have come to a conclusion over the establishment of the pool of officers for the Finance Department;
- (b) if so, what are the particulars of that arrangement;
- (c) whether persons have been selected for the pool; if so, how many of them belong to the Indian Civil Service, and how many to the Indian Audit Service; and
- (d) of the Indian Civil Service men, how many are Indians and how many non-Indians?

**The Honourable Sir James Grigg:** (a) to (d). The attention of the Honourable Member is invited to the replies given by me to starred questions Nos. 112 and 229 respectively asked by Mr. K. Santhanam and Seth Govind Das in the Legislative Assembly on the 10th and 16th August, 1938.

**Mr. T. S. Avinashlingam Chettiar:** The Honourable Member gave no information on that subject then.

**The Honourable Sir James Grigg:** I think that is a slight exaggeration but if the Honourable Member will look up the reply, he will find that

a comprehensive Resolution will be published on the subject shortly. That is the position still only the period has become shorter now.

**Mr. S. Satyamurti:** Does the Honourable Member hope to pass final orders on this scheme, before he takes leave of us?

**The Honourable Sir James Grigg:** I hope so, Sir.

**Mr. T. S. Avinashilingam Chettiar:** May I know whether the proportion of Indian Audit Service and that of the Indian Civil Service has been fixed?

**The Honourable Sir James Grigg:** That was dealt with in the answers to which I have referred.

#### SUPPLY OF SERVICE RIFLES TO SCHOOLS IN INDIA.

**1407. \*Mr. Govind V. Deshmukh:** (a) Will the Defence Secretary please state if there are any schools in India, apart from military schools maintained by Government, to which service rifles are supplied by Government, free of cost? What are the names of those schools and where are they situated?

(b) Are those schools exempted from rules requiring licences under the Arms Act? If so, on what grounds?

(c) Do Government propose to grant similar exemptions from obtaining licences under the Arms Act to:

(i) Government or Government-aided schools, and

(ii) other schools? If not, why not?

**Mr. C. M. G. Ogilvie:** (a) and (b). I refer the Honourable Member to the information laid on the table on September 5th, 1938, in answer to question No. 106 asked in the Council of State by the Honourable Mr. V. V. Kalikar on the 21st February, 1938.

(c) No, as exemption depends on the formation of a cadet company of the Auxiliary Force, India, or Indian Territorial Force.

**Mr. Govind V. Deshmukh:** Are these exemptions confined exclusively to schools for Anglo-Indians and Europeans?

**Mr. C. M. G. Ogilvie:** I think so, Sir.

**Mr. T. S. Avinashilingam Chettiar:** May I know why these exemptions have been given only to schools for Anglo-Indians or Europeans?

**Mr. C. M. G. Ogilvie:** It is not because the schools are those to which Anglo-Indians and Europeans only are admitted. It is because those schools happen to be suitable schools for the formation of the cadet corps, as the age of a large proportion of the boys thereat is between 16 and 18 and because they are situated in places where there is a unit of the Auxiliary Force, India.

**Mr. T. S. Avinashilingam Chettiar:** May I know whether these two are the only conditions which have to be fulfilled for any school to get this exemption?

**Mr. C. M. G. Ogilvie:** There are some more.

**Mr. Govind V. Deshmukh:** What are they?

**Mr. C. M. G. Ogilvie:** One is that there should be an armoury properly guarded where the rifles which are supplied by Government can be kept. Another is that there should be members of the staff who are suitable to be granted commissions in the Auxiliary Force, India, or the Indian Territorial Force.

**Mr. T. S. Avinashilingam Chettiar:** May I know if Government will give these exemptions to Indian schools which satisfy these conditions?

**Mr. C. M. G. Ogilvie:** So far, to the best of my knowledge, there has been no application from any Indian school for a cadet company but if an application is made and if the conditions are fulfilled I can assure the Honourable Member that it will be considered sympathetically.

**Mr. Abdul Qaiyum:** May I know whether this grant of exemptions to Anglo-Indian and European schools only is the result of an accident or is it based on some design?

**Mr. C. M. G. Ogilvie:** I have already fully explained the position.

**Mr. Abdul Qaiyum:** How does this fit in with the declared policy that the defence of India shall be the increasing concern of the Indian people?

**Mr. C. M. G. Ogilvie:** I submit that this does not in any way conflict with that declaration.

**Mr. P. R. Damzen:** May I know what are the names of these schools and where they are situated?

**Mr. C. M. G. Ogilvie:** There is a long list. They are situated in places like Mussoorie, Lucknow, Allahabad, Calcutta and other places.

**Mr. P. R. Damzen:** Is it not a fact that these schools have been restricted to Lucknow?

**Mr. C. M. G. Ogilvie:** Not that I know of.

**Mr. Abdul Qaiyum:** Is it not a fact that Indians are not eligible for the Auxiliary Force in India?

**Mr. C. M. G. Ogilvie:** That is so.

**Mr. Abdul Qaiyum:** Is this not racial discrimination?

**Mr. C. M. G. Ogilvie:** No. It is for the same reason for which non-Indians are not eligible to the Indian Territorial Force.

**Mr. Abdul Qatium:** Why is it called Indian Territorial Force and not an additional army of occupation?

**Mr. C. M. G. Ogilvie:** I really cannot understand what the Honourable Member is getting at in that question.

**Mr. Abdul Qatium:** Sir, I object to that.

#### REPRESENTATIONS RE DESIRABILITY OF REDUCING THE EXCHANGE RATIO.

**1408. \*Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Finance Member state:

- (a) whether he has received representations from any Provincial Government about the desirability of reducing the exchange ratio;
- (b) if so, from which Provinces; and
- (c) whether the Honourable the Finance Member has considered these representations, and if so, what is the result of the consideration?

**The Honourable Sir James Grigg:** (a), (b) and (c). I have nothing to add to my previous replies on this subject.

**Mr. T. S. Avinashilingam Chettiar:** May I know what is the answer to clause (c)?

**The Honourable Sir James Grigg:** I have nothing to add to my previous replies.

**Mr. T. S. Avinashilingam Chettiar:** May I know whether the Finance Member has considered the representations made by the provinces?

**The Honourable Sir James Grigg:** I am very sorry but I cannot add to the extremely comprehensive reply I have given.

**Prof. N. G. Ranga:** Is it a fact that the Government of India keep this particular question of exchange ratio under their constant consideration in order to see whether there is any need for a change either for the worse or the better or are they still adamant about it and made up their mind just as the Honourable the Finance Member seems to have made up his mind when he was at Cambridge?

**The Honourable Sir James Grigg:** I certainly have no intention of making any change for the worse.

#### BRITISH CONTRIBUTION TO THE COST OF THE INDIAN MILITARY ESTABLISHMENT.

**1409. \*Mr. T. S. Avinashilingam Chettiar:** Will the Defence Secretary state:

- (a) whether the Honourable the Finance Member's statement on the 13th September, 1938, is the final settlement in the negotiations with His Majesty's Government over the matter of the British contribution to the cost of the Indian military establishment;

- (b) if not, whether further negotiations are taking place; and
- (c) if so, with reference to which matters?

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

(b) Not at present.

(c) Does not arise.

**Mr. T. S. Avinashilingam Chettiar:** May I know whether the Indian Government have put forward their claims in this matter before the Chatfield Committee?

**Mr. C. M. G. Ogilvie:** I do not think that arises from this question which deals with the settlement with His Majesty's Government.

**Mr. T. S. Avinashilingam Chettiar:** It does arise, because the announcement of the Finance Member was coupled with the announcement of the Chatfield Committee and they said that this matter will be gone into?

**Mr. C. M. G. Ogilvie:** I cannot add to my answer.

**Mr. S. Satyamurti:** With reference to the answer to part (b), may I know whether the suspension or stoppage of these negotiations is due to the fact that the Government of India want to wait and see the results of the investigation by the Chatfield Committee?

**Mr. C. M. G. Ogilvie:** Certainly. The Honourable Member is quite correct.

**Mr. Manu Subedar:** Have Government communicated to the Chatfield Committee the views of the Indian public as conveyed in all parts of this House that the whole cost of British troops in India should be taken over by the English treasury?

**Mr. C. M. G. Ogilvie:** I have already replied to that question on the 15th. I can, however, inform the Honourable Member that the information which he thinks should be given could have been given probably better by other gentlemen here.

#### APPEALS AGAINST THE ORDERS OF INCOME-TAX OFFICERS.

1410. **\*Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Finance Member state:

- (a) how many appeals were preferred in the last financial year against the orders of Income-tax Officers;
- (b) how many of them have been allowed; and
- (c) how do they compare with figures for the same matter in Great Britain?

**The Honourable Sir James Grigg:** (a) and (b):

Number of appeals filed	27,549
Number disposed of including arrears in the preceding year	25,853
Number successful including partially successful	13,578

(c) Government have no information.

**Mr. T. S. Avinashilingam Chettiar:** In view of the fact that such a large number of appeals have been allowed, is it not true that the income-tax officers are doing their work more rigorously than they ought to do?

**The Honourable Sir James Grigg:** I think that a large number of these 18,000 odd successful appeals cover only very small amounts and I do not think that we can draw from this any conclusion about the working of the department, because the appellate offices are empowered to deal with questions of fact also and often later information on questions of fact proves favourable to assesseees.

**Mr. K. Santhanam:** May I know, Sir, the total number of successful appeals by the assesseees?

**The Honourable Sir James Grigg:** I expect the Honourable Member can do arithmetic quite as well as I can.

**Mr. K. Santhanam:** I did not ask for the total number of appeals filed, but, the total number of successful appeals.

**The Honourable Sir James Grigg:** I must have notice of that.

**Mr. M. Ananthasayanam Ayyangar:** How many of these appeals were disposed of during the year?

**The Honourable Sir James Grigg:** I have given the number 25,858. The number disposed of including arrears in the preceding year was 25,858. I cannot make it any more explicit than that.

#### STATIONING OF ADEQUATE FORCES ON THE EAST COAST OF INDIA.

1411. **\*Seth Govind Das:** Will the Defence Secretary be pleased to state:

- (a) whether it is a fact that the entire coast between Calcutta and Madras is at present unguarded by military forces;
- (b) whether it is proposed by Government to have a garrison on the east coast of the country for the defence of the country from the Far East;
- (c) whether he proposes considering the advisability of stationing adequate forces in some place between Madras and Calcutta on the coast for immediate defence;
- (d) whether Government have considered the question of stationing forces on the east coast by shifting some from other parts of the country where they may be less needed, and without incurring a recurring annual expenditure; and
- (e) whether he proposes doing so soon; if not, whether he will mention his difficulties to that effect?

**Mr. C. M. G. Ogilvie:** (a) to (e). The Government of India have the defence of India, including the defence of the East coast, continually in view and will take such steps as may be considered necessary for its defence in accordance with the requirements of the situation and the nature and scale of the possible danger as it may appear to them, from time to time.

**Seth Govind Das:** Will the Government of India consult the Provincial Governments in this matter?

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

**Mr. Abdul Qayum:** In view of the special position and unguarded nature of the East Coast, may I know if the Government of India will remove all troops from the Frontier Province and dump them on the East Coast?

**Mr. C. M. G. Ogilvie:** So far no proposal has been received by the Government of India.

**Prof. N. G. Ranga:** Are we to understand that any further strengthening of the East Coast by the shifting of the military forces from other areas to that coast will be carried out without any further expenditure to the Indian exchequer?

**Mr. C. M. G. Ogilvie:** I cannot add anything more to what I have already said in my answer.

**Mr. Manu Subedar:** The Honourable Member said that Government will take proper and adequate steps in this matter. May I inquire whether when such steps are taken, if Government would give the information to the Provincial Governments and also to this House.

**Mr. C. M. G. Ogilvie:** I cannot add to the description of this matter any more than what I have already said in reply to this question.

**Mr. Manu Subedar:** Do Government propose to assuage public opinion?

**Mr. C. M. G. Ogilvie:** Government are not aware in the least that it is necessary to assuage public opinion. Government are not aware of any necessity for assuagement of public opinion.

**Mr. K. Santhanam:** Have Government taken steps to discourage insurance companies and others from erecting any tall buildings in the coastal towns?

**Mr. C. M. G. Ogilvie:** I am afraid, in answer to a supplementary question, I am not competent to discuss the height of the buildings in coastal towns.

**Mr. S. Satyamurti:** May I know the reason why the Government of India do not propose to consult the Provincial Governments with respect to these important matters, in which *prima facie* they are also interested?

**Mr. C. M. G. Ogilvie:** No, Sir; the defence policy is not a matter upon which the Government of India consult the Provincial Governments.

**Mr. S. Satyamurti:** Do they consult the Punjab Government alone, with regard to the defence policy of the Government of India?



**Mr. C. M. G. Ogilvie:** I have already informed the Honourable Member that this is a matter upon which the Government of India do not consult Provincial Governments, and there are no exceptions to this rule.

**Mr. S. Satyamurti:** Not even the Punjab Government?

**Mr. C. M. G. Ogilvie:** There are no exceptions.

**Mr. S. Satyamurti:** Not even Sir Sikander Hayat Khan?

**Mr. C. M. G. Ogilvie:** There are no exceptions.

**Prof. N. G. Ranga:** Have Government received any representations from the east coast people expressing apprehensions of any attack on their towns and villages because there are no troops there?

**Mr. C. M. G. Ogilvie:** Government have received no such representation. The people of the east coast are apparently quite happy and contented.

**Mr. M. Thirumala Rao:** Do Government remember the experience of the "Emden" when she visited the East Coast during the Great War.

**Mr. C. M. G. Ogilvie:** Government is aware that the "Emden" did visit Madras during the Great War.

#### ISSUE OF NEW COINS.

**1412. \*Seth Govind Das:** Will the Honourable the Finance Member be pleased to state:

- (a) whether the new coins, under the Indian Coinage Act, 1906, bearing the Crown effigy of His Majesty, King George VI, and the inscription "George VI King Emperor", have been issued;
- (b) when they were issued;
- (c) whether it is a fact that all silver coins under the Act shall bear on the reverse the word "India" the year of coinage, and the designation of the coin above in English and below in Persian;
- (d) whether it is a fact that all nickel pieces coined under the Act shall bear, or do bear, on the reverse their designations in English, Urdu, Nagri, Bengali and Telegu;
- (e) the reason for discriminating between the silver coins of higher value and nickel or bronze coins by not including the designation in other languages; and
- (f) the reason for making on silver coins the designation in Persian particularly?

**The Honourable Sir James Grigg:** (a) and (b). They will be issued as and when required.

(c) and (d). Yes.

(e) and (f). I would refer the Honourable Member to the speech made on behalf of Government in the Council of State on a Resolution regarding inscriptions on coinage on the 26th February, 1936.

#### LOCATION OF THE INDIAN STORES DEPARTMENT.

**1413. \*Mr. C. N. Muthuranga Mudaliar:** Will the Honourable the Home Member please state:

- (a) whether it is a fact that, in or about April, 1938, it was decided to take up to Simla only a portion of the Indian Stores Department for the summer of 1938;
- (b) whether it is a fact that it was also decided then that for the summer of 1939, the entire staff of the Indian Stores Department should be kept down permanently in New Delhi; and
- (c) whether it is a fact that the decision referred to in part (b) above has since been countermanded; if so, why?

**The Honourable Mr. R. M. Maxwell:** (a) Yes.

(b) Yes, with the exception of a small camp office.

(c) In view of the possibility of the outbreak of war which seemed imminent in September last it was decided that the Indian Stores Department should move to Simla during 1939 to be in close proximity to the Government of India for the efficient discharge of its duties in connection with the supply of materials required for the prosecution of war. The Industrial Research Bureau which was not involved is to remain in Delhi as originally decided.

**Mr. K. Santhanam:** May I know if Government have reconsidered their decision as the war danger is now dispelled?

**The Honourable Mr. R. M. Maxwell:** It is not possible to say in the present European situation how far the war danger has receded, but at any rate arrangements have to be made a long time in advance before the end of the Simla season for the next season's accommodation.

**Mr. S. Satyamurti:** Does the Honourable Member mean that it is too late for them now to change their decision to retain the Indian Stores Department in Delhi throughout the next year, because they have already made arrangements for accommodation in Simla?

**The Honourable Mr. R. M. Maxwell:** It is too late, I think, to change the decision now.

**Mr. C. N. Muthuranga Mudaliar:** May I take it that the Government have revised their policy of progressively stopping the exodus to Simla?

**The Honourable Mr. R. M. Maxwell:** No, Sir, their policy still stands, as far as I know.

**EFFECT GIVEN TO THE RECOMMENDATIONS OF THE WHEELER AND MAXWELL COMMITTEES.**

**1414. \*Mr. C. N. Muthuranga Mudaliar:** Will the Honourable the Home Member please state:

- (a) which recommendations of the Wheeler and Maxwell Committees have been given effect to so far;
- (b) whether it is proposed to abolish the second division in the Government of India Secretariat and attached offices, and if so, in what manner it is proposed to do so; and
- (c) whether a number of posts of Under Secretaries or Assistant Secretaries is proposed to be created in the various Secretariats and, if so, whether any have been created or filled in so far?

**The Honourable Mr. R. M. Maxwell:** (a) The Honourable Member is referred to the reply given to parts (a) and (b) of his starred question No. 370 on the 18th February, 1938.

(b) Yes, so far as the Secretariat Offices are concerned. The manner in which effect is to be given to this decision and the question of extending it to the attached offices are still under consideration.

(c) Posts of Under Secretary are being created gradually according to the requirements of Departments.

**Mr. C. N. Muthuranga Mudaliar:** May I know if the posts of Under Secretaries which have been filled up are by Indians or Europeans?

**The Honourable Mr. R. M. Maxwell:** By either, Sir.

**Mr. S. Satyamurti:** May I know if Government have considered the question of recruiting for their own staff, instead of depending on the Provincial Governments which really means that both Governments get the worst as occasion arises? The Provincial Governments send you the worst and you send your worst men to the Provincial Governments. May I know whether the Government of India will consider the question of recruiting their own services directly?

**The Honourable Mr. R. M. Maxwell:** That question is not under consideration at present so long as the material available in the provinces is sufficient.

**Mr. S. Satyamurti:** Have Government satisfied themselves, apart from the question of quantity or number, with regard to the quality of the men they get, for their higher services, especially the Under Secretaries, and so on?

**The Honourable Mr. R. M. Maxwell:** Yes, Sir, they are well satisfied with the quality.

**Mr. S. Satyamurti:** We are not.

## RECONSTITUTION OF DEPARTMENTS OF THE GOVERNMENT OF INDIA.

**1415. \*Mr. C. N. Muthuranga Mudaliar:** Will the Honourable the Home Member please state, with reference to the answer to question No. 373 on the 22nd August, 1938, whether the matter of reconstitution of the departments is still under consideration, and, if so, when Government expect to arrive at a decision?

**The Honourable Mr. R. M. Maxwell:** The matter is still under consideration and I am not in a position at present to say when a final decision will be arrived at.

## GORDON SINCLAIR, WRITER OF AN ARTICLE REGARDING LOVE PARADES IN THE ANDAMANS.

**1416. \*Mr. C. N. Muthuranga Mudaliar:** Will the Honourable the Home Member please state, with reference to question No. 832, answered on the 7th September, 1938, regarding one Gordon Sinclair, writer of an article regarding Love Parades in the Andamans, whether any report has been received from the Chief Commissioner of the Andamans and whether he will place the same on the table of the House together with the Government's opinion thereon?

**The Honourable Mr. R. M. Maxwell:** A report was received from the Chief Commissioner and information was laid on the table of the House on the 10th November with reference to my reply to Mr. Chaudhury's starred question No. 484 of the 25th August, 1938.

## VACANCIES LEFT UNFILLED IN CERTAIN DEPARTMENTS OF THE GOVERNMENT OF INDIA.

**1417. \*Mr. C. N. Muthuranga Mudaliar:** Will the Honourable the Finance Member be pleased to state whether any vacancies have arisen and, if so, how many, in the undermentioned departments during the course of the year (from 1st January, 1938), which have been left unfilled so far in the cadres of clerks, Assistants, Superintendents and Assistant Secretaries and also the number of Assistant Secretaries or Under Secretaries who have been appointed to newly created posts from 1st January 1938:

- (1) Finance Department,
- (2) External Affairs Department,
- (3) Political Department,
- (4) Commerce Department and Industries Department,
- (5) Home Department,
- (6) Communications Department,
- (7) Education, Health and Lands Department.
- (8) Defence Department,
- (9) Legislative Department?

**The Honourable Sir James Grigg:** I lay on the table of the House a statement giving the required information.

Statement showing the number of vacancies that have arisen and have been left-unfilled since 1st January, 1938, in the cadre of Clerks, Assistants, Superintendents and Assistant Secretaries in certain Departments of the Government of India, and also the number of Assistant Secretaries or Under Secretaries who have been appointed to newly created posts from 1st January, 1938.

Department.	No. of vacancies which have arisen from 1st January, 1938.				No. of vacancies left unfilled.	No. of Assistant Secretaries or Under Secretaries appointed to newly created posts from 1st January, 1938.	
	Assistant Secretaries.	Super-intendents.	Assistant.	Clerks.		Assistant Secretary.	Under Secretary.
Finance Department	..	5	6	2	{ 1 Superintendent 1 Assistant 1 Clerk }	..	..
E. A. Department	1	8	3	9	..	1	..
Political Department	..	..	6	12	{ 1 Assistant 1 Assistant Secretary }	..	..
Commerce Department	1	..	1	12	{ 1 Assistant 1 Assistant Secretary 4 Clerks }	..	1
Labour Department	1	5	3	18	{ 1 Superintendent 1 Assistant 11 Clerks }		1 (at present attache).
Home Department	..	..	3	2	2 Clerks	..	2
Communications Department	..	1	2	6	..	..	..
E., H. & L. Department	..	1	3	4	1 Assistant	..	1
Defence Department	..	1	3	6	{ 2 Assistants 3 Clerks }	..	1
Legislative Department	..	..	1	1	1 Clerk	..	..

## MILITARY FORTIFICATIONS ON TIBETAN FRONTIER.

**1418. \*Mr. Badri Dutt Pande:** (a) With reference to the statement of Reuter dated Tokio, the 8th November, 1938, published in the *Hindustan Times* of the 9th November, 1938, page 1, that the military objectives of Japan are the extension of zone of hostilities up to the Tibetan border, is the Defence Secretary aware of the fact that Kumaon and Assam are the two Provinces that touch the Tibetan border?

(b) Is it a fact that there are no military fortifications or protections on those borders?

(c) Is it the intention of Government to fortify those frontiers?

**Mr. C. M. G. Ogilvie:** (a) Government have seen the statement. Kumaon and Assam are on the Indo-Tibetan border and not on the Chinese-Tibetan border.

(b) Yes.

(c) No.

**Mr. Badri Dutt Pande:** In view of the rumours during the wars that Russians would enter Kumaon through Tibet, was a military survey party sent to the Tibetan border to inquire into this matter and was it proposed to put a garrison at the last Indian outpost?

**Mr. C. M. G. Ogilvie:** In spite of the extraordinary nature of some of the rumours current during the Great War, I should think it extremely unlikely.

**Mr. Badri Dutt Pande:** Had any survey been made recently?

**Mr. C. M. G. Ogilvie:** That, Sir, I submit, does not arise out of this question.

**Mr. Badri Dutt Pande:** Will the question be discussed by the Chatfield Committee?

**Mr. C. M. G. Ogilvie:** I am not sure which question the Honourable Member is referring to.

**Mr. Badri Dutt Pande:** The question of guarding the Tibetan frontier?

**Mr. C. M. G. Ogilvie:** I should say not, Sir, but I cannot tell him.

## DOUBLE TAXATION RELIEF IN INCOME-TAX.

**1419. \*Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Finance Minister state:

(a) the amount of relief received by British persons and firms under the present double taxation relief in income-tax in the last three years;

(b) the amount of relief received by Indian persons and firms in England under the same arrangement for the same period; and

(c) whether this arrangement has resulted in a loss to the Indian Exchequer; if so, to what extent?

**The Honourable Sir James Grigg:** (a) to (c). I would refer the Honourable Member to my reply to starred question No. 1270 on the 15th November, 1938, and to my speech in the Legislative Assembly on the 16th November, 1938.

**Mr. K. Santhanam:** With reference to his answer to part (a) of the question, may I know the amount of relief received by British residents in India and British non-residents?

**The Honourable Sir James Grigg:** I think the Honourable Member had better refer to the answer which I gave.

**Mr. T. S. Avinashilingam Chettiar:** With reference to the answer to clause (b) of the question, if I remember aright, they could not give any information because it was not available. Is not that so?

**The Honourable Sir James Grigg:** Yes, that is so.

**Mr. T. S. Avinashilingam Chettiar:** May I know, in view of the serious allegations made in this country that we are not getting the *quid pro quo* in respect of (a), why Government have not made any inquiries in the matter?

**The Honourable Sir James Grigg:** The Board of Inland Revenue, do not give the information in their annual report.

**Mr. T. S. Avinashilingam Chettiar:** May I know whether in the absence of information in the report, and in view of the serious allegations about the *quid pro quo* that India is not getting, the Government made any attempt to write to His Majesty's Government in the matter?

**The Honourable Sir James Grigg:** I will deal with the so-called serious allegations when I reply to the present stage of the Income-tax Bill.

**Mr. Manu Subedar:** May I know if the Honourable the Finance Member has written to His Majesty's Government for this information? The secrecy clause, I understand, refers to each individual account, but may I know whether they have asked for the total and whether the Board of Revenue has definitely refused to give the total amount of relief given to Indian individuals?

**The Honourable Sir James Grigg:** I believe that on an earlier occasion some information was asked for but was not given, and I do not think it is necessary to ask for it on the present occasion.

**Mr. T. S. Avinashilingam Chettiar:** May I know whether there is not a clause in the Income-tax Act about the information to be given to countries with which we have agreements to the effect that that is not covered by this clause? Is there any similar clause in the British Act?

**The Honourable Sir James Grigg:** If the Honourable Member wants to ask a specific question, he had better put down a specific question.

**TENURE OF APPOINTMENT OF A SECRETARY TO THE GOVERNMENT OF INDIA.**

**1420. \*Mr. H. M. Abdullah:** Will the Honourable the Home Member be pleased to state the period for which a Secretary to the Government of India is appointed?

**The Honourable Mr. R. M. Maxwell:** I would refer the Honourable Member to the reply given to part (a) of the question No. 814 in this House on the 7th September, 1938.

**CURTAILMENT IN AUDIT SUPERVISION OF PROVINCIAL OFFICES.**

**1421. \*Mr. Brojendra Narayan Chaudhury:** Will the Honourable the Finance Member please state:

- (a) whether his Department is responsible, directly or indirectly, for the Auditor General's decision to curtail audit of provincial accounts; if so, in what way;
- (b) whether the audit of Central Government's accounts will be similarly curtailed;
- (c) whether he is aware that in the Provinces, it is only by local inspection that cases of embezzlement, temporary misappropriations of money, accounting for a quantity of work and materials in excess of work done and materials used, etc., are discovered, corrected and punished;
- (d) whether economy of central expenditure is the sole object of curtailment of provincial audit, or the principal object;
- (e) whether the costs of provincial audit are not charged to Federal Revenues, and are non-votable;
- (f) the amount of cost of Auditor General and his staff sanctioned at the beginning of the current year, and the amount for the Provinces, if separable; out of these, how much has been spent up to now;
- (g) whether any economies have been suggested and effected in other non-votable items of the central budget; if so, the total savings therefrom; and
- (h) the amount of savings expected by curtailment of local inspection?

**The Honourable Sir James Grigg:** (a) Yes.

(b) Yes.

(c) Government are fully aware of the value of local inspections; but cannot admit that local inspections are the only means of discovering irregularities or that such inspections should be carried out only by the Indian Audit Department. Departmental authorities have a responsibility of their own complementary to that of the Auditor General;

(d) The sole object.

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



(e) The cost of audit of the accounts of the Provinces is met from Central revenues and is treated as voted, except the portion declared as 'charged' under the provisions of the Government of India Act, 1935.

(f) The sanctioned budget for the offices of the Auditor General and Civil Accountants General for 1938-39 was Rs. 1,03,83,000 (including Rs. 2,77,000 for Charges in England). It is not possible to separate the amount to be spent on the Audit of Provincial Accounts as practically all the Civil Audit and Accounts Offices deal with both Central and Provincial transactions. The amount spent up to 30th September, excluding Charges in England, was Rs. 54,49,313;

(g) Yes. The savings secured so far amount to about 31 lakhs.

(h) I would refer the Honourable Member to the reply which I gave to part (c) of starred question No. 1248 asked by Mr. Badri Dutt Pande in the House on the 15th November, 1938.

**Mr. Brojendra Narayan Chaudhury:** With reference to the answer to clause (d), do I understand the Honourable Member to say that all local inspection for the Central Government Departments has also been stopped?

**The Honourable Sir James Grigg:** Curtailed.

#### TAXES COLLECTED FROM PERSONS ENTERING THE EXCLUDED OR PARTIALLY EXCLUDED AREAS IN ASSAM.

**1422. \*Mr. Brojendra Narayan Chaudhury:** Will the Honourable the Finance Member please state:

- (a) whether any taxes collected from persons entering the excluded or partially excluded areas of the Province of Assam, or for permit to carry on trade or to collect any produce in these areas, are credited to Central Revenues, and under what head in the budget;
- (b) if so, what are the nature of these taxes; how and at what rates they are levied, and what is the total amount credited to Central Revenues in the last financial year;
- (c) whether it is a fact that the excluded and partially excluded areas are deficit areas, i.e., the cost of administration exceeds the income from the areas and that the deficit is borne by the Assam Provincial Exchequer; and
- (d) whether Government are prepared to consider the propriety of handing over the proceeds of these taxes to the Provincial Government?

**The Honourable Sir James Grigg:** (a) and (b). A tax of eight annas per person is levied on persons crossing the inner line of the excluded areas except Government officers and hillmen temporarily residing in the plains and the proceeds are credited to Central Revenues under XLVI—Miscellaneous. The amount credited last year was about Rs. 1,500.

(c) Yes.

(d) No. The fact that the areas in question are deficit areas was taken into account in the financial settlement for Assam.

**Mr. Brojendra Narayan Chaudhury:** Is it too much for the Central Government to make that over to the Provincial Government?

**The Honourable Sir James Grigg:** I do not think that Rs. 1,500 will go very far towards meeting Assam's needs.

**Mr. Brojendra Narayan Chaudhury:** Cannot the Honourable Member do that as a gesture of good-will?

**The Honourable Sir James Grigg:** I am rather against impotent gestures.

**Prof. N. G. Ranga:** Is there any specific service that the Central Government is rendering to these people of the excluded areas?

**The Honourable Sir James Grigg:** The Honourable Member had better address that to somebody else.

**Prof. N. G. Ranga:** With what object do they make this particular collection in these areas?

**The Honourable Sir James Grigg:** The Honourable Member had better put that down too.

**Prof. N. G. Ranga:** Sir, in reply to part (a) of this question the Honourable Member has admitted that this particular collection is being made, and it is quite relevant to ask him with what object this particular collection is being made?

**The Honourable Sir James Grigg:** All I say is that I cannot give him an answer without notice.

**Mr. K. Santhanam:** May I know if the charges for collection of this sum exceed the amount of that collection?

**The Honourable Sir James Grigg:** The Honourable Member had better also put that down.

#### FEELING OF INDIANS IN RESPECT OF THE HAPPENINGS AND EVENTS IN PALESTINE.

1423. **\*Mr. S. Satyamurti:** Will the Honourable the Home Member be pleased to state:

- (a) whether Government have recently communicated to His Majesty's Government the feeling of Indians in respect of the happenings and events in Palestine; if so, on which date they last so communicated and what they communicated; and

- (b) whether the Government of India will inform His Majesty's Government of the strong feeling in India that Palestine should not be coerced into accepting any decisions against the will of her people and that Palestine should be made, as early as possible, into a free and independent Arab State?

**The Honourable Mr. R. M. Maxwell:** (a) There has been no recent formal communication from the Government of India to the Secretary of State on this subject. Government are however aware that the Secretary of State, through the appropriate channels, is kept constantly in touch with the state of feeling in India and are satisfied that in fact His Majesty's Government is fully acquainted with Indian opinion on this subject.

(b) As the Honourable Member is aware, it is the intention of His Majesty's Government shortly to convene a conference in London with a view to bringing about an understanding between Arabs and Jews in Palestine.

**Mr. S. Satyamurti:** With reference to the answer to clause (a) of the question, when was the last occasion on which this Government communicated to His Majesty's Government the feelings of Indians in respect of Palestine?

**The Honourable Mr. R. M. Maxwell:** The last official communication was in September, 1937, when certain questions asked in this House together with the replies to supplementary questions were forwarded to the India Office.

**Mr. S. Satyamurti:** May I know the reason why since September, 1937, i.e. more than a year now, in view of the definite worsening of the situation in Palestine, and the strong feeling expressed by the Indian National Congress, the All-India Muslim League and many other public bodies, Government have not taken any steps to keep His Majesty's Government in touch with the feelings of Indians in this country on this question?

**The Honourable Mr. R. M. Maxwell:** Because Government were satisfied, as I have already stated, that the Secretary of State was being kept fully in touch with all these feelings.

**Mr. S. Satyamurti:** By whom, and in what manner?

**The Honourable Mr. R. M. Maxwell:** By the appropriate channels.

**Mr. S. Satyamurti:** How exactly?

**The Honourable Mr. R. M. Maxwell:** I cannot give the detailed information as to the exact manner in which the Secretary of State gets his information, but I have already stated that the Government of India are satisfied and are aware that he is getting this information.

**Mr. S. Satyamurti:** Will Government tell this House and the public of this country through this House, what are these appropriate and official channels through which the Secretary of State gets information—apart from the Government of India?

**The Honourable Mr. R. M. Maxwell:** The Government of India write formally to the Secretary of State only on matters with which they are officially concerned.

**Mr. K. Santhanam:** Will the Government of India secure representation for Indian Muslims on the Palestine Conference to be convened soon in London?

**The Honourable Mr. R. M. Maxwell:** That is a matter for His Majesty's Government.

**Mr. K. Santhanam:** May I know if the Government of India are taking any steps in this matter? After all, they are responsible for the Indian Muslims and the state of their feeling.

**The Honourable Mr. R. M. Maxwell:** The Government of India are not responsible for the composition of that conference.

**Mr. S. Satyamurti:** May I know if Government's attention has been drawn to the statement of the Punjab Premier that he had addressed His Majesty's Government on this question of Palestine and as a result of his representations His Majesty's Government have now given up the scheme of partition of Palestine?

**The Honourable Mr. R. M. Maxwell:** That is not a question that concerns the Government of India.

**Mr. S. Satyamurti:** May I know if Provincial Governments are free to address His Majesty's Government on matters of foreign policy over the heads of the Government of India?

**The Honourable Mr. R. M. Maxwell:** That again is not a question which concerns me as Home Member.

**Mr. S. Satyamurti:** My Honourable friend said that apart from the Government of India, through the proper channels, His Majesty's Government get information or opinion with regard to Indian opinion on such matters. Recently, the Punjab Premier, Sir Sikandar Hayat Khan, stated to the Indian world and to the world outside that, as a result of his representations to His Majesty's Government, they have given up the scheme of partition of Palestine. I have read the Government of India Act, and I am asking the Honourable Member whether it is open to Provincial Governments to address His Majesty's Government over the head of the Government of India on matters of foreign policy or whether Sir Sikandar Hayat Khan was simply pulling somebody's leg?

**The Honourable Mr. R. M. Maxwell:** That seems to be a major constitutional question which I do not think whether I am competent to discuss here.

**Dr. Sir Ziauddin Ahmad:** May I know whether any Member of the Assembly or any member of the public in his private capacity can write to the Secretary of State for India?

**The Honourable Mr. R. M. Maxwell:** Yes.

**Qazi Muhammad Ahmad Kazmi:** What are the appropriate channels other than the Government of India through which the Secretary of State gets information?

**Mr. Deputy President (Mr. Akhil Chandra Datta):** This question was already answered.

**Mr. Manu Subedar:** What steps have Government taken to dispel the misimpression that the troops sent out from India for the suppression of Arabs in Palestine were not sent out with the concurrence of Indian public opinion, but went under the direction of the War Office?

**The Honourable Mr. R. M. Maxwell:** I submit that question does not arise.

#### LOCATION OF THE GOVERNMENT OF INDIA OFFICES IN NEW DELHI.

**1424. \*Mr. S. Satyamurti:** Will the Honourable the Home Member be pleased to state:

- (a) what the final decision of Government is with regard to the offices and officers and establishment who will stay in New Delhi throughout 1939 and not go to Simla;
- (b) whether in respect of the Indian Stores Department there has been any change of decision, and, if so, what and why; and
- (c) the total number of Government servants and Departments who will be staying in 1939 as contrasted with the figures of 1937, and the resultant saving to the Indian Exchequer?

**The Honourable Mr. R. M. Maxwell:** (a) and (c): The question is still under consideration and a decision is expected to be reached shortly.

(b) I would refer the Honourable Member to the reply which I have just given to Mr. C. N. Muthuranga Mudaliar's starred question No. 1413.

**Mr. K. Santhanam:** May I know if it is not too late to decide for next year.

**The Honourable Mr. R. M. Maxwell:** I was replying about the Indian Stores Department. Parts (a) and (c) of the present question relate to the general question of the officers and the establishment of the Government of India as a whole.

**Mr. K. Santhanam:** Are there different dates for different Departments?

**The Honourable Mr. R. M. Maxwell:** Certainly independent arrangements for accommodation are made by the different Departments.

**Mr. K. Santhanam:** What are the Departments which are under consideration for being stopped next year?

**The Honourable Mr. R. M. Maxwell:** Parts (a) and (c) relate to all the Departments.

**Mr. K. Santhanam:** Are the Government of India considering whether they should stop all the Departments or some of the Departments?

**The Honourable Mr. R. M. Maxwell:** They are considering the matter in connection with all the Departments.

CONSULTATIONS ON MATTERS INVOLVING FINANCIAL ADJUSTMENTS BETWEEN THE GOVERNMENT OF INDIA AND THE INDIAN STATES ON FEDERATION ISSUE.

**1425. \*Mr. S. Satyamurti:** Will the Honourable the Finance Member be pleased to state:

- (a) whether he and his Department are being *regularly* consulted on *all* matters involving financial adjustments between the Government of India and the Indian States arising out of the negotiation for Federation;
- (b) whether the Finance Member consults the Provincial Governments on these matters, and, if not, why not;
- (c) whether final decisions on these questions are taken by the Government of India, as a whole or only by the Viceroy and the Secretary of State, and, if so, why; and
- (d) whether this House will be consulted before final decisions are reached on such matters, and if not, why not?

**The Honourable Sir James Grigg:** I have nothing to add to the statement I made on the 10th March, 1938.

**Mr. S. Satyamurti:** May I know whether the Finance Member and his Department are consulted on matters involving financial adjustment between the Government of India and the Indian States? I want to know whether this is being done over the head of the Finance Department or at least with his knowledge?

**The Honourable Sir James Grigg:** I will read the relevant part of the answer I gave on 10th March, 1938:

"Under the Act the terms of accession depend upon His Majesty and the Ruler of the State concerned, and the preliminaries to the negotiation thereof are, therefore, being conducted under the direct orders of His Excellency the Crown Representative, in close and confidential consultation throughout with the Government of India with a view to safeguarding the interests of British India."

**Mr. S. Satyamurti:** With reference to part (b) may I know if Provincial Governments are being consulted?

**The Honourable Sir James Grigg:** I said I have nothing to add to what I said on the 10th March, 1938, so that if it does not appear in this answer, there is no information available.

**Mr. S. Satyamurti:** That is a technical way of getting behind the question. May I know whether, in view of the fact that Provincial Governments are vitally interested in the financial adjustments, such as may be made with regard to the Federation, the Provincial Governments are being given an opportunity of expressing their views on these financial questions?

**The Honourable Sir James Grigg:** I had better read the next sentence:

"But, in the interests of these negotiations themselves, their conduct must be confidential and this necessarily precludes any public announcement at this stage regarding the substance of the matters under consideration or under discussion with States or any statement except in the most general terms, of the progress made towards Federation."

**Mr. S. Satyamurti:** I want in the most general terms whether Provincial Governments are being consulted with regard to the financial adjustments for the coming Federation.

**The Honourable Sir James Grigg:** I say in the most general possible terms that I have nothing to add to what is contained in the statement.

**Prof. N. G. Ranga:** Was this question either formally or informally considered at the last Finance Members' conference?

**The Honourable Sir James Grigg:** I have nothing to add to what I said already.

**Mr. Manu Subedar:** May I know whether after these confidential consultations are finished and before actually concluding agreements, a tripartite consultation will take place between the representatives of parties in this House and the Government of India and the Princes?

**The Honourable Sir James Grigg:** That is a much more general question which was addressed to the Honourable the Leader of the House the other day and he gave all the information available.

#### DETERMINATION OF INDIA'S MILITARY POLICY.

**1426. \*Mr. S. Satyamurti:** Will the Defence Secretary be pleased to state:

- (a) whether his attention has been drawn to a recent speech of the Punjab Premier in the course of which he *inter alia* said, "who, if not the Punjab, can claim a dominant voice in India's military policy? I claim to represent the Punjab's views";
- (b) who determines India's policy;
- (c) whether, under the Constitution or in fact, the Provincial Governments have any voice in determining India's military policy and, if so, what that is;
- (d) whether the Punjab has a "dominant voice in India's military policy", and, if so, under what law, and how it is exercised;
- (e) whether the Government are prepared to issue a categorical contradiction of the statement; and
- (f) if not, why not?

**Mr. C. M. G. Ogilvie:** (a), (e) and (f). No full report of the speech has apparently been published, and Government are not prepared to express any views upon a single sentence divorced from its context.

(b) The Governor General in Council.

(c) and (d). No.

**Mr. S. Satyamurti:** May I know if the Honourable Member will ask the Premier of the Punjab and get a copy of his speech, or get a copy of his speech from any other quarter?

**Mr. C. M. G. Ogilvie:** The Government do not attach sufficient importance to the matter to do that.

**Mr. S. Satyamurti:** May I know if the Government of India are indifferent to the pronouncements of the Punjab Premier who said:

"Who, if not the Punjab can claim a dominant voice in India's military policy? I claim to represent the Punjab's views?"

**Mr. C. M. G. Ogilvie:** Government do not regard it as a pronouncement but as a rhetorical question.

**Mr. S. Satyamurti:** What is the rhetorical answer to this rhetorical question? Do the Government think it a matter of no importance whatever when the Premier of a province goes about saying that, because the Punjabis are in large numbers in the Army, he must claim a dominant voice in India's military policy?

**Mr. C. M. G. Ogilvie:** As I said, the claims he made was merely a rhetorical one.

**Mr. S. Satyamurti:** I ask a specific question in part (d):

"Whether the Punjab has a dominant voice in India's military policy, and, if so, under what law, and how it is exercised."

I want my Honourable friend to take it with clause (a) of the question, —evidently the Honourable the Defence Secretary wants to shield the Premier of the Punjab,—if he is really anxious to know it, he can get a copy of his speech. The Premier of the Punjab has been saying this for months that he is as good as the Commander-in-Chief, if not better. I want to know whether the Government of India propose to take any notice of it and draw his attention to it and ask him to keep to his proper place.

**Mr. C. M. G. Ogilvie:** The Government of India by no means accept the Honourable Member's interpretation of Sir Sikandar Hayat Khan's speeches.

**Sardar Sant Singh:** May I know if the Government of India have a dominant voice in that policy?



**Mr. C. M. G. Ogilvie:** As far as the Governor General in Council is concerned, he has.

**FUNCTIONS ASSIGNED TO MR. H. GREENFIELD IN THE CENTRAL BOARD OF REVENUE.**

**1427. \*Mr. S. Satyamurti:** Will the Honourable the Finance Member be pleased to state:

- (a) what are the duties or functions assigned to Mr. H. Greenfield in the Central Board of Revenue;
- (b) how long he will work there;
- (c) whether his duties will include making necessary recommendations for tightening customs and excise administrations and preventing leakage; and
- (d) whether a report on his work will be placed before the House?

**The Honourable Sir James Grigg:** (a), (b) and (c). Mr. Greenfield has been placed on special duty under the Central Board of Revenue for six months in the first instance to investigate the possibility of improving the control and supervision exercised by the Customs administration and for purposes of inspection.

(d) No.

**Mr. S. Satyamurti:** May I know the reasons why the report will not be placed on the table of the House?

**The Honourable Sir James Grigg:** It is a matter of domestic administration.

**Mr. S. Satyamurti:** Including this House?

**The Honourable Sir James Grigg:** It is a matter of departmental machinery.

**GOLD PURCHASED BY THE RESERVE BANK OF INDIA.**

**1428. \*Mr. M. Ananthasayanam Ayyangar:** (a) Will the Honourable the Finance Member be pleased to state what quantities of gold have been purchased by the Reserve Bank of India during this month and the last two months, and at what prices and what the export of gold has been during the same months?

(b) What is the object of purchasing large quantities during the recent months? Is it for the purpose of keeping gold in reserve as security against Note issue or for the purpose of shipping to the United Kingdom?

(c) Is the Reserve Bank making the purchases on its own account, or for, or on behalf of, any party in the United Kingdom or any foreign country?

**The Honourable Sir James Grigg:** (a), (b) and (c). Subject to the restrictions imposed by the Reserve Bank of India Act the purchase of gold is a matter which is entirely within the discretion of the bank. As regards exports of gold I would refer the Honourable Member to the statements published in the press from time to time.

**Prof. N. G. Ranga:** What is the policy of the Government of India in regard to the purchase of gold by the Reserve Bank? Is it for the purpose of export?

**The Honourable Sir James Grigg:** The policy of the Government of India has nothing to do with this matter. It is the concern of the Reserve Bank.

**Mr. M. Ananthasayanam Ayyangar:** May I know whether the purchase of gold by the Reserve Bank is on account of any foreign merchants?

**The Honourable Sir James Grigg:** That is the question which the Honourable Member asked. I can only reply by giving the same answer.

**Mr. M. Ananthasayanam Ayyangar:** What steps have Government taken to ascertain and get this information from the Reserve Bank?

**The Honourable Sir James Grigg:** None, Sir. I can only repeat as was said in one of the opinions on the Income-tax Bill that I am not a "nasty nosey poker".

### (b) WRITTEN ANSWERS.

#### INTRODUCTION OF PROHIBITION IN THE CENTRALLY ADMINISTERED AREAS.

**1429. \*Mr. M. Ananthasayanam Ayyangar:** (a) Will the Honourable the Finance Member be pleased to state what was the revenue for intoxicating and spirituous liquors and drugs in the year 1937-38 from the centrally administered areas?

(b) Are Government aware that prohibition was introduced in three districts of the Madras Presidency and the measure has proved a success?

(c) Are Government prepared to introduce prohibition in the centrally administered areas? If so, when; and if not, why not?

**The Honourable Sir James Grigg:** (a) The figures for 1937-38 are not yet available.

(b) Statements to this effect have appeared in the Press.

(c) No, Sir; because Government do not consider this to be necessary.

#### CENSORSHIP OF CORRESPONDENCE OF MEMBERS OF THE CENTRAL LEGISLATURE AND PROVINCIAL MINISTERS.

**1430. \*Seth. Govind Das:** Will the Honourable the Home Member please state:

(a) whether the private correspondence of the members in the Central Legislature is still subject to postal censure;

- (b) whether the private correspondence of the Ministers of Provincial Governments is subject to postal censure;
- (c) whether it is the policy of Government to keep a watch on the correspondence of the Ministers of Provincial Governments;
- (d) the method by which censor of letters to and from Ministers of Provincial Governments are censored; and
- (e) whether Government propose amending the postal law governing the censor of letters under which censor of the members of the Central Legislatures and Provincial Ministers is made?

**The Honourable Mr. R. M. Maxwell:** (a) to (e). It is contrary to the public interest to give any information of the kind asked for.

**TRANSFER OF THE NAVAL HEADQUARTERS OF INDIA TO DELHI.**

**1431. \*Seth Govind Das:** Will the Defence Secretary please state:

- (a) whether it is a fact that the Naval Headquarters of India is contemplated to be moved to Delhi from Bombay;
- (b) when is the move going to take place;
- (c) whether the office will be quartered in Bombay during summer when the Government offices move to Simla;
- (d) the reason for keeping the office in Bombay half the year;
- (e) the annual recurring expenditure for moving the office from Delhi to Bombay and back;
- (f) whether Government propose considering the advisability of keeping the office in one place instead of moving it yearly for some months to Bombay from Delhi and return; and
- (g) if not, will Government please state the reasons?

**Mr. C. M. G. Ogilvie:** (a) Yes, as a temporary measure.

(b) It took place on 9th November, 1938.

(c) Yes.

(d) It is desirable that the Flag Officer Commanding, Royal Indian Navy, should be in direct contact with the Squadron and with the shore establishments at Bombay during part of the year.

(e) As this is the first occasion on which the move has been undertaken, accurate figures are not yet available. It is estimated that the total cost will not, under present arrangements, exceed Rs. 10,000 per annum.

(f) The matter has already been considered and the present arrangement has been introduced as a result thereof.

(g) The reason for locating the Royal Indian Navy Headquarters at Delhi is that they may be in closer contact with the Government of India for part of the year especially while the programme for the re-organisation of the Royal Indian Navy is being considered.

#### INDIANS IN THE INDIAN MEDICAL SERVICE.

1432. \*Dr. Sir Ziauddin Ahmad: (a) Will the Defence Secretary please state the number of Indians in the permanent grade in the Indian Medical Service, and how many of them are Muslims?

(b) What is the number of Indians in the temporary grade of the Indian Medical Service and how many of them are Muslims?

(c) When do the temporary officers complete their five years service?

(d) Will they be considered for permanent appointment?

Mr. C. M. G. Ogilvie: (a) There are at present 197 Indian officers holding permanent commissions in the Indian Medical Service. 27 of them are Muslims.

(b) There are no temporary commissioned Indian officers in the Indian Medical Service except for three Burmans serving in Burma. 52 Indian officers hold short service commissions. Eleven of them are Muslims.

(c) The short service officers now in service will complete their engagements during the period 1939-42.

(d) Yes.

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#### STATEMENTS LAID ON THE TABLE

*Information promised in reply to starred questions Nos. 797 and 805 asked by Dr. P. N. Banerjee on the 6th September, 1938.*

#### COAL SEAMS IN ASSAM.

*Starred question No. 797.*—The total number of coal seams prospected and located in Assam by the Geological Survey of India is about 20.

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#### EXTRACTION OF COAL FROM MINES IN ASSAM.

*Starred question No. 805.*—(a) Five.

(b) The information required is not available.

*Information promised in reply to starred question No. 976 asked by Dr. P. N. Banerjee on the 13th September, 1938.*

# RAILWAY COLLIERIES.

Name of Colliery.	Area of coal property owned and worked by the Railway.	Thickness of each seam of coal being worked.	Approximate quantity of coal underlying the property.	Quality and grade of coal of each of the seams.	Inclination or gradient of each of the seams.	Depth from surface at which the seams lie.	Nature of mines, i.e., raw coal is raised from each seam.	System of working for extraction of coal.	Where work is carried on under the pillar and stall system how many years the first working or development work of each colliery will or is likely to continue before the final operation of extraction of pillars will be undertaken?
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)
Kurhbaroo**	2946.91 acres	8' to 16' including bends.	7,500,000	Selected	Variable Average 1 in 6.	0' to 800'	Incline and Pit.	Pillar and Stall.	**As both development work and extraction of pillars may be proceeding simultaneously in different locations in the same colliery it is not possible to give an accurate answer.
Serampore**	1417.63 "	15' to 23' including bends.	6,300,000	Do.	Do.	0' to 950'	Pits	Do.	
Jl. Bokharo**	3,750 Bighas	90 feet	84,000,000	Second class	1 in 18	0' to 140'	Quarry	Quarrying.	
Joint Swang**	3,750 "	45' to 50'	67,547,000	Do.	Average 1 in 3	Proved from outcrop 1,300 feet.	Quarries and Inclines.	Pillar and Stall.	
Kargall**	3,750 "	(a) 12 feet (b) 72 feet including bends.	3,200,000 50,200,000	Do. Do.	4 in 7 to 1 in 11. 1 in 5 to 1 in 4.	0' to 250'. 0' to 500'	Quarries Pits and Inclines.	Quarrying. Pillar and Stall.	

		(a) 8'-0"		Do.	1 in 5 to 1 in 7.	Proved from 0' to 800'.	Inclines	Do.
Bhairānda**	6,890 "	(b) 8'-3" (c) 11'-4" (d) 18'-0" ex- cluding bends. (e) 23'-0" ex- cluding bends.	2,700,000	Do.	Do.	0' to 800'.	...	Do.
			3,780,000	Do.	Do.	0' to 840'.	...	Do.
			5,200,000	Do.	1 in 3 to 1 in 7.	0' to 650'.	...	Not worked.
			17,200,000	Do.	1 in 2 to 1 in 7.	0' to 1,250'.	...	Do.
			27,200,000	Do.		0' to 1,400'.		
Jarāngdih**	4,750 "	(a) 6' } (b) 8' } (c) 6' } (d) 6' } (e) 125 feet }	2,500,000	Do.	1 in 4 to 1 in 1.	0' to 600'.	Inclines	Pillar and Stall.
			28,000,000	Do.	Average 1 in 3.	0' to 1,600'.	Not worked.	Do.
			195,000,000	Do.	Average 1 in 3.	100' to 1,700'.	Do.	Do.
						100' to 1,700'.	Pits (in o t worked now).	
Arāda	2,309 "	Horizon 14—Thick ess varying from 30 to 60 ft.	12,761,827	1st Grade	Varying from 1 in 2.3 to 1 in 20.	From 8 ft. to 89 ft. (Quarry) deep seams 50' to 1,150' and 50' to 1,400'.	Quarries at present.	Quarries
Takhera* (M. & S. M.).	1,322 acres	Bottom seam 8' to 18'. Top seam 5' to 9'.	33,915,000	1st class	Variable average 1 in 40 to 1 in 10.	0' to 390' (Bottom seam) 0' to 326' (Top seam).	Pit	Pillar and Stall.
Pogibara (Talcher B. N. Ry.).	2,922 Bighas	Main seam 12'	8,208,000 tons.	1st grade	Varying from 1 in 12 to 1 in 20.	From 100 ft. to 450 ft.	Pits	Do.
Kurāda**	1,000 acres	17' average	24,900,000	1st class	1 in 60	Varies from 117' to 125'.	Coal is mined through adits.	Do.

About 3 to 4 years.

THE INDIAN INCOME-TAX (AMENDMENT) BILL—contd.

**Mr. Deputy President** (Mr. Akhil Chandra Dutta): The House will now resume consideration of the following motion moved by  
12 Noon. the Honourable Sir James Grigg:

"That the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee, be taken into consideration."

**Pandit Krishna Kant Malaviya** (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Sir, when the House adjourned last evening, I was discussing the plea regarding the flight of British capital from this country. I was saying that for my part I will not be sorry if the British capital leaves the shores of India. I think it is in the interests of this country as well as in the interests of the traders who come here that this British capital should leave these shores. I am supported in this view by what has been said by the one time talented editor of the *Times of India*, Sir Stanley Reid. Discussing India's industrial and financial development since the beginning of the present century, Sir Stanley Reid, in the Lloyd Bank Monthly Review, says:

"A generation ago India was starved for capital. Today the supply is in excess of the opportunities for conservative investment."

Referring to Britain's part in future economic activity, Sir Stanley Reid says:

"There is no prospect for manufacturing enterprise and finance attracted from abroad, but there is an immense field for the association of British technical skill and experience with Indian capital and direction. It is there that the truest line of advance lies."

It is said that if we tried to realize our legitimate tax from those who invest in this country, it will lead to the flight of British capital. The plea is put forward that, in order to attract foreign capital, we should promise beforehand, or they should come here with the impression that they would be allowed to escape our income-tax. My friend, who unfortunately is absent even today, I mean Sir Muhammad Yamin Khan—I am told he has only left just now—is not even anxious to tax the foreign investments in this country. He wants equality amongst the Indians, but it seems he is not anxious to see that Indians and Europeans are treated equally. He is not anxious to see that England and India are treated equally and governed by the same laws. My plea, Sir, is that those who came to this country came because it paid them to be here, because they found that their investment was safe here, because they found that they enjoyed more privileges here even as against the indigenous people of this country, because they found that the Government of this country were always behind their backs and always prepared to stand by them and support them. They know it better. India is a safe place for investment, and they know now what the fate of their capital and investment has been in Manchukuo, in Mexico and in Abyssinia. They have yet to see what the fate of their investment will be in China. For all the privileges that they enjoy in this country and for all the safety for their investment, I think it is only proper that they should be prepared to pay a higher rate of tax as compared to us, not that they should be allowed to escape our income-tax. The equitable principle is—and this was argued at length by Prof. Saligman in a Committee appointed by the Finance Committee of the League of Nations to consider the question of double taxation—

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that a large part of the tax should go to the place where the property lies or the business is carried on and a smaller share to the domicile of the owner. This is also the doctrine of economic allegiance elaborated by the Committee on double taxation. But, in this country, Sir, all principles are being thrown to the winds. The desire is simply to give a premium to non-Indians deriving income from in this country, and to help the British Treasury at the cost of the Indian. I say, Sir, that all this is very unjust and most unfair and is being done simply because the Honourable the Finance Member thinks that he can do whatever he likes and that we are powerless here. But before I finish with clause 4, I want to reiterate that I want our foreign income to be taxed on remittance basis only. The English law says:

"The tax in respect of income arising from possessions out of the United Kingdom, other than stocks, shares, or rents shall be computed on the full amount of actual annually received in the United Kingdom from remittances payable in the United Kingdom or from property imported or from money or value arising from property imported or from money or value so received on credit or on account of or in respect of any such remittances, property, money or value brought or to be brought into the United Kingdom on an average for the three preceding years."

and so on and so forth. I wish you, Sir, to mark the words that the income arising from business, etc., on a remittance basis only. And defining what 'foreign possessions' mean, Lord Macnaughten says:

"The word 'possessions' is to be taken in the widest possible sense as denoting everything that a person has as a source of income."

I, therefore, maintain, Sir, that our foreign income should be taxed only on remittance basis and not on accrual basis, as is proposed to be done according to the proposed Act. Concerning our foreign trade, I also want to add that the owners may be residents in India, but the substantial part of management and operations is carried on outside British India, and therefore, even with a liberal interpretation of the central control theory which is prevalent in England, I would ask the Honourable the Finance Member to allow our foreign trade to grow and develop for the time being because . . .

**The Honourable Sir James Grigg** (Finance Member): What is your specific suggestion? I would like to follow that. Exemption of companies controlled or firms controlled abroad?

**Pandit Krishna Kant Malaviya:** My specific suggestion is that business, profession or vocation should not be taxed . . .

**The Honourable Sir James Grigg:** At all?

**Pandit Krishna Kant Malaviya:** At all.

**The Honourable Sir James Grigg:** Then your argument about the company being controlled abroad is irrelevant.

**Pandit Krishna Kant Malaviya:** I think my Honourable friend is not listening to me.

**The Honourable Sir James Grigg:** I am trying to find out what you are advocating.



**Pandit Krishna Kant Malaviya:** Then, I will read him the English law as it is again . . . . .

**The Honourable Sir James Grigg:** I know the English law quite well: I have listened to it before.

**Pandit Krishna Kant Malaviya:**

"Tax in respect of income arising from possessions out of the United Kingdom other than stocks, shares, or rents shall be paid on the full amount of the actual sums only received in the United Kingdom."

There is no mention of accrual basis or control in this Act . . . . .

**The Honourable Sir James Grigg:** But you are talking about control . . . . .

**Pandit Krishna Kant Malaviya:** I am simply putting forward various pleas. If you are not amenable to this, then . . . . .

**Mr. Manu Subedar** (Indian Merchants' Chamber and Bureau, Indian Commerce): The Finance Member is not entitled to interrupt a speaker like this.

**The Honourable Sir James Grigg:** I am entitled to get the point elucidated.

**Pandit Krishna Kant Malaviya:** He is entitled to do it, and I shall be only too glad to answer his questions if he puts them to me.

**The Honourable Sir James Grigg:** My question is this: the Honourable Member was, as I understood it, developing a general argument in favour of complete exemption of foreign business from the scope of clause 4. He then brought in the argument which addressed itself to the fact that a certain number of foreign businesses are virtually controlled abroad, and I want him to make quite certain that this was only an illustration and not a desire to narrow his main contention.

**Pandit Krishna Kant Malaviya:** I was pleading in the first place that business, vocation or profession should be exempted . . . . .

**The Honourable Sir James Grigg:** Completely?

**Pandit Krishna Kant Malaviya:** Completely. That was my first argument. If that does not appeal to my Honourable friend, I said that in England at present the law introduces the theory of the central control. It says that if the business, vocation or profession is controlled centrally from U. K., then the business, vocation and profession would be taxed on accrual basis. Am I correct?

**The Honourable Sir James Grigg:** Yes; perfectly.

**Pandit Krishna Kant Malaviya:** What I plead is this: that England and India are not on the same footing . . . . .

**The Honourable Sir James Grigg:** May I just, in order to focus the point which I want to get out of the Honourable Member, ask him this? His speech is devoted to saying that if you cannot get complete exemption of business, profession or vocation, then he would like, as a second string, to advocate exemption of business when the control is abroad. That is the point I am wishing to get from the Honourable Member.

**Pandit Krishna Kant Malaviya:** I am not saying that. If I were to say that, I would be stating what the Honourable the Finance Member wants. I am pleading something else. What I am pleading is this: that even the precedent of the English law taxing on the remittance basis such business, profession and vocation, as is not controlled from the United Kingdom, does not and cannot apply to India. I say further that England and India are not on the same footing. The foreign trade, so far as England is concerned, has been developed to its utmost limit. The Indian foreign trade is yet in its infancy; we want to encourage Indian foreign trade. We must provide some incentive to our foreign traders to go and trade in foreign countries and add to our national wealth. What I ask the Honourable the Finance Member to do is this: to allow our foreign traders to develop their trade. Admitting for the time being that they make huge profits there, I want that they should be allowed to invest their profits for the time being in their trade and develop it, because, ultimately, some day, whatever profits may accrue in foreign lands, they are bound to bring back their profits into this country, and then I want that the profits should be taxed on remittance basis. Am I clear?

**The Honourable Sir James Grigg:** Yes.

**Pandit Krishna Kant Malaviya:** Allied to this is the subject of our nationals trading in Burma. They went there when Burma formed part of this country. They invested their money there and were saddled with vast acres of land when agricultural income was not taxed in this country as it is even now. Unfortunately for no fault of theirs, simply because the Britishers wanted to have the sole monopoly of exploiting and developing Burma, our Indian nationals are no more welcome there. They are neither wanted by Britishers nor by the Burmans there. They themselves are not enamoured of the position that they occupy there. They are anxious to leave Burma as soon as they can, but, unfortunately, they have been saddled with vast acres of land, and it is not possible for them to bring all those acres of land on their backs to this country. What I want the Honourable the Finance Member to do, so far as our nationals in Burma are concerned, is to give them a temporary period to adjust their investments. I want that for the time being they should be allowed to enjoy the same privilege which they were enjoying when they invested their money there. The period need not be long: it may be 10 years or 15 years or 20 years. I do not want more. I want only that these unfortunate Indian nationals, who have been saddled with vast acres of land, should have an opportunity to adjust their financial commitments according to the then existing provisions of the Income-tax Law and should not be required to pay tax on accrual basis when they have already paid the tax in Burma. That is all I want.....

**The Honourable Sir James Grigg:** If it is agricultural income, they have not paid tax in Burma.

**Pandit Krishna Kant Malaviya:** I have no authority to speak on their behalf, but I want to make an offer to my Honourable friend, the Finance Member. I want to know whether he is prepared to purchase all the land held by our Indian nationals in Burma at 50 per cent. of the prices and pay the price to our Indian nationals and realise the money from the Burman Government. This shows that it is difficult even to realise 50 per cent. of the investment; and, over and above this loss, they are to be taxed in this country after they have paid the tax in Burma.

We then come to clause 5—new sections 4(a) and (b); and I want to say that it is a dangerous move in the interests of our friends from the west. I am not satisfied with the deletion of the word "control" from the definition. I would very much prefer to have the definition suggested by the Codification Committee. I want that persons or companies having substantial portion of management and operations of their business in this country should not be allowed to escape our tax. Companies incorporated outside British India, but having substantial operations here, should be made to pay, and I do not see why we should not adopt the definition of the Codification Committee.

Sir, I have already taken much time of the House, and I do not propose to discuss other clauses in detail. I have remarked on some of these in my note of dissent, and I have tabled amendments for others. But I feel that the speech would not be complete without some reference to clause 53. I hope that good sense will even now prevail and the Honourable the Finance Member will see his way to delete section 49 or clause 53, but the speech of the Honourable the Finance Member does not warrant any such hope. Sir James Grigg has taken pains to make out a case, and it comes to this that we do not lose one crore and forty lakhs or one crore and thirty lakhs, but only 60 lakhs. He has given us some figures also, and I want to prove that his figures are misleading.

Here is a press communiqué issued by the Federation of Indian Chambers of Commerce and Industry. I do not propose to read the whole of it, but I want to read one or two sentences, and I hope the Honourable the Finance Member will consider them and say what reply he has to give against these statements. This is what they say:

"It may be pointed out that the Double Income-tax Relief is more or less exclusively the British Empire scheme, and since its inception in 1920, only few countries, India and Australia, have agreed to give reciprocal relief to the United Kingdom, while such rich Dominions as Canada and South Africa have declined to sacrifice any of their revenues in the interest of the United Kingdom."

I want my friend, Sir Muhammad Yamin Khan, to bear this in mind that even South Africa and Canada have refused to agree to give any reciprocal relief to the United Kingdom Treasury.

**Mr. N. M. Joshi:** They are disloyal.

**Pandit Krishna Kant Malaviya:** Then we ought to be more disloyal. To make another quotation from the same communiqué:

"Referring to the figures quoted by the Finance Member, the Committee regret to find that the figures are likely to present a misleading picture to the Central Legislature. The tax which the Finance Member calculates and which an English company has to pay in the absence of section 49 and in the absence of any relief clause in the U. K. Finance Act, namely 5½ annas in the rupee and 7½ annas in the rupee respectively, is the collective amount of the tax, the British company will have

to pay to both the treasuries; and an English firm operating in India, with the repeal of section 49 of the Act, will not be asked to pay to the Indian treasury a single pie more than what an Indian company operating in India will be paying under the Indian Income-tax Law. In fact, both the companies will be treated *exactly in the same manner* under the Indian Law, if section 49 is repealed."

One word about the much admired 'slab' system. I would like to say that at best it is a leap in the dark. Whether it will prove advantageous or disadvantageous depends upon the rate fixed just as in the case of "step" system. I would also like my friends to note that the value of a slice changes from man to man according to his position in life and total income. The same rate of taxation on a poor man's first slice and a rich man's first slice cannot be justifiable. The marginal utility of money is greater for the poor than the rich. As has been pointed out by Marshall, "the richer a man becomes, the less is the marginal utility of money to him", and, therefore, the imposition of the same "slab" rates for the rich and the poor would not be justifiable. If the Honourable the Finance Member is really anxious to help the poor, the rates of the tax may be lowered in the case of the poor and enhanced in the case of the rich.

One reference more, and I have done. The Honourable the Finance Member as well as my friend, Sir Muhammad Yamin Khan, who often repeats what has been said or uttered by Sir James Grigg, referred to the propaganda of the Central Income-tax Committee and the various telegrams that they received. I want to know what was wrong with that propaganda. The amending Bill was published; opinions were asked for and people were asked to consider the Bill. Those who were affected by these measures thought it proper to enlighten public opinion about their case. There were others who thought that some of the clauses of the Bill went beyond the justifiable scope and limits, and I am sure that they had every right to organise public opinion, to protest, to send telegrams and do whatever they could in order to organise public opinion against the unwanted sections of the Bill. The Honourable the Finance Member may feel hurt, because the bad points of the Bill were exposed and his mistakes were pointed out. But I, as a member of the Select Committee, want to say this that the various pamphlets posted to me by various groups and associations on different points helped me a lot in understanding the various implications of the Bill. Some experts even published books. There was one most valuable book written by Mr. Raghupati Ghatak. There was another (1938 edition) of Mr. B. N. Das Gupta's, most illuminating treatise on income-tax law. We on this side of the House cannot command a highly paid Secretariat: we cannot command the services of experts. We have, therefore, to be thankful and we are thankful to these various Associations and groups of people who did their best to help us in understanding the various implications of the clauses of the Bill. Without their help, we would not have been able to find out where the truth lay and, as such, their attempts and their propaganda have to be commended rather than condemned.

In the end, I would fail in my duty if I did not pay my homage to the part played and the work done by the Honourable the Leader of the Opposition in the Select Committee. He is one of us and any compliment by his friends may not be of such value as the most deserving compliment paid to him by Sir James Grigg sitting on the Opposite Benches. But I would like to say this that not only we, but even the officials at

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places would have been stranded and handicapped but for his presence in the Select Committee. I would also like to add that the Honourable the Finance Member, who was once dubbed by the Leader of the Opposition as the bad boy or the spoilt child of the Assembly, was nothing if not a very good boy. I wonder why he cannot always be in the Assembly what he was in the Select Committee. Except on points on which he was obstinate or obdurate or on which he refused to see reason, he was always anxious and willing to accommodate and arrive at some settlement with us. Sir, I have nothing more to add except that I still entertain the hope that the Honourable the Finance Member will see the equity of our demand and agree to delete sections 4 and 49.

**Dr. G. V. Deshmukh** (Bombay City: Non-Muhammadan Urban): As the House knows, the objects of this Bill are mainly two. The first one is to relieve the poor income-tax payer at the expense of the rich income-tax payer, and the second is that the money raised is for the purpose of provincial contributions. It is further assumed that Indians, so far as this relief from taxation is concerned, only want it against their richer brethren and not against the foreigner, the exploiter, the parasite. This is assumed in this Bill. With regard to provincial contributions, again, it is assumed that for this mess of pottage of provincial contributions every Indian would be prepared to sell away his birthright—whatever rights he has as a Member of this House. Further, two more assumptions are made, that is, one that every income-tax officer is a meek lamb and not a maharaja sitting in his office, and the other, that every Indian has a right to be harassed, so far as taxation is concerned, for any rupee that he may make, whether in this country or outside the country. These seem to me to be the main provisions of this Bill.

Let me come to the main argument for the Bill, namely, the relief of the poor income-tax payer as against the rich income-tax payer. What is there in this argument? Nothing else than an attempt to divide again one section of Indians against another section of Indians. What is the good of all these statistics that 2 lakhs and 40,000 would be relieved as against 10,000 rich payers of income-tax? On this line of reasoning where will you stop? Because, supposing the Finance Member,—not the present one, but his successor whoever he may be,—supposing he does not get any income, or sufficient income, which he thinks to be adequate for his purposes, what is going to be the line of reasoning? The income-tax payer who is going to be relieved today at the expense of the rich income-tax payer will be told—or I suppose the population of India is some 88 millions, out of which four lakhs are supposed to be income-tax payers—if sufficient money is not raised, these income-tax payers on a lower scale will be put to the opprobrium of all the other millions odd people who do not pay any income-tax, and they will be told—“Now relief is going to be given to you at the expense of these income-tax payers who are at the level of Rs. 2,000 or more.”

**Dr. Sir Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): Why not tax the rich still further?

**Mr. Bhulabhai J. Desai** (Bombay Northern Division: Non-Muhammadan Rural): Until the rich have become as poor as the poor.

**Dr. G. V. Deshmukh:** What is the main drain from India and what is this relief? If there was a case of a person suffering from plague and the doctor said, "I want to treat the feet of the patient at the expense of the head, but not the parasite or the plague that is affecting the patient", what would you think of that doctor—if not a rogue, an imbecile? This is practically the position. The country is being exploited by means of securities, income-tax free securities, sterling securities and debentures, pensions, double income-tax relief, and as if that was not enough, the Finance Member had added the provisions of domicile and non-domicile in this country, and in the case of companies, whether the control will be Central, whether it will be partially controlled or wholly controlled. These are all provisions which are being put in in this Bill to support his countrymen to exploit this country. The argument is brought forward with regard to double income-tax relief, or the provisions under which income-tax is allowed to go away from the Indian treasury—the argument is brought forward that promises were given—promises were given in 1920 or some time or other, and, therefore, they must be kept. This may be pirate honour, it may be even gangster honour, it may be a particular brand of honour, but this is not the kind of principle which should be brought in when legislation has to be prepared and adopted for country as a whole. What is the amount of income-tax that is allowed to be exempted from this taxation? On sterling securities and debentures alone, not less than 24 crores are exempted from the provisions of the income-tax so far as the Indian treasury is concerned. Leave aside the double income-tax relief, over which it seems to me that all kinds of figures were quoted and some justification was sought to be made. Let me take the instance of income-tax free securities and debentures. Say, for instance, that some non-domiciled resident, about whom a good deal of care is being taken at the present time,—supposing he makes Rs. 10,000 in this country,—perhaps an illustration will explain better what I mean to put before the House. Suppose that Rs. 10,000 is sent over to England by a person. I suppose he pays income-tax in this country, and after he has sent it to England, he will get double income-tax relief from this country under the provisions of double income-tax relief. He invests these in sterling securities and debentures tax-free, and that money again is invested in this country. He gets his income on that, tax-free. A gentleman can come over here and he can enjoy that income without giving anything to the country where all this income arose. What I want to know is this: Is this fair, is this right? After all, the income accrued or arose in this country. It is to be paid at the expense of the Indian treasury, and yet, in spite of all that, this so-called non-domiciled gentleman can invest his money made in this country tax-free in perpetuity. If this is not tax-dodging, what is it? It is worse than that: it is tax-gobbling: practically, it is swallowing up the whole tax. This is the kind of position that we arrive at so far as this is concerned. What is the idea in this domicile and non-domicile? I can understand the position taken up that whatever income is made in this country, whether it is domicile or not domicile, let it be taxed on accrual basis. I can understand that. By the way, this is one of the things we have in India, which does not exist anywhere else, certainly not in the civilised United Kingdom. I do not think that there

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is any difference of domicile and non-domicile for purposes of taxation in the United Kingdom.

**Mr. S. P. Chambers** (Government of India: Nominated Official): There are differences.

**Mr. Bhulabhai J. Desai**: Over a very small matter.

**Dr. G. V. Deshmukh**: But not of domicile and non-domicile.

**Mr. S. P. Chambers**: Yes, domicile and non-domicile. If the Honourable Member wants full particulars, I can give them to him.

**Dr. G. V. Deshmukh**: I will certainly avail myself of the expert who has come to this country and by whose services we have been greatly benefited to the extent to which I will have occasion to mention in my speech.

Well, Sir, this is so far as domicile and non-domicile is concerned. This is so far as the individual is concerned. I do not understand why the investments of these resident non-domiciled gentlemen should be allowed to go tax-free. I really do not see why my friends sitting on my left should go income-tax free by this jugglery of domicile and non-domicile. I take it that that income was made in this country. If there is such a thing as accrual basis, which is supposed or which is intended to be applied to an Indian, I do not see any reason why these gentlemen here should not pay on an accrual basis. To let them go income-tax free does not seem to be fair at all. In spite of the verbiage in clause 4, the purport of the whole thing is to exclude the investment income of these gentlemen and I, personally, do not see why that should be excluded. I am sufficiently broad-minded and if Indians as well as these British foreigners pay their tax on the accrual basis, then I can reconcile myself to that. On the other hand, if their investments outside are to be excluded, I do not see any reason why the investments of my countrymen outside should be taxed at all. After all, considerable help was given to the British, to make money by business in this country, by their Government. What help have my countrymen, who have gone outside on their business enterprise, got from this Government? Absolutely none. On the other hand, every hindrance has been placed in their way. So far as my countrymen are concerned, their world income is going to be taxed on an accrual basis. So far as these gentlemen are concerned, their Government give them export credit by the Act of 1920. I want to know whether my Government give any export credit to Indian nationals in any way. I say, so far as their income is concerned, let them be taxed, and what is more, it would be dishonest of these people, who have been obliged by their Government, if they do not pay their tax to their own Governments; but what moral justification or liability is on an Indian whom this Government has not helped in any way at all. If at all, you have hindered him. He makes money by his own enterprise and why should a covetous eye be thrown on the investments of these people outside. The argument that this Bill is intended to rope in the tax-dodgers does not appeal to me. Taking human nature into consideration, I say that the tax-dodgers are not only in my country. I find that tax-dodgers exist all

over. I have here a respectable English newspaper, the *Daily Herald*. You cannot deny that it is an English paper. You cannot deny that it is written in the English language which will be understood by you gentlemen, and, what is more, it is with regard to finance and industry, and I want the House to particularly note the day—2nd November, that is to say, after the arrangement with Hitler, and when the British nation was really shaking and absolutely frightened about their own safety. What do rich tax payers of England do? The heading is "Tax-dodgers outwit the Treasury again". This is on 2nd November. You cannot say that England is out of the crisis yet. If it is, then, what is the need for all this rearmament?

**Sir H. P. Mody** (Bombay Millowners' Association: Indian Commerce): How did they do it?

**Dr. G. V. Deshmukh:** My friend, Sir Hormusji Mody, is very anxious to know how they dodged the tax. I do not blame him for trying to evade the tax! If I could, I would try to do the same. This says that at a time when the social services are threatened, big surtax payers in particular have been shown by their lawyers how to continue to deprive the Treasury of sums estimated at 20 million or 30 million pounds a year. This was when the safety of the country was threatened. However, I do not want to deviate from the point I was trying to make. Human nature is the same. I need not moralise and say that your countrymen are the only tax-dodgers. My countrymen may be tax-dodgers too, but there is more justification for my countrymen to dodge the tax than you, because you have been made what you are by the support of your Government and by the strength of your Government. So far as we are concerned, so far as this House is concerned and the position we occupy is concerned, we owe nothing to the Government. We have worked for our own position. On the other hand, this Government has always harassed us in a political way and also in a regular gangster way, so far as finances and monetary considerations are concerned. I will show you presently that this Bill also is not immune from these gangster ways so far as the income-tax payers are concerned, and I say it is permissible in these circumstances to dodge this tax on our part. You, gentlemen, have a voice in the spending of every penny of your country, but one-half of our income is spent on military expenditure and defence and in a hundred other ways and on experts, including the income-tax expert, without our consent and against our wish. I say that our money is *not* spent with our consent; leave aside military and other expenditure, even on experts including experts for this Income-tax Bill, and not only that but very often it is spent against our wish and, therefore, the point I am making is this, that so far as tax-dodging is concerned, it is a universal human instinct; it is not particularly in India that you find this tax-dodging but you will find that this instinct of possession, being a human instinct, exists in all countries, and no Finance Member need stand here and moralise about that and say that India is a country of tax-dodgers and I want to get hold of them, and that I want to plug up all the loop-holes. Whatever you may do, the more the so-called civilization, the better the way of evading the tax and I do not think my poor people are up to the same trickery and cleverness that the Finance Minister will find in his own country. That being so, it seems to me that some of the provisions of this Bill seem to me to be most unjust and repugnant to my



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sense of fairness. What are we supposed to pay all this money for? Before I proceed to the other part of the Bill, let me say this, frankly, I am willing to treat you gentlemen as my equals, as the equals of Indians liable to the same taxes and liabilities, no more than I am prepared to pay and am liable to the same taxes and liabilities, but no exemptions: therefore, if you are prepared to agree that all the incomes which accrue, whether they are domiciled or non-domiciled, should be put on an accrual basis, I for one am willing; on the other hand, if their investments are allowed to be taxed on a remittance basis, it is only fair that the investments of my countrymen and merchants outside the country should also be on a remittance basis and not on an accrual basis; and if this reform is not brought about in this Bill, well, as the Law Member always asks us to have an astrologer with respect to Federation, I think we will also want an astrologer with regard to this Bill,—as to what is going to happen to it. As to whether the slab system or the step system is going to give us more income.—I may request the Law Member to transfer the services of the same astrologer to this Income-tax Bill. But if that reform is not brought about, then I for one, so far as I am concerned, with the gross injustice and the jugglery in this clause 4, would request the House to drop the clause altogether.

Now, Sir, so far as provincial contributions are concerned, I said that what is an Indian supposed to do? In the expectation of these provincial contributions we are supposed to give up every right that we possess as a citizen or as a subject of a civilized State. I am supposed to allow the Maharajah of an Income-tax Commissioner to come into my house between morning and sunset at any time. Now, I was surprised that an Englishman like Mr. Town yesterday said that this was necessary. Why is this necessary? This is encroaching on the primary rights of any subject of a civilized State. Does an Englishman allow an income-tax officer to go into his house between morning and sunset?

**An Honourable Member:** Yes.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): What about the doctor who trespasses into the Zenana?

**Dr. G. V. Deshmukh:** I must say that till my friend, Mr. K. Ahmed, started talking in this House, I did not know till that day what a dark background the present Finance Member has. I would advise my friend to whitewash it.

Am I supposed to admit anybody into my house between morning and evening and to check my accounts? I would even object to his going into any business premises, because what business has he to go into business premises? After all, this Maharajah of an income-tax officer is supplied with the names of all the employees of the firm or company, as Mr. Town pointed out yesterday. Not only that, when salaries are paid, he is supposed to take the income-tax out of it; in the case of a company he is supposed to deduct the income-tax and the sur-tax. What I want to know is—what is this gentleman paid for? His life is so comfortable—to use the word of an Honourable Member who spoke yesterday, so “*khoosi*”, that he has nothing to do. Sir, we have only heard of Hitler and Mussolini. I think this gentleman is a Maharaja and a Hitler and Mussolini all rolled into one.

The names are to be supplied to him, he is an authority against whom no appeal can be made except by very rich tax-payers whom this law is supposed to put to some kind of trouble, and to whom only relief can be given by this gentleman. The poor tax-payer, for whose benefit this law is going to be enacted, I do not see how he is going to get the benefit of this appellate tribunal and what legal redress he is supposed to be given in this Bill? Even his mathematical powers are not to be taxed because all the income-tax and super-tax is going to be deducted before lists are going to be supplied to him. My friend, Mr. Town, yesterday asked for a discount or brokerage from the Government for the firms which supply these particulars. Why should not individuals be paid something for supplying all the information that is proposed to be given in this Bill; otherwise I want to ask the Finance Member—what are we paying nearly a crore of rupees to the Income-tax Department for? If you look at the expenditure upon the Income-tax Department we are spending on this Department a sum between Rs. 80 lakhs and nearly a crore of rupees, roughly. The interesting part is that while the receipts of the income-tax are dwindling the expenses are going up. When the income-tax was 15 crores, the expenses were 70 to 80 lakhs. But when the income-tax goes down to 13 crores the expenses go up from 70 to 80 lakhs to 90 lakhs. If an individual is supposed to supply everything that is wanted then why should the expenses be incurred? What should be the proportion of the expenses? One crore to 13 or 15 crores. That is for every Rs. 15 that the income-tax office makes, it is spending about a rupee, on the expenses itself. I pay that as a tax-payer. In spite of that I am going to be harassed and be asked to fill in all kinds of forms. I must make compulsory returns as soon as public notice is given. Why can't this gentleman issue special notice as well as public notice. After all I am paying all the expenses for my convenience. Who issues compulsory notice? Supposing I start business. I must write to him where I am going to start business, vocation or profession. If I discontinue the business, I will have to write to him. If somebody makes Rs. 200 interest, he must write to him. The gentleman who makes the money has got to write to the income-tax officer so that he may not be troubled in his comforts. Even though somebody loses Rs. 200 in interest, even then he must write. Are there any such harsh provisions anywhere in the world?

**The Honourable Sir James Grigg:** Yes, in England. The payer of interest has to deduct the tax and account for it to the Inland Revenue. Would the Honourable Member like that system to be introduced in India?

**Dr. G. V. Deshmukh:** If the Honourable Member would introduce the entire system regarding income-tax that is prevailing in England I would support him in everything.

**The Honourable Sir James Grigg:** We are giving it to you.

**Dr. G. V. Deshmukh:** You are giving it to me like an Englishman who comes to India and sheds all his good qualities. I do not want to deal with an Englishman like that. I should like to have Englishmen with all their English qualities. You have taken things from England shorn of all decent qualities and you want to pass them on as an English measure.

**The Honourable Sir James Grigg:** I do not want to go into any individual comparison. The Honourable Member asked whether I could tell him any country where there was such a harsh measure. The instance I gave was one much harsher.

**Dr. G. V. Deshmukh:** You tell me about companies. I asked you about individuals.

**The Honourable Sir James Grigg:** Individual payers of interest have themselves to deduct tax on account of the Board of Inland Revenue before they pay to the lender.

**Dr. G. V. Deshmukh:** I accept that. I will presently ask you to give all the individual allowances, all the considerations which the English people have.

**The Honourable Sir James Grigg:** That is another story.

**Dr. G. V. Deshmukh:** Whatever exists.

**The Honourable Sir James Grigg:** The Honourable Member cannot get away with it like that. He said in one particular, "Can he give me any instance of income-tax in the world where such a harsh provision exists?" I have told him one exists which is much harsher. He cannot get away with by drawing red herrings—or, if I may mix a metaphor—by using a loud voice.

**Dr. G. V. Deshmukh:** It is very likely that after all I have copied it from the Honourable Member. My experience of the Legislature is not much, and, after all, subconsciously I might have taken the Honourable Member as my model. It is no good telling me you have some of the provisions of the United Kingdom. I say this for this reason. Somehow or other my country seems to be most unfortunate in all respects. People—so called experts—come out here and go about the world at our expense and study things abroad. The income-tax experts cover the whole world at our expense and find out that dividends include bonuses shares somewhere and that distinction they copy from Western Australia and they import this wool into this country from Australia, a thing which was completely rejected in England. You have at present depreciation allowances to be put on the writing down value, instead of on the cost basis. I know this is also in England but was not a choice given to them whether they will have depreciation value put on the cost or on the writing down value?

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

**Dr. G. V. Deshmukh:** The right of assessee whether debts are recoverable or irrecoverable. Here the Maharaja of an income-tax officer is going to determine which debts are recoverable and which are not. What is the provision in England? Is it not that reserve is allowed there? What happens to husband and wife in this country? That is coming to the social side where perhaps I will not be contradicted as often as I was contradicted before, no doubt due to my mistake, I assume. What happens in the case of husband and wife in England?

**The Honourable Sir James Grigg:** I do not know.

**Dr. G. V. Deshmukh:** Dependants are included in it. In England a husband and wife are taxed on the aggregate income. I am perfectly willing to accept it in this country with due allowances. You will have the same law in this country. Every kind of allowance is given in England.

**The Honourable Sir James Grigg:** The Honourable Member must know that the husband and wife provision has now disappeared from the Bill before the House.

**Dr. G. V. Deshmukh:** All the same you are going to charge the rate on the aggregate.

**The Honourable Sir James Grigg:** No, Sir. Unless you have got one of those beautiful partnerships.

**Dr. G. V. Deshmukh:** It only means that sense has dawned on the authorities who framed the income-tax law. I can only hope that a little more sense will dawn on them and that all the objectionable features will be removed. Is any allowance going to be given to children in this country? According to the report of the Income-tax enquiry, this is a very much married country. Marriages are very common in my country. In England allowances are given to children for educational purposes. I really do not see why these humane considerations should not have been introduced in this measure. As marriage is very essential in this country, every father has to get his daughter married. There, in England, you give an allowance of £50 till the age of 16 till the children are educated. Why should the authorities who framed this Bill be blind to that here?

**The Honourable Sir James Grigg:** I wish I were deaf.

**Dr. G. V. Deshmukh:** I would like you to be dumb. What is the average expense of a man who is going to pay income-tax on income up to Rs. 8,000? Supposing he has a daughter to get married. Does the Honourable Member know anything about it?

**The Honourable Sir James Grigg:** I can return the challenge. Does the Honourable Member know anything about people whose incomes are up to Rs. 8,000 a year?

**Dr. G. V. Deshmukh:** The Honourable Member is very wrong. I will tell him that I am a born and bred agriculturist. Before I took to medicine and settled down in Bombay, it will be a matter of some information to my Honourable friend that I passed my life in the village and I was brought up there and so I know more about those people who pay income-tax on income up to Rs. 8,000 than either the Honourable Member or his predecessors or successors will ever know.

**The Honourable Sir James Grigg:** Agricultural people do not pay income-tax.

**Dr. G. V. Deshmukh:** Agriculturist in this country does not pay income-tax, but I want to ask the Honourable Member how he includes the total world income.

**The Honourable Sir James Grigg:** Agriculturist.

**Dr. G. V. Deshmukh:** Let me now speak from my local experience in Bombay. There are many State subjects in Bombay from Kathiawar and Porbunder.

**The Honourable Sir James Grigg:** Who carry on agriculture in Bombay?

**Dr. G. V. Deshmukh:** Who have agriculture in States. Is it excluded or included?

**The Honourable Sir James Grigg:** Included.

**Dr. G. V. Deshmukh:** Why? You take his total income and you include in it his agricultural income from the State.

**Mr. Deputy President (Mr. Akhil Chandra Datta):** The Honourable Member can resume his speech after Lunch.

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

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

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**Dr. G. V. Deshmukh:** I was talking about local conditions in the country and I was submitting that considerations should have been given for social conditions prevalent in this country. Just as in England education is concerned a very important matter for children, similarly, in this country, so far at any rate as a daughter's marriage is concerned, it is very important, it is almost a religious duty on the part of the parents. I should like to know from the framers of this measure as to why no allowances are allowed in the case of income which is to be spent for expenses of marriage of the daughter. I am not speaking merely by way of criticism, but I hope that those who are responsible for the Bill will take hints from it and modify the provisions accordingly. Otherwise, the Bill is likely to go to posterity, not only for us, but also for our successors and generations with very bitter state. I do not want to criticise unnecessarily. I also want to be helpful, as much as I can, and offer constructive suggestions at the same time.

Let me now come to the other social side, that is insurance. I do not know why a limit of Rs. 6,000 is put down. I would like to know from the expert whether there is any limit of insurance in the United Kingdom?

**Mr. S. P. Chambers:** There are such limits in the United Kingdom.

**Dr. G. V. Deshmukh:** They get allowance on the gradual rates so far as insurance premium is concerned. I really do not see how there can be very many in this country who would insure for a sum carrying more than Rs. 6,000 as insurance premium. For a few persons here and there, it does not seem proper that he should make a law limiting insurance

premium to Rs. 6,000. You must leave it to common sense and there should not be a regular statutory provision in the Bill. I think this limit of Rs. 6,000 may be conveniently dropped.

Then, with regard to private trusts, I am not here to say whether religious faith is good, bad or indifferent. Personally I belong to a rationalist school. I have respect for all religions and respect for no religion. You have to take into consideration the fact that in this country some are made to pay income-tax for certain religious faiths and there is no reason why a man should be prevented from making a private religious trust if he wants to. I do not see why this should be taxed? Why should a man's faith be taxed. I can understand a man's income being taxed. But here they have gone further, not only is his home to be invaded—I will not go over the whole thing again. I say it is very wrong that a man should be penalised by way of income-tax so far as his religious faith is concerned. I find the same thing with relation to settlements and dispositions. I personally have no doubt that there are some who misuse this power and that they do make settlements and dispositions for the sake of dodging income-tax, but I refuse to think that everybody does the same. I can give you a case in point. Some persons, particularly in the Hindu community, may be forced. According to Hindu law if a man has no sons, then in a coparcenary property at any rate in the school ruled by *Mitakshara* law, if he has only daughters, then it is likely that nothing of the property will go to his daughters after his death. Under the circumstances a man makes a trust under the *Mitakshara* law the wife also has absolutely no claim to the property. Supposing a gentleman governed by *Mitakshara* law has his wife and daughters and he makes a settlement in favour of his daughters or his wife. Why should it be taken that it is merely for the purpose of evading income-tax law? He does not want to have any bother after his death, he wants to see his wife and daughters properly provided. I can understand a provision like the one in the Bill if a settlement or disposition is made which can be proved to have been done for the purpose of tax evasion. But I cannot understand a wholesale provision like the one in the Bill, which takes for granted everybody to be fraudulent merely to evade income-tax. Therefore, a provision wherever it is made to penalise the settlor or the disposer is entirely wrong, and foreign to the spirit of proper legislation.

We were talking about agricultural income. I am sorry I disappointed the Honourable the Finance Member. I have a great deal to say about it. He must have realised by now.

**The Honourable Sir James Grigg:** You tell me so.

**Dr. G. V. Deshmukh:** Whatever I tell you you can believe blindly.

**The Honourable Sir James Grigg:** Not about income-tax, I assure you.

**Dr. G. V. Deshmukh:** Some people are incorrigible. I cannot help it.

As far as agricultural income is concerned, I am for clean legislation. I do not like these qualifications. So far as British India is concerned, agricultural income is excluded and it should be. I do not say no to it. I do not approve of the argument advanced that an agriculturist even if he has a yard or a cubit of land has to pay land revenue whereas a businessman is exempted up to a limit of Rs. 1,500 or Rs. 2,000. If you want to

[Dr. G. V. Deshmukh.]

tax agricultural land as a matter of legislation I can reconcile myself to it. I say I agree again. It is not as the Honourable the Finance Member knows that this provision is not going to be misused. How about the palatial mansions of Bengal landlords in excluding from agricultural income? That has been excluded as has been pointed out in one of the official reports. The one position you take I can understand. What I cannot understand is this—I must speak in the interest of my constituency—in Bombay there are many State subjects from neighbouring States, Kathiawar, Gujarat. Many of them are well to do State subjects having agricultural income from their States. If the agricultural incomes are excluded in the case of British subjects, why should these be included in the case of State subjects. I do not hold with this that any particular section should get a qualification whether in Burma or anywhere. What I say is this if the agricultural income is to be excluded, it is not that Indian State subjects should not get this exemption. It is very unfair that you should tax them according to the world income and include his agricultural assets therein. Here, again, so far as the total income is concerned, it has been changed into total world income. If you want to keep that, I have no objection, but what I cannot understand is, while you will tax his total world income, you will not allow any interest if it is to be sent out of British India. I hope to go into the matter in detail when the amendments are moved. If you want to tax a man's total world income, then you must certainly allow his world losses as well, whether it is on mortgages or interest. You cannot prevent that man from paying interest outside, but you will not give any exemptions or make any allowances on that account, and that, I think, Sir, is very wrong.

Again, Sir, I hope the House will excuse me for dilating on the subject of agricultural income, for this reason, because it has been stated that this Bill is intended altogether for the relief of the poor tax-payer against the rich tax-payer. I myself honestly think, Sir, that in spite of the cheap gibes of the Finance Member against trade representations and propaganda and telegrams which he quoted, this Bill is going to affect the poor agriculturists very badly for this reason. After all, what is the income from business to an average businessman? I do not look at it in an abstract way. A man who is trading outside India can only trade in export or import business. So far as Indians are concerned, we are, to begin with, mere producers of raw products, and the cry all through for the last so many years has been that our export trade has been declining and our prices have been falling. And what is the meaning of the Ottawa Pact? During the last four years we have been in this House we have been hearing a good deal about the fall in the prices of agricultural produce, that prices of agricultural products should be increased, in fact all kinds of suggestions have been put forward. Now, when you are going to tax your merchants for world incomes, what are you going to tax them for so far as the Indian merchants are concerned? They export your raw produce outside, in other words they are helping you to increase your export trade. On the one hand you say, raise tariff walls so that outside products may not come in and the export trade of the country may be stimulated, in order that our agricultural produce may fetch better prices; on the other hand, you are penalising the man who is carrying on the export trade by taxing him on whatever he makes outside. Sir, it does seem to me that the House in agreeing to a proposition like this will be

taking up a very inconsistent position. I must say that I do not understand the conflicting arrangements. Besides that, what is the condition of your export trade? So far as the agricultural products are concerned, are you in a flourishing condition? No, certainly not. Your rice export from Bengal has gone down by about one-fourth, your wheat export has gone down by about one-third; agriculturists in the Punjab are howling that they do not get any price for their produce, and the Berar and Bombay are shouting because the prices of cotton have gone down. Millet, jowar, maize and other things which we used to export to the tune of about four hundred thousand bags have come down to about 40,000, and then on the top of all this, you talk of taxing the income of the agriculturists on a world income or accrual basis!

Sir, I think the whole scheme has been conceived from a wrong standpoint; it is conceived only from one point of view, and that is, with the whole idea of getting money, more money and more money, no matter by what means it is got. It can be collected, no doubt, for a purpose, and that is for provincial contributions, but again I shall repeat here, we are not going to sell our birthright for a mess of pottage for the sake of provincial contributions. Do you mean that for the sake of these provincial contributions we should yield to anything and everything that you propose? Are we to submit to some of the powers which you propose to give to the Income-tax officers, like the power to enter your house or to re-open an assessment account if he wants to do so? The Honourable the Finance Member in answering some Honourable Member said that you cannot claim losses for six years if you cannot render accounts for six years. I agree with him entirely. I say you cannot claim losses for six years, and it is only fair that you cannot claim accounts for six years. But what I should like to know is this,—how can the assessment question be re-opened by an Income-tax officer under this Bill? I suppose in the English law and in the laws of the United Kingdom the words 'if he discovers' must be there.

**Mr. S. P. Chambers:** Yes, if he discovers.

**Dr. G. V. Deshmukh:** Well, if you use the same words here, I have no objection.

**The Honourable Sir James Grigg:** I am afraid the Honourable Member has not read the Bill. The word 'discovers' is in the Bill.

**Dr. G. V. Deshmukh:** The Bill has been changed so many times that I can only go upon what has been supplied to me.

**The Honourable Sir James Grigg:** The Honourable Member had better mistrust what is supplied to him next time.

**Dr. G. V. Deshmukh:** Unfortunately, I am not in the habit of conferring privately with any Government Members on the opposite side, and, therefore, I can only go by the printed matter which has been supplied to me. The Honourable Member will perhaps excuse me if I don't have any private conferences . . . . .



**The Honourable Sir James Grigg:** I can excuse him, but I do not think he ought to be excused for not reading the Bill and making observations on it before he reads the Bill.

**Dr. G. V. Deshmukh:** If you have already made changes in the Bill by taking some of the suggestions thrown out from this side of the House, I am really very glad, and I do hope that better sense will dawn on the framers of the Bill to incorporate and embody almost all the suggestions that may be made from this side when we come to deal with the amendments.

Well, Sir, I do not want to take any more time of this House. Under this Bill the powers which you are giving to the income-tax authorities are enormous,—right up from opening accounts on his own whims and caprices down to entering our hearths and homes. This is a thing, Sir, which no self-respecting subject of any State would ever agree to. I have no objection to having a uniform law without having all this show of control, of domicile, non-domicile and so on, to help your friends, or to invent means to help them at the cost of the poor tax-payers of this country. It seems to me, Sir, that the Bill, as it is, is saturated with and is full of dishonest methods for extracting money from income-tax payers. If you want the people of this country to pay income-tax in a moral way, you cannot introduce immoral provisions in the Bill.

Now, Sir, it is a matter of deep regret to me to find that Honourable Members from all sides of the House have been appealing to the Honourable the Finance Member to use this authority very sympathetically and kindly. I say it is an attitude which I cannot agree with. All these pathetic appeals to my friend seem to me very disgusting, for this reason that we are here to make legislation. It is our responsibility and our decision to give him what power the income-tax authority should have. . . .

**The Honourable Sir James Grigg:** If that is so, it is the Honourable Member's responsibility to read the legislation he is making.

**Dr. G. V. Deshmukh:** It is quite likely that the Honourable Member opposite is saturated with legislation about income-tax only, and, so far as the general principles of legislation are concerned, he has either paid no attention whatever to them or probably he was unable to understand those principles, because from my medical knowledge I know that when a man is particularly interested in one subject, he becomes blind, deaf and dumb, he becomes incapable of assimilating any general ideas on other subjects, and, therefore, I will excuse the Finance Member for his remarks. . . .

**The Honourable Sir James Grigg:** For your mistakes?

**Dr. G. V. Deshmukh:** I say, Sir, that these appeals, whether they come from the European Group or any other Group, seem to me to be very inappropriate and insulting and not consistent with the self-respect of this House. After all we are here as legislators. It is our duty to see what power we will give to the Income-tax Department, particularly a Department to which we pay the enormous sum of nearly one crore of rupees merely for collection of income-tax. We, as self-respecting subjects of a State, should not be prepared to subject ourselves to all kinds of individual

ignominies. So far as business is concerned, perhaps I could have gone into the business side a little more but I have no desire to. All I am keen on is that the individual rights of a subject should not be trampled upon, and, particularly, when it comes to the duty of the Legislature itself it is no good taking up a ridiculous position and hand over powers to the executive to tyrannise you and oppress you and then make pathetic appeals asking them to use this power sympathetically and kindly and to remove this evil and that evil. If you think that the power is going to be misused, it is your duty as legislators not to hand over that power, and I hope, Sir, that this House will keep this in mind and legislate accordingly and will not give powers to the executive which interfere with individual rights, with industry, with prosperity and with the happiness of this country.

**Mr. Muhammad Nauman** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Mr. Deputy President, we have all carefully heard the speeches of the Honourable Members of this House and especially of the Honourable the Finance Member and the Leader of the Opposition who have certainly placed the Bill in a more lucid manner than the other Members have done. I must confess that the language of the Bill and of the Act of 1922 as well is vague and ambiguous and it is very difficult for anybody to understand the different implications contained in these measures unless they know the practice. I should think, meaning no disrespect to any of my friends and colleagues, that only a few of them have been able to digest even half the subject, intricate and technical as it is. My Honourable friend, Sir Homi Mody, confessed that on the floor of this House yesterday and if a man of his merit and connections in business world has not been able to understand the language as much as he should have been expected to, well we can see how vague and ambiguous the language used in different clauses is to most of us. Frankly speaking, for myself I have found enormous difficulty in understanding the clauses and their implications in spite of my knowledge of law and of economics and close association with Commerce and the trading community of India.

I understand the chief purpose of the Bill is to minimise the chances of tax-dodging and to catch those who have been avoiding payment of the tax in spite of their capacity. That is what the Honourable the Finance Member has told us in his opening speech this time. On the question of tax-dodging, Sir, the best test is the number of penal cases which have been placed by the Government on the record, since the Act came into existence—I mean the Act of 1922. Those statistics must be available to the Government. How many penal cases have been brought and with what results? We do not know. If the statistics had been placed before us we would have been in a better position to judge how far tax-dodging was going on in this country and whether it has reached a stage where legislation of a more rigorous kind is necessary. Then again, it has been further alleged and probably correctly, that some of the assesses maintain duplicate sets of books, one for the Income-tax Department and another for their own use, and Sir Homi Mody has suggested on the floor of the House that even triplicate books are maintained, the last for the use of partners and the lowest figures are contained probably in the set which is produced before the Income-tax Department. Now, as regards that also we should have been given some idea as to the authority on which the Government relies that such things

[Mr. Muhammad Nauman.]

are going on. Yesterday, Mr. Town also stressed the practice of these things by some assessee. I do not know his source of information, unless it be an intuition to him as some one says now.

**An Honourable Member:** No, a Confession.

**Mr. Muhammad Nauman:** Then, I wish we had some more people in the House to confess that they are maintaining duplicate sets of books. Naturally as Mr. Town belongs to a commercial community and a confession in his case means the maintaining of duplicate sets of books by his section. He cannot mean anything else. However, Sir, on this basis provision is being made to give the Income-tax Officer the right of free entry into premises, and that means not only the business premises but all such premises in which the Income-tax Officer thinks he will be able to catch a tax-dodger or his books which he may be maintaining for tax-dodging. My submission on that point is, Sir, that this clause would harass the honest assessee more than help to catch the dishonest one. I will not make the assertion that there are not tax-dodgers at all in India. There might have been cases of duplicate sets of books being maintained; but in my opinion they are so few that they do not require as yet such a rigorous clause being placed on the Statute-book as to put all the assessee in the category of criminals. Now, Sir, as regards this I think the Honourable Member does realize that the powers proposed to be given are more apt to be abused than used rightly. We have had sufficient experience in this country of the way in which police officers behave, of the way in which even *chaprasis* have been over-awing gentlemen, and if this power is given to any income-tax officer

**An Honourable Member:** And how the jamadar collecting your rents behaves.

**Mr. Muhammad Nauman:** That does not arise. If at all amendment was necessary the essential feature of the Bill should have been simplification of the language so that it would have taken out of the present Act the vague and ambiguous parts of it. The most essential principle for a taxing legislation is that it should be couched in simple and explicit language, so as to be intelligible to the average tax-payer on whom the burden falls. In England there was a Royal Commission appointed in 1920 with definite term of reference that the language of the Act should be simplified, and the Codification Committee was appointed with the sole object of simplifying the language. It was appointed somewhere in 1924-25 under Mr. Winston Churchill the then Chancellor of the Exchequer. The personnel included eminent lawyers and accountants and although that committee made its report, Parliament has not yet given its sanction, they still think that the language there is ambiguous in certain parts. That is the story of a country, Sir, where literacy is practically 100 per cent., and the Honourable Members can realise the position of this country where literacy on the average is hardly ten or even five per cent. and where there are a dozen methods or more of accountancy and not one method as in the United Kingdom. It is most surprising that some parts of the United Kingdom Finance Act have been taken but not the whole. The Enquiry Committee appointed under our Expert, Mr. Chambers, did not recommend any negotiations even with the United Kingdom

or other countries for reciprocal arrangements. When we were thinking of taxing world income, I think it was only fit that they should have entered into negotiations for reciprocal arrangements, at least with the United Kingdom and the dominions.

Before coming to the clauses, let me point out that the Bill is not based on the fundamental principle of the capacity of the tax-payer to pay. In other countries like the United Kingdom we find that allowances have been given for expenses of a personal nature and for wife and children and house-keeper. This was discussed yesterday by Sir Homi Mody and just now by Dr. Deshmukh at full length. I need not dwell on the necessity for such allowances. They should have been taken into consideration when examining the question of the tax-payers' capacity. I understand a proposal was placed before the Enquiry Committee but was turned down on the ground that "married condition is the prevalent condition in this country". It is somewhat surprising to me to hear that: I do not know of any part of the world where the prevalent condition is an unmarried life. As far as my knowledge goes in the United Kingdom and in all the dominions including Australia, Canada, South Africa, etc., these allowances are given when assessment is made on individuals . . . .

**Mr. K. Ahmed:** For four wives and children!

**Mr. Muhammad Nauman:** No provision has been made here for allowance for even a single wife. The prevalent condition is one wife only. Legislation could have been passed giving allowance for one wife and treat the others as a luxury. But that has not been done too and this is the tragedy of taxing principle.

Another point which was made yesterday by Mr. Town was that many people who have the capacity to pay escape paying taxes and by paying capacity he said people getting about or just over Rs. 2,000. He does not realise that a man earning that figure has hardly anything left if these allowances are given. It is in this country alone where the allowances are not given that Mr. Town says people are escaping tax. (Interruption.) I am not concerned with what he meant; I am concerned with what he said; and he definitely said on the floor of the House that he knew many petty shopkeepers who were making about Rs. 2,000 and who were escaping. But he does not realise the unfortunate lot of those people that they are practically living on nothing and they do not have capacity to pay in the real sense of the word. These facts should have been apparent to the expert Mr. Chambers who was brought out here to study those things and advise the Finance Department on the same lines as in his own country.

Now, Sir, no guidance has been given to the income-tax officer regarding allowances for expenses. Certain lines have been vaguely suggested, but no guidance in clear and explicit terms has been laid down in the Bill, nor was it in the Act which has been in operation so far. I personally know of hundreds of businessmen in Calcutta who maintain a kitchen for their clients on the basis of time-honoured custom of the trade and allow board and lodging to their servants as part of the contract of their service—when they pay Rs. 10 or Rs. 20 or Rs. 30 to their servants, they also give the benefit of food and lodging . . . .

**The Honourable Sir James Grigg:** That is allowed.

**Mr. Muhammad Nauman:** No guidance has been laid down in the Bill, and I know that the hide and skin merchants of Calcutta are not allowed this . . .

**The Honourable Sir James Grigg:** You bring the cases to my notice.

**Mr. Muhammad Nauman:** Thank you very much. The other case is that of a partner or proprietor living on the premises and managing the business as manager and no allowance being given for his expenses. I know of many cases in which the premises in which the business is being carried on and are also occupied partly by the proprietor or partner and the rent of that part is disallowed by the income-tax officer in his own discretion. Again, if a partner or proprietor visits his office to examine the accounts once a year and takes a house for two or three months on rent for this purpose, that rent is not allowed: it is assumed probably, that he went to Bombay or Calcutta or Madras or wherever his office be situated on a luxury excursion. I submit, Sir, that some sort of guidance should have been given in the Bill in unequivocal and clear terms saying that such and such items or natures of expenses would be allowed and others would not be allowed by the taxing authorities as expenses of business. Everything has been left to the discretion of the income-tax officer, and, probably, he can make the life of any respectable and honest citizen or assessee as miserable as it may lie in his power to do. This is something which appears to me to be against all equity. In all the other departments of the Government guidance has been given to the officers in clear terms but in the case of the Income-tax Department, I find that in spite of the efforts of my Honourable friend, the Honourable the Finance Member, to overhaul the machinery of the Income-tax administration, about which he is really anxious, no substantial improvements have been proposed in the interests of this country—what I submit is that the Honourable the Finance Member should give such guidance and put in such provisions as would not be ambiguous or vague and would give an honest assessee a chance to make the income-tax officer understand things if he is not able to do so himself.

I find instance of ignoring "tax-payers' capacity to pay" by the provision of clause 17 in this Bill. We have already in the Statute section 16 (3) in which the income of the wife from assets transferred by the husband or the income of the wife in a partnership concern in which the wife becomes a separate and independent partner is amalgamated with the income of the husband. There is a similar provision in the Act under which the income of a minor child from assets transferred by the father is included in the total income of the father. Sir, under the Muslim law the Muslim ladies have a separate existence and the wording of section 17 is:

"Where two persons are husband and wife, the tax payable by either spouse, on his or her total income shall be an amount bearing to the total amount of the tax including super-tax which would have been payable on the sum of the two total incomes had such sum been the total income of one individual the same proportion as the total income of such spouse bears to the sum of the two total incomes."

**Mr. S. P. Chambers:** May I just remind the Honourable Member that that part of clause 17 has been deleted in the Select Committee?

**Mr. Muhammad Nauman:** I am sorry then. As my feelings were a little strong on this, because, from the Muslim point of view, Muslim ladies have a separate existence and that position should be recognised, and also the question of Dower debt . . .

**The Honourable Sir James Grigg:** We have accepted that argument.

**Mr. Muhammad Nauman:** On the question of trusts, I want to say this. My Honourable friend, Sir Muhammad Yamin Khan, has fully discussed that question, as to how the Muslims feel on the subject of waqfs and *waqf-alal-Aulad*, but, I want to add just a few words. This theory has been accepted in the Bihar Agricultural Income Act, and the waqf has been exempted from any taxation. I do not see why this principle has not been enacted here up till now. I hope when we come to discussion on amendments the Honourable the Finance Member would accept our amendment and see that the feelings of the Muslims are redressed, in so far as the waqf and *waqf-alal-Aulad* is concerned. There should be made no distinction on the question of waqf and *waqf-alal-Aulad*, that is, a trust private or public. So far as the Muslim law goes, there is no difference between the two; they stand on the same level according to Muslim jurists. It is difficult to understand where the private trust ends and public trust begins. If one starts a school for the benefit of poor boys of the village, is it a public or a private trust?

**Mr. S. P. Chambers:** Public trust.

**Mr. Muhammad Nauman:** Even if it is started for a certain community?

**Mr. S. P. Chambers:** Yes.

**Mr. Muhammad Nauman:** My Honourable friend, Sir H. P. Mody, has lucidly dealt with section 25—the power given to the income-tax officer of declaring dividends six months after the last meeting of the shareholders if there has been no such distribution. Dividends are to be declared by the income-tax officer not out of the available profits of the company but such dividends are perhaps to be declared disallowing all preliminary expenses and all such items of expenses which are technically looked upon as legitimate items of expenditure but do not convince the income-tax officer of its relevant necessity as urgency. The question is where are the dividends to come from? Again, the next clause makes the position look still more difficult. I am referring to the provision if a company has its reserve fund sufficiently accumulated the income-tax officer has the power of making himself the sole *de facto* director of the board and declaring the dividends in his own discretion. The share register has then to be called for but shareholders as recorded in the company's share register would not normally be the same persons as the actual shareholder at the time of actual declaration of dividend. In busy commercial places as those of Calcutta, Bombay, Karachi, Madras and others, shares mostly change hands by blank transfers and the company itself cannot give the name of the actual shareholder at

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the time of the declaration of dividends. Can my Honourable friend, Mr. Chambers, enlighten me as to what instructions he proposes to give to the income-tax officers in such circumstances which are expected to arise in more than about 50 per cent. of the cases?

**Mr. S. P. Chambers:** I am sorry I cannot give the Honourable Member any idea of what instructions will be issued because the Bill has not yet been passed into law. That is a matter which will be considered at a very much later date. But I will bear in mind the point which my Honourable friend has made.

**Mr. Muhammad Nauman:** My submission on that is that some guidance should have been given in the different clauses by such provisions as to show the real intention of the Legislature in enacting this. Then, section 42 (3) requires the assessee to furnish statements of the names and addresses of all persons to whom he has paid in any year rent, interest, commission, royalty or brokerage or annuity amounting to Rs. 200. This act will only be a source of constant friction between the employer and the employees, the client and the *mahajan*, between a merchant and his broker, between a commission agent and his principal, and when the income-tax officer insists upon a list being furnished of all the payees of the kind mentioned to the extent of Rs. 200 or more, I think in some cases it will amount to 50,000 names or thereabouts. Take the instance of a sharebrokers' firm or commission agents firm whose clients are innumerable and whose amounts of commission are sometimes small, but the names and addresses are all the same numerous and different. Then he has got to maintain the names and addresses of all those persons who get about Rs. 17 or 18 a month,—in total amounting to Rs. 200 and the assessee runs the risk of giving an address on which the man may not be found and be called "Dishonest".

**The Honourable Sir James Grigg:** On the Honourable Member's assertion, there are 50,000 names of persons paying Rs. 200 each, which means payment of a crore at least.

**Mr. Muhammad Nauman:** There are firms which are paying about a crore of rupees. I can name some of them, say: "Mungli Ram Bangar, Birla Bros., Adamji Haji Dawood, Bird & Co., etc." These are the biggest firms in Calcutta. If you take their list, it will come to about that figure.

**The Honourable Sir James Grigg:** You mean payment of interest?

**Mr. Muhammad Nauman:** Not payments of interest. My submission is that 50,000 persons may get it in some shape.

**The Honourable Sir James Grigg:** On your statement, if you take the figure at 50,000 and if you multiply it by Rs. 200 paid in interest, it comes to a crore a year.

**Mr. Muhammad Nauman:** It includes brokerage, commission, rents and all other things besides interest.

**The Honourable Sir James Grigg:** They do not pay brokerage. They get it.

**Mr. Muhammad Nauman:** They pay as well. When I say 50,000, it will be a very reasonable figure. It will be at least 3,000 or 4,000 normally in many cases.

As I have said before, no guidance has been given to the income-tax officer for accepting and allowing a deduction of particular expenses. That would lead to harassment. I know of individual friends who, for reason of being a Muslim and following the strict tenet of the Qoran, do not borrow on term of interest but borrow money on term of paying a percentage of the profit accrued and this is not allowed for by the income-tax officer as business expense, in spite of evidence produced before him.

Now, Sir, if my study of fundamental principles of a taxation statute is correct, then I may say that normally a taxing statute should be based on consolidation and there should not be a sudden or abrupt variation in the principle of taxation. I think this principle is rather violated by the attempt to change over from the remittance basis to accrual basis for the purpose of taxing foreign profits and gains of an Indian as proposed in clause 4 (a). The League of Nations Finance Committee recommended the principle of levying taxes on the profit and gains accrued at the place of origin. The principle of place of origin is to be the place of taxation and this probably is the most equitable and it takes away the entire question of double income-tax relief or reciprocal arrangements. In adopting the principle of accrual basis the Government of India will find that they are landing their Indian subjects into such difficulties as would either compel them to change their residence from India to some other place for all times or to find out ways and means of tax-dodging on the basis of 182 days residence or 365 days residence in four years. The question of 182 days residence and 365 days aggregate residence evidence will give enormous trouble to honest assesses and as the onus of proof will lie on the shoulder of the assessee they will find some difficulty to make the income-tax officer believe their statements accompanied with such evidences as will normally not be available in the form of certificate from any Government. The history of Indian foreign trade is more a history of personal enterprise and adventures of individuals and in no case I know of any substantial help ever given by the Government of India for building up foreign trade. I hope that the Honourable Member will realise the hardship of double income-tax for those Indians who are doing their business in foreign countries and will have to pay income-tax at the place of origin and no relief of any kind will be available from those countries which have no reciprocal arrangements with India. Then there are countries which would not allow any part of the profit or capital to be removed for some time and in that case the Indian merchants will be assessed on the foreign income and will have to pay out of their Indian funds either from the capital or by borrowing and this will mean hardship which may end the trade altogether. Of course the Government of India has offered to issue executive instructions for cases where removal of profit will not be possible but this will not be sufficient as all the official orders normally are delayed to such an extent that the income-tax officer may realise in the meantime and the machinery of the Central Board of Revenue will be set in motion after the harm has been done. Then the difficulty of bringing the books from foreign countries is not only costly but it may ruin business. If during the transit the books are lost, with them will be lost those amounts which might be due to the clients abroad. The effect of this Bill may be to tempt other dominions to adopt this very principle of taxation on their



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side and then the effect of double income-tax relief may be nullified. On the one hand, the double income-tax relief will be available for limited parts of the British dominions and will not at all be available in places like the United States of America, Japan, Germany, France, and etc. Besides the amount of the double income-tax relief normally will not be available in less than four to five months time and the loss of interest and the difficulty of financing Indian part of the trade may well be imagined. I want to give the House a concrete illustration which will bring clearly to the House the difference it will make and I should like Mr. Chambers to enlighten me on it. Suppose a company B. C. and Co. earns one lakh in Japan, one lakh in the United States and one lakh in British India. Taking the rates in Japan and U. S. A. to be the same as in India *minus* surcharge then it pays ten thousand each in Japan and U. S. A.

**Mr. S. P. Chambers:** I may inform you that the rates in those countries are lower than the aggregate of the rates of income-tax and super-tax for such a company in India.

**Mr. Muhammad Nauman:** In the United Kingdom it is not lower.

**Mr. S. P. Chambers:** I thought you said the United States.

**Mr. Muhammad Nauman:** I said United States and Japan. As I do not know the rates, I have just tried to calculate on the same basis as in this country and what figures I have been able to get are subject to verification by the Honourable Mr. Chambers. Taking the rates in Japan and U. S. A. to be the same as in India *minus* surcharge, then this firm pays Rs. 10,000 each in Japan and U. S. A. and Rs. 11,000 in British India including surcharge, making a total tax of Rs. 31,000 on an earning of Rs. 3 lakhs, but under the Bill the position would be that B. C. & Co. will pay Rs. 10,000 each at Japan and U. S. A. and will pay about Rs. 85,000 in British India on Rs. 3 lakhs net earning, combining the profits earned in three countries, and the total amount of taxation will come to about Rs. 1,05,000 on Rs. 3 lakhs against which no relief will be available.

**Mr. S. P. Chambers:** I have not followed the Honourable Member's figures in detail nor do I remember the exact rates in the United States and Japan. I think perhaps the better plan would be if the Honourable Member would ask me a question outside in the lobby and I will then endeavour to check his figures.

**Mr. Muhammad Nauman:** Taking the same case, supposing the earning to be Rs. 1 lakh in Burma and one lakh in Ceylon, the relief would be given to the extent of about half the tax that he paid in the colonies and which means relief of about Rs. 10,000 by way of double income-tax relief and still he will be saddled with a net taxation of about Rs. 95,000, as against Rs. 31,000, which is the position at the moment under the Act of 1922.

**Mr. S. P. Chambers:** I think both in Ceylon and Burma he would pay no extra tax on the assumptions made, because although British India gives relief of half the tax the other countries also give relief.

**Mr. Muhammad Nauman:** Now, then, the question of domicile and non-domicile places us in further confusion, because section 49 of the Act

of 1922 and section 58 of the present Bill cannot be deleted without the sanction of the Governor General. Europeans earning profits on their investments cannot give the Indian exchequer that amount as the Indian natives will be compelled to give. I have every sympathy for my European friends and I do not want to suggest that they should not get relief for double income-tax but what I want to point out to the House is that this is not relief given to the European business-men but is relief given to the British treasury. The facts are that those European firms do not get the relief but the Indian exchequer makes a contribution to the British treasury in the name of double income-tax relief through these European firms, and it is not to them that the actual benefit goes but to the British treasury, because according to all canons of equity it seems rather too much that they should have been taxed twice and naturally they paid only once. But whatever relief is given to them is actually given to the British treasury and that position has to be taken into consideration by the Indian exchequer—how far this is to be justified. Now let us take a concrete case. Let us suppose that A. B. & Co. Ltd. earn Rs. 2,50,000 in the United Kingdom and Rs. 10 lakhs in British India. Under the U. K. Finance Act, the United Kingdom taxes them on the total profit of Rs. 12,50,000, which at the rate of four shillings per pound works up to be Rs. 2½ lakhs, then the United Kingdom super-tax on that amount works up to about Rs. 70,000 and hence the total amount of taxation to be paid to U. K. Government is Rs. 3,20,000. There may be a little difference for the reason of the rate of exchange or even the rate of calculation but this will be the figure near about. Now, Indian tax on the earning in British India, which amounts to Rs. 10 lakhs, will amount to Rs. 1,50,000, and over this will be charged a surcharge of Rs. 65,000, making a net taxation Rs. 2,50,000 tax to be paid to the Indian exchequer. Well, under the U. K. Finance Act, relief has got to be given to the extent of about half. Half, India will refund by way of double income-tax relief, half the tax, without the benefit of taxing the British portion of A. B. & Co. Ltd. I am not fully conversant with the rate relating to double income-tax relief, but I understand that the calculation has to be based on the average rate of tax prevailing in British India and United Kingdom. To be concrete, I understand half the tax paid in British India has to be refunded whether this has to be divided between British Indian exchequer and the U. K. exchequer or not or exclusively borne by the Indian exchequer, I am not definite about it, but supposing it has to be divided; the approximate tax in India is  $1/6$  and the assessee is entitled to relief of  $1/12$  whether the British exchequer will also give some part of the refund or not is a matter for the Honourable Member to inform the House when he gets up for reply. Moreover, in the case of individuals and other associations of individuals, the matter of computation for the purpose of calculating income-tax is more complicated and as the method of computation in the United Kingdom is very different from the method of computation in India, the former recognises the personal allowance of wife and family which the latter does not. Now, Sir, if clause 4A is considered to be necessary for the Indian exchequer and if at all it is to be maintained intact, certainly the distinction between domicile and non-domicile should not be allowed to exist and the basis of liabilities should be only residence, as in the United Kingdom, and the definition of residence should be only residence and nothing else,—a little widened perhaps so as to bring in all the world income of all the people residing in this country in order to give the Indian

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exchequer sufficient funds to undertake bigger projects. In the United Kingdom Codification Committee's report no difference of domicile or non-domicile has been made and let us all be brought on to the same line, if it is necessary that every one has to be taxed to give influx of money to the Indian exchequer. I should be glad to hear from Mr. Chambers on what lines the definition of domicile and non-domicile exists in the United Kingdom. As I said in my speech earlier, we would be quite willing to have the entire U. K. Finance Act as it is there.

**The Honourable Sir James Grigg:** You are prepared to accept the United Kingdom Act in this matter of foreign income absolutely as it stands? Is that the suggestion?

**Mr. Muhammad Nauman:** Yes, the whole thing—my submission would be “drink deep or taste not the Pyrene spring”—that we should have the whole thing or nothing of it. With all the allowances, the supertax, supercharge rates and everything as we have in the United Kingdom, I think many of my friends here would be prepared to accept. We would be prepared to agree even to the imposition of death duties if it came to that even.

Now, Sir, I do not wish to take any more time of the House. I have tried to point out to the House that it is highly necessary that the Honourable the Finance Member and Mr. Chambers should reconsider the whole scheme of taxation in the light of the facts which we have placed before them and see what improvements could be effected in the Bill in the interests of the finances of this country and also of the people of this country. After having said this, I must confess to a feeling of appreciation of relief about the improvements that are proposed in the Bill. I must thank the Finance Member for having found the necessity of allowing assesseees to carry forward their losses to the next year and allowance will be made in the profits for such losses if any. That is a much needed improvement which will probably be accepted by every one on all sides of the House. Again, Sir, the introduction of the slab system will certainly mean considerable relief to some of the assesseees, particularly to all those whose incomes will be below Rs. 8,000, and the position of those whose incomes will range between Rs. 8,000 and Rs. 25,000 will remain *status quo*. The majority of the assesseees have incomes between Rs. 8,000 and Rs. 2,000 and, therefore, this improvement will be very much appreciated. Then again the slab system is certainly a very great improvement. Then the proposal for the establishment of a tribunal of appeal is equally a considerable improvement, but why it should be introduced after two years after this Bill has remained in force I cannot understand. My submission is, as Mr. Town suggested yesterday, the appointment of this tribunal should be made forthwith almost simultaneously with the bringing of this Bill into effect.

Now, Sir, I trust that the few suggestions I have made will be carefully considered by the Honourable the Finance Member and Mr. Chambers and that they will try to accept such amendments as we will give on the different clauses and make the Bill more acceptable to all sides of the House. I am particularly keen on some sort of guidance being given to income-tax officers to avoid harassment which honest assesseees are normally confronted with even under the present Act. With these suggestions, I take my seat.

**Mr. S. P. Chambers:** Sir, I think, it is desirable at this stage that I should give a few explanations on some points of difficulty that have arisen during the discussion. I cannot promise to deal with every difficulty that has arisen, because I am afraid I might occupy too much time of the House, but my object is to deal mainly with those difficulties which are, if I may say so, of a less controversial character, so that, Honourable Members, when they come to the clauses, may have a better idea of the clause upon which they are voting; and I do it at this stage because so many of the clauses are inter-related. As I shall explain later on, I think failure to see the relation between one clause and another has led several speakers into difficulties.

What I want to avoid, in particular, this afternoon, are clause 4 and 53 that deal with the residence or accrual basis of foreign income, and Double Taxation Relief. I do not propose to touch upon these or upon any subject which is related to these matters, except one, and I want to refer to it because some misunderstanding seems to have arisen on the subject of the recommendation of the Codification Committee Report of 1936. That Committee recommended the definition of residence for companies, and that definition was reprinted in a footnote to the Income-tax Inquiry Committee Report of 1936. I fancy that Honourable Members who have suggested the adoption of the United Kingdom or the Codification Committee's definition took that not out of the Codification Committee's Report, but from the footnote of the Indian Income-tax Inquiry Report. Why I suggest that, Sir, is because if all the relevant sections of the Codification Committee's Report and of the draft Bill that they have submitted are examined, it will be seen that the amendments tabled on this matter get to a result which is entirely different from the result which the Codification Committee intended. On that point I should just like to read what was said in the Inquiry Committee Report. It says this:

"In view of our suggested basis of assessment for foreign income and of our suggestion that the whole profits of a business carried on by a company should be assessable when the company is controlled in British India, clause 7 of the Codification Committee's Report is too wide."

Now I will explain why it is too wide. I must confess the Report was rather cryptic. There was no statement as to why it was too wide but it was assumed that if Members would look up the Codification Committee's Report and the draft Bill, they would be able to see it there. The Codification Committee set out not to extend in any way the scope of the tax in the United Kingdom nor to alter the incidence more than is necessary in a Codification Bill. They made extensive alterations in the classification of incomes. They dealt with incomes of business which are entirely controlled in the United Kingdom and conducted therein, and they put those incomes under class D. Incomes of companies controlled abroad where the business was partly carried on in the United Kingdom and partly carried on abroad were to be divided into two parts,—that part which was to be carried on in the United Kingdom was to be assessed on the full amount arising in the United Kingdom, and that part which arose abroad was to be assessed only upon the amount which was remitted to the United Kingdom. The relevant classes of income are classed D. I will just read the particular section:

"Income of class D, is income from any trade",—*I omit the irrelevant words,*—*"In the case of a business which is carried on partly in the United Kingdom and partly elsewhere, that part of the business which is carried on in the United Kingdom shall be treated as carried on in the United Kingdom."*

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Now, the rest of the income from a trade which is carried on partly in the United Kingdom and partly abroad where a company is not controlled in the United Kingdom is put in class O. Income from class O is to be assessed only upon the amounts brought into the United Kingdom. Well now, it was on that basis that they proposed this definition which, in effect, would regard as resident in the United Kingdom any company which was controlled there, or if it maintained in the United Kingdom an established place of business. Well now, if we apply the definition of 'company' without having the same basis of assessment, the position would be that every company with an established place of business in British India would be liable to assessment on the whole of their profits throughout the world whether those profits were brought into British India or not. Now that I submit, Sir, is quite an absurd result.

**An Honourable Member:** Why?

**Mr. S. P. Chambers:** May I explain. Take a large Bank, the National City Bank of New York have probably a few offices in India, in Bombay and Calcutta, and carry on a small part of their total world business here, probably less than one per cent. Under the Bill and with this definition that Bank would be asked to pay Indian income-tax on the whole of its profits, including all the profits made in the United States, in Great Britain and elsewhere. That, I submit, is an absurd result if they have only one small office in Bombay and are carrying on a small business in British India.

**An Honourable Member:** The words are "substantial part".

**Mr. S. P. Chambers:** "Substantial part" I take to mean a part which is sufficiently large to attract income-tax. Substantial does not mean most of their business; it means something of sufficient substance to take notice of. If, of course, on the interpretation of that section Honourable Members place a somewhat different construction from that which evidently the Codification Committee of 1936 who drafted the clause intended, that is a matter for discussion. But I submit that the effect of taking that definition with the Indian income-tax as proposed in the Bill would be quite absurd.

**Sir Owasji Jehangir** (Bombay City: Non-Muhammadan Urban): May I ask what he would suggest—to put in a percentage instead of the word "substantial"? That would remedy the defect he pointed out. Putting in 25 or 30 or 40 per cent. instead of "substantial" would remedy the defect.

**Mr. S. P. Chambers:** I was giving an explanation on the proposal made. It is quite impossible for me to give an explanation on a proposal which has not yet been made. I mean all kinds of definitions can be put forward. What my submission is that the one in the Bill as amended by the Select Committee is the most suitable and the most satisfactory one. That is all I wanted to say about subjects relating to the taxation of foreign income.

I now turn to one or two other smaller matters. One is the definition of 'dividend'. I think the Honourable Mr. Aikman raised some objection to the definition and suggested that perhaps, inadvertently, it caught some

cases of the issue of debentures or bonus preference shares which were not intended to be caught. I think the suggestion is that as worded it would cover cases of bonus preference shares which are redeemable when these shares have been issued for cash. Well, I think on that point there is no difference of opinion on the intention. Nobody on this side of the House wants to tax or treat as income shares or debentures issued for cash, and if the definition needs any clarification on that point it can be considered. But I, personally, feel that it is already sufficiently clear. That we can discuss when we come to it.

Then on the question of salaries, the basis has been changed by the Bill from the amount of salary paid in the previous year to the amount of salary payable in the previous year, and the reason for making that change was that a number of persons were deferring the drawing of salary with the object of avoiding tax. Now here, as with some other devices for avoiding tax, this is not an imaginary or hypothetical case. This is a device which has been used not by one or two persons but by hundreds of people. In one circle alone I came across over 400 cases in which tax had been dodged by failing to draw pay in the year in which it was due. So this is not an academic question; it is a very necessary provision. It is suggested, however, that there are cases of hardship, that salaries may be payable and never ultimately paid. That is certainly true and in the Select Committee an undertaking was given that executive instructions would be issued to see that in those cases the hardship was avoided, and the method suggested was to hold over the tax until the salary was in fact paid or the company paying the salary was in a position to pay it. To go further than that would be to open this door to evasion afresh. That is a matter which can be dealt with by executive action, and I might explain that in the United Kingdom the basis is the basis proposed in the Bill and there is no provision in the United Kingdom Act for cases of hardship, for they are all dealt with in this manner.

Now, I turn to the subject of depreciation. I must say, Sir, I was rather amused at the number of Honourable Members who suggested that the present basis works very well. I agree with them that it works very well for the assessee. First of all the system has been difficult to work for the Income-tax Officer. His records in only too many cases have become so complicated that in cases which I have myself seen he has given more than 100 per cent. of the cost as depreciation, which of course is completely wrong. Obviously, it is not the law, but it is a difficult law to work when the assets are so complex and there are large additions each year. The new basis suggested is the allowance on the basis of the written-down value of the asset after deducting the previous years' allowances and is very much simpler to work. I hope Honourable Members will not want me to explain exactly how it is simpler to work, but if any particular Member would like an explanation I would be pleased to give it to him in the lobby. But I would like them to take my assurance that it is definitely very much easier to work and it will also work very much better for the Department because we shall not have these mistakes made and, secondly, the rates at present in force are in some instances too high; they are very much higher than the corresponding rates in the United Kingdom and in some cases almost absurdly high.

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Then one Honourable Member, I think, it was Mr. Town, asked to have an assurance as to the manner in which the new rates, to be fixed under the new basis, would be computed. Well, I can give him this assurance, that the rates will be fixed as I have already explained in consultation with the interested parties, that is the persons who have to pay, and also that the intention is that for each class of asset the rate will be such a rate as will reduce the value of the asset to its scrap value at the end of its life. Now by its life I do not mean the life as might be computed from the existing rates. I mean its real life.

**Sir Cowasji Jehangir:** Who is to decide that?

**Mr. S. P. Chambers:** That real life will have to be decided when the rates are being fixed. The rates will not be fixed by each individual Income-tax Officer; the rates will be fixed by the Central Board of Revenue under the powers in the Act and will be applied uniformly to all persons with assets of the same class.

**Mr. K. Santhanam** (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): May I know what is the basis of the scrap value? For the writing down you must have some basis.

4 P.M.

**Mr. S. P. Chambers:** By scrap value I mean the value at which the asset can be sold or is expected to be saleable at the end of its life. As to how that should be computed, quite clearly the basis must be somewhat arbitrary, but the sort of thing I have in mind is to reduce the value to a figure which equals the annual rate to be allowed. If the Honourable Member will think that out, he will get exactly to the type of rate which it is intended to adopt.

**Mr. K. Santhanam:** Will you give an illustration?

**Mr. S. P. Chambers:** If the rate is 20 per cent. of the cost of the assets and the asset is worth Rs. 10,000 when it is bought, then the rate will be such as to reduce it to Rs. 2,000 at the end of its life. I should like the Honourable Member just to think that out and ask me for any further explanation later on.

I come now to another point which was raised by Mr. Town. He was objecting to the amount of work involved in getting information. In particular he was referring to section 20A which required information about the interest where the amount paid in any one year to any one person exceeded Rs. 200. My only comment there is that I think he and his colleagues are really very well off as compared with their colleagues in the United Kingdom, where not only do they have to give information but where tax has to be deducted at source from all sums of annual interest paid, however large or however small, and paid over to the Inland Revenue—there is much more work involved in that than by just giving a list of payments over a certain amount. I suggest that the amount of work involved is not very considerable and is not excessive having regard to the importance of the information. If the information can be obtained from the payer as well as from the recipient, quite clearly we are much more likely to get correct assessments and for this the amount of work is not excessive.



I come now to a more important matter—the provision for what has been called compulsory returns, and the corresponding provisions for penalties. Perhaps, I had better explain how this will hit the dishonest person but will at the same time make it easier for the honest person. We have heard rather a lot about the manner in which these sections appear to be aimed at the honest and dishonest alike, but in practice these sections would work very much more smoothly with the honest persons than the existing sections. If a man is under-assessed at present and has been under-assessed for ten years or fifteen years, which again is not an academic matter—there must be hundreds of persons or perhaps thousands, who are so under-assessed—and then it is discovered by the Income-Tax Officer, then under the law as it stands at present, the Income-Tax Officer can only go back one year and assess the income of the present year and the past year and impose a penalty equal to the aggregate tax: he cannot go back and touch all those past years where there has been under-assessment. Now he can only impose a penalty equal to the tax which has been lost. That means that this dishonest person has gained: he has found his dishonesty pay. Under the Bill, as it is now drafted, if a definitely dishonest person is discovered, the income-tax officer can go back eight years and can impose penalties of twice that amount—rather than that is the maximum amount of penalty that he can impose. Those penalties are such that in future it will not pay a man in general to make false returns. In the past, on the average people who have made false returns have saved a lot of taxes over a period of years. In future, if this section becomes law, the assessee who has made a false return will be compelled to pay not only the tax for the present year and the immediately preceding year, but for eight years back with a penalty for having made wrong returns. What I suggest then is that if the income-tax officer can in this manner catch the dishonest person and go back, there is a direct incentive not to make false returns, whereas at present there is a direct incentive to make false returns. That is not all. If the income-tax officer has these powers, he is not likely to harass the honest assessee. If he is feeling in any particular case that there may be under-assessment he may not give the assessee the benefit of the doubt. If, on the other hand, he knows that if he under-assesses this year and for three or four years, and then ultimately discovers that there has been fraud or that there has been considerable under-assessment and can go back, he can deal more liberally with honest assessees. In this way, although it may sound rather paradoxical, I suggest that these heavier penalties and this right of going back several years hits only dishonest persons and is definitely a clause which favours honest assessees.

Then I come to clause 42 which deals with the right of entry into a person's premises. I am aware that there has been considerable objection to this power; but as amended in Select Committee I would suggest that the clause is now not harsh and is not likely to be worked unfairly. The gazetted and non-gazetted officers—the income-tax officers and inspectors—may go only to visit the premises and may not enter unless there is specific power given by the Commissioner in any individual case and the Commissioner cannot, under the clause as re-drafted, give that power to an inspector—a non-gazetted officer—but can only give it to a gazetted officer. Now an income-tax officer is a fairly senior responsible officer: he is a gazetted officer of the Government of India and if he is the only person who is entitled



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to exercise this power and can only exercise it when the Commissioner who is the official in charge of a whole province gives him specific sanction, I suggest that that is not likely to be abused. . . .

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadian Rural): Will he go himself or give orders to a subordinate?

**Mr. S. P. Chambers:** The income-tax officer must go himself: he cannot order his subordinate to go. That is definitely in the Bill as it has now been amended.

I come now to another question, the question of trusts. I think that this subject has not been completely appreciated because the relevant sections are of necessity spread over the Act in several places. But the law in the past has been that if income is transferred to trustees, (I am not now speaking of the income which is transferred to trustees in a revocable trust—I am talking about the case where the assets are permanently transferred) the trustees were treated as an association of individuals and the tax charged was at the rate applicable to that whole income, which may be fairly high. Under the sections as now re-drafted (the section in question is 41—clause 44), the trustees can only be charged at the rate applicable to each beneficiary, so that—if I can give an example—if there is a trust and the income is Rs. 10,000 per annum, in the past the rate was the rate applicable to Rs. 10,000. If there are six beneficiaries entitled in equal shares to that income, no income-tax would be charged on that whatever because each beneficiary would have an income of less than Rs. 2,000—this is, of course, assuming that they had no other income. In that way I think the change does give considerable relief to beneficiaries of trustees. Perhaps I ought also to mention the case, which has been mentioned rather frequently during the discussions, of wakfs. I understand that under the Islamic law a man may transfer assets irrevocably to trustees and apply that income for the benefit of human beings who may be humanity at large, or any section of humanity, or individual human beings, and that under the same law that purpose will be regarded as a pious or religious purpose. Then it is argued, I think, that for that reason we should not attempt to tax the trustees in respect of the wakf property. It is suggested that the property vests in God or in trustees for Him, and that it will be an impious act to assess trustees in that manner. It is also suggested, I think that part of the income goes to charity, charity even as other people would call it, and should be exempt. I believe there are one or two other arguments, but I think these are the principal ones, from which it is suggested that wakfs should be exempt. One other that I should mention is that if the income of a wakf deed is not applied in the manner stated in the deed, that is regarded as a sin; and that even the paying of income-tax would be applying the income in a way not specified in the deed and, therefore, it would be sinful. On that I would like to refer the Honourable Members who have raised the matter, to clause 44, section 41, under which the trustees are not assessable, as such, in their own names and for any trust as a whole. They are assessable only in the sense of an agent for the ultimate beneficiaries and are liable to tax only to the extent that the beneficiaries can be taxed. In effect, we are treating the trustees in the same way as we treat an employer. We ask them to pay the tax on behalf of

the beneficiaries. If any one of those beneficiaries is exempt either because it is regarded under an earlier section as a charity or because the income is below Rs. 2,000, then no tax is chargeable. In respect of other persons, I think I am right in saying that there is no suggestion that they should be exempt. If an Honourable Member made a wakf deed and the income went to a person with an income of Rs. 2 lakhs, there is no suggestion I understand that that should be exempt. I suggest that, as we are not taxing the wakf property, as such, but on behalf of beneficiaries, the law as proposed in the amended Bill is not in any way inconsistent with the Islamic law.

Then, I come to a more difficult part of the Bill, clause 48 which deals with transfers to persons abroad, and with certain devices for dodging income-tax and super-tax, which is known in England as bond-washing. I just want to explain briefly that these devices again are not devices that we have imagined and have imported from the United Kingdom and pushed into the Indian law because we think that people might do this kind of thing. There are other devices which have not been adopted in India and for which even in this Bill there is no provision. These devices have been seen in practice in India and have been worked quite extensively. The first one which I will explain very briefly works something like this. A man with a large income which is liable to super-tax transfers his income to a private company of which he is substantially the only shareholder and which is registered abroad. Having transferred it, this company being registered abroad, cannot be caught on section 23-A which deals with non-distribution of profits. The assessee, that is, the transferor himself, does not receive the income or dividends from the company, but he receives loans. He is never asked to repay those loans because virtually he is the company. So he receives in the form of loans precisely the same money which he would previously have received in the form of income and, therefore, he avoids all super-tax which is payable on that income. That is a device that has been adopted in India as well as in the United Kingdom and clause 44-D has been devised to stop it. It is of necessity complicated because we do not want to catch companies which are genuinely trading abroad. We only want to catch those companies which have been specifically set up with this intention.

Then, we come to bond-washing section 44-E. I found difficulty at another stage in trying to explain exactly how income-tax and super-tax was avoided. But if you imagine the case of a person with an income from securities—this happens in companies as well as in individuals—income from securities of Rs. 20 lakhs per annum, he can arrange with a person who is not liable to income-tax, perhaps a person resident abroad if those securities arose abroad, or with a person not liable to income-tax at all,—to sell those securities to him the day before the interest is due; and the day after the interest is paid he buys the securities back. This person or company, instead of receiving the income in the form of interest on securities, receives in place of that, the difference between the market price of the securities the day before the interest date and the day after. That is to say, it is received as a capital profit and not income, and as such, cannot be charged with super-tax. That device is adopted in markets where one company is assessed in respect of profits on selling securities and another company is not. If a company is not assessable in respect of profits on the sale of securities, this capital profit will not be

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chargeable. On the other hand, the loss made by the other company, the company that has bought the securities and sold them just after the interest date, will be treated as a loss allowable for income-tax purposes. Having that loss which is allowable for income-tax purposes, it can set it off against interest income, which in law is its own income, and in that way the loss is allowed against the interest and the whole of the income-tax or the major part of it depending upon circumstances, is completely repaid to the assessee. In that way the whole of the income-tax which would otherwise be payable on this interest on securities is refunded. The loss in that way is not small; it is very large. The loss in that way already amounts in India to several lakhs per annum. Apart from that, there is a further device which is simpler, older and cruder, of a person who is liable to individual super-tax selling his securities in the market and buying them back after the interest date. In this case there is no prior arrangement with any other person. He just goes to the market, and sells them and re-buys them, and the capital profit is exempt from super-tax. 44F is aimed at that second device which affects only super-tax payers, there is no question of getting any refund of income-tax arising in the second case, but in the first case both income-tax and super-tax are involved.

I now come to another matter which is hardly a simpler one, insurance. I hope some Honourable Members have read the schedule at the back of the Income-tax Bill and have understood the implication of all the clauses. Objection has been taken, and again by Mr. Town—I apologise for referring to him so often—to the alternative basis given to the department to assess either on the total interest and other external earnings less expenses of management, or upon the actuarial surplus whichever is the greater. Well, on that I would like to make a reference to something which was said by the Honourable the Leader of the Opposition that the present rules are *ultra vires*. I think he suggested that the rules were *ultra vires* because surplus was not profits and, therefore, the rules ought never to have been issued and have been, in fact, inoperative in law. I would like to make a correction there. That is not so. Those rules are quite *intra vires* and a surplus as determined by actuarial valuation in the absence of any statutory provision to the contrary is income assessable to income-tax. My authority for that is that the United Kingdom law prior to amendment was practically the same as that in India prior to the amendment of these rules and it was held in the House of Lords, as long ago as 1885, that the full surplus without any deduction whatever for bonuses to participating policyholders is income which is assessable in the hands of the company. There is no question then of those rules having been *ultra vires*. They were perfectly in order and the income assessed was in the past the full actuarial surplus without any deduction for bonuses. In the United Kingdom that was put right by subsequent legislation in section 16 of the Finance Act of 1928, but that is immaterial to our present point.

Then, it is suggested that we are changing over from the actuarial surplus to the interest basis. That again is not strictly true. We are changing over to an option and it might be argued that the only true income of an insurance company is the full interest which arises from outside sources less expense but that is not so. I am afraid I will have to

give one or two examples. If I take the simplest type of insurance policy, a man may pay Rs. 10 per annum for an insured sum of Rs. 100 on death. That man may pay perhaps Rs. 100 in premiums or he may pay only Rs. 60 or 10 or 150. Nobody can tell how much an individual person will pay but we have to work in these matters on averages. All insurance matters are worked on averages and let us assume for the sake of discussion that Rs. 75 may be paid for a Rs. 100 dividend and I think actuaries will bear me out when I say that roughly, on most of such policies, the amounts paid are less than sums repaid on death. The principal reason why they are less is that those premiums earn interest once they are invested with the company. As they earn interest, the capital sums paid on maturity include an element of income, which income we never tax. That is an important point to remember. They do include an element of income which we have not taxed but in the case of a new company the position is still worse. The interest is relatively small but at the end of the first valuation period it may be found that the surplus which is available for the shareholders, I am talking of the shareholders alone and not the policy holders at the moment, is larger than the interest because the actual mortality experience is less than that provided for in the policy. So that there is a definite surplus available for shareholders which is in excess of interest, whether one deducts expenses or not. For that reason, it would be impossible to say that the only fair and proper basis for assessment of life insurance companies is interest less expenses. We must have some other basis. The other basis is clearly the basis of actual valuation and in the past no deduction has been made in India for bonuses to participating policyholders and the official argument in the past has been that as generally speaking the amounts paid to the policyholders exceed the premium paid by the policyholders, then those bonuses have been derived entirely from interest and earnings of the company. Well that is so in most cases but there are other cases, and it has been pointed out to me that they are probably more common in India than in the United Kingdom in which premiums are inflated quite artificially so as to provide bonuses; and there may be cases, and I have no doubt there are cases in which the bonus includes some element of refund of the premiums paid in addition to including the interest which has been earned on those premiums. For that reason, we have in the schedule as appended to the Bill provided that the alternative basis shall not be the full actuarial surplus nor the actuarial surplus with a deduction of all the bonuses. We have had to find some point in between that. We fixed quite arbitrarily upon half the bonus and I think that is fair even if it seems to suggest that a large proportion of the bonuses comes out of premiums.

Then, Mr. Town suggested that the proviso to rule 3(b) was objectionable and I think that in order to explain the purpose of that proviso I must go again into some rather difficult matters of computation. When an actuary makes a computation of the surplus of a life insurance company he has to consider first, the value of the life insurance companies' assets in its life insurance fund and then has to deduct from that the liability to pay sums by way of bonus on capital sums on death of policyholders. Now, in the valuation of the assets he may or he may not, according to his practice, make a deduction for the depreciation of the securities which form part of the fund. That depreciation may be very considerable; in the case of some of the companies in India, it has in fact been very considerable. When he makes the valuation of the liability, first he has to

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determine what he thinks the life of each policyholder will be and for that he uses certain mortality tables. Then he has to determine what proportion of the premiums which he is likely to get will be payable in expenses and how much the expenses will amount to. Then he has to take into account the fact that the funds of the company will be earning interest all the time, so that he finally arrives at this liability by taking for each policy the amount he expects to pay away, the amounts of premiums and interest he expects to receive and the amount of expenses he expects to pay. Well, now, in determining the rate of interest, he may be optimistic or pessimistic and I think every actuary will agree with me when I say that one actuary may on a set of circumstances determine that there was no surplus but a loss whereas another actuary, more optimistic, may, in fact, determine quite a large surplus. Most of that difference depends upon the rate of interest which is adopted in arriving at the liability. I am informed that in India the rate of interest adopted is normally calculated in this manner. The value of the investments as depreciated is first ascertained. Then the actual yield as a ratio of that value is secondly ascertained, and then that rate or an average of that rate, with certain deductions which are dictated by prudence, is adopted for the valuation of the liabilities. Now so long as that basis is adopted, there is no harm and this proviso would be quite unnecessary, but it is possible, and in fact in the United Kingdom it has been done and may be done in India for all I know, for the company to write off depreciation heavily but to take a rate of interest which is being calculated by reference to the yield on the undepreciated securities. If that is done then the liabilities are over-stated relatively to the assets, and we get either a deficit, when there should be a surplus, or a much smaller surplus than is in fact warranted. Now the intention of this proviso is to guard against such cases and all it does is to say that where the income-tax officer finds that the liability has been stated on a basis which is materially inconsistent with the basis on which the securities have been valued, then he would have the power to make such adjustment to the depreciation or appreciation of securities as is fair and just. Those words are, I admit, very general, but any attempt to try and make them more exact will, I think, result in tying an actuary too closely to certain principles which he may not for particular reasons connected with his company alone wish to adopt. For that reason I think the proviso is as close and as accurate as we can make it.

**Mr. Deputy President (Mr. Akhil Chandra Datta):** With the consent of the Muslim League Party, it has been arranged that the House will sit up to five today. I must express my thanks to the Muslim League Party for this.

**Mr. S. P. Chambers:** There is one other matter which was referred to by Mr. Town which I can explain very briefly. It was suggested that rule 8 was unnecessary owing to the operation of the Insurance Act of 1938. Well, may I explain that in this respect, in the making up of accounts for companies which are controlled abroad, which have their head offices abroad, the Insurance Act does not become immediately operative and this rule 8 is merely copied from the old rule and will become for all practical purposes inoperative when the corresponding provisions of the Insurance Act themselves become operative.

Then, I come to another matter which has been raised by several members and that is the question of allowances for wives and children. On the first point I would like to make it quite clear to the House that in the United Kingdom, where an allowance is given for wives, the wife's income is aggregated with the husband's income in all circumstances. In the Select Committee the clause which so aggregated the income was deleted, and I think it is a quite unreasonable suggestion that we should allow the husband to get a deduction for a wife or children if we allow him to keep out of the computation his wife's income. That is the first point.

**An Honourable Member:** Why then not for children?

**Mr. S. P. Chambers:** I will come to that. The next point suggested was that even so we might have an allowance for children. Now in India, there are, as far as I am aware, no provisions for the accurate registration of all births and deaths and it would, therefore, be exceptionally difficult to work in India any such provision. I do not know how Honourable Members would suggest that the income-tax officer should work it. Would they suggest that the income-tax officer should ask the assessee to bring the children? If so, I think that it would be an exceptionally difficult matter. (Interruptions.) I think really it would be quite unworkable in India, apart from the fact that a man may have more than one wife and may have, as far as I know, any number of children so that it would be a very difficult section to work. I think I might say that most people in India are married, most people seem to have children, and if we provided here for deductions for wives and children, that would so decrease the revenue on existing rates that the rates would have to be raised beyond all recognition and the effect of making this very extensive change would be that the husbands and wives and children would still have to pay the same amount of tax but they would pay at a higher rate, with the deduction for the wives and children, so that the net effect would be practically nothing. We would have, for that result, a large amount of work to do. Then again it is suggested that this would give a very considerable relief to poor people. But I do feel that there is, I won't say something dishonest in that argument but, something missing in that argument and that is this. I understand that there are something like over twenty crores of people in British India and if you look at the income-tax statistics you will find that of these twenty crores there are only about three lakhs who are assessed to income-tax. Now those three lakhs are the wealthier persons in India. A person who has an income of Rs. 2,000 a year in India in a village is not a poor man whom we want to assist by charitable means. With Rs. 2,000 per annum in a village or elsewhere in India one is relatively well off, he must be relatively well off in India if there are only three lakhs of people who are assessed to income-tax. . . .

**Mr. S. Satyamurti** (Madras City: Non-Muhammadan Urban): That is a commentary on your rule in this country that men on Rs. 2,000 a year should be considered rich!

**Mr. S. P. Chambers:** If they were very much richer centuries ago, I think then the comment would have been perfectly justified.

**Mr. S. Satyamurti:** They were, before you came here!

**Mr. S. P. Chambers:** I suggest, therefore, that there is very little in that argument; and moreover if you compare the exemption limit in the United Kingdom with the exemption limit in India, then, having regard to the fact that the United Kingdom is a very cold country where people do require a lot of clothes and very heavy food and so on . . . . .

**An Honourable Member:** And beer and whisky too.

**Mr. S. P. Chambers:** . . . . . you will agree, taking into account also the relative standards of living and the standard of living is certainly higher there, that the exemption limit in India is high.

**Mr. Manu Subedar:** Sir, my task is rendered relatively easier when the situation with regard to the Bill has been explained lucidly in such great detail by my Leader and the more objectionable portions of the Bill as they still remain have been pointed out by him and by various Members,—particularly those relating to business have been pointed out by the business Members of this House. Sir, the more I read this Bill, the more I admire the Honourable the Finance Member. I am assuming that the Bill is the outcome of his thoughts and reflects his personality. When it suited him, he followed the English law. When it did not suit him, he has declined to follow that. He quoted to us with respect the Macmillan Committee's report and yet much from the Codification Committee's draft bill which he would have adopted in this Bill has not been adopted by him. Then with regard to the Income-tax Committee constituted by him of his own sweet will and not according to the manner in which we wanted it, he has followed such recommendations as he liked and ignored such recommendations as he disliked. With regard to the Privy Council and other judicial judgments on income-tax matters, he has accepted what has appealed to him and he has quite arbitrarily failed to pick out the other points—one of which Mr. Town pointed out. Sir, I admire him for that thoroughness and for his patriotism. Above all, I admire him because it discloses a one-way mind, that is, a mind with a single purpose and without meaning the least disrespect to him, I say that he deserves to be placed in the class of statesmen who have now the care of the two Central European States. He is a great Hitler of finance.

Now, Sir, one of the recommendations of the Income-tax Inquiry Committee was to make some modification of the definition of agricultural income, and one of the points which the Honourable the Finance Member could have brought in here was about usufructory or possessory mortgages in agriculture which are purely money lending transactions wherever there is a covenant for the return of the capital. But, Sir, he has dealt lightly with agricultural interests and has dealt rather heavily with business interests. I must, in justice to him, however, point out with regard to agricultural incomes that, hitherto, under section 14 (2) (a), an assessee would not be taxed on a dividend received by him outside British India on the assumption that the company had paid the necessary tax. Now, the dividend will be added to the income on which the assessment will be taken, and, under section 18 (5) credit will be given to him. But the credit will be given to him only to the extent to which the income in the hands of the company has paid tax. Sir, in other words, the position will be this, that if the company had any tax free source of income, such as agricultural incomes tax free securities or accumulated depreciation allowances, then this income which was exempt, which was by law exempt in the hands of the company, will now be taxable in the hands of the individual shareholder. The effect



of this will be that the shareholders of tea companies, unless a specific provision is made for them, and also of zamindari companies and other companies, whose source of income is agricultural, will be liable to pay tax, whereas they were exempt before. And yet, the Burma income of the Chettiers, which was agricultural income till yesterday and exempt and which would have continued to be exempt but for the political accident of the separation of Burma, is sought to be taxed in the arrangements which are sought to be provided for in the Bill. Sir, the heavy hand is laid, as I shall show presently, on business interests, whereas the agricultural and other interests equally important in the country, but perhaps politically more friendly to the Finance Member and the interest which he represents, have been let off lightly. I say that the heavy hand has been laid on the business interests particularly, for this reason that the Provincial Governments will, probably on account of their own needs, soon be compelled to levy what is known as the sale tax, that is to say, a form of tax on business turnover, which will also have to be paid by the business community. Sir, it is necessary that the business community which is going to bear the brunt both of this as well as the other levies which I have mentioned from the Provincial Governments, should have to deal with simple machinery, with simple provisions, and on the whole, they should be free while paying whatever is due from them from harassment as much as possible.

Now, Sir, the thanks of the House are also due to the Select Committee for many things, but I would specifically mention the modification of the penalty in section 28 for the non-filing of the return of income. I do not agree at all with my friend, Mr. Town, that there are people who escape this income-tax and they are doing so deliberately, that is to say people with an income ranging between Rs. 2,000 and Rs. 3,500 and that the compulsory provision should be introduced. May I ask him why Mr. Town, who knew all these people, did not do his duty promptly by informing the authorities . . . . .

**Mr. H. S. Town** (Nominated Non-Official): Because they were not liable under the Act.

**Mr. Manu Subedar:** Mr. Town does not know, as Mr. Nauman rightly pointed out, the life of the people who have an income of Rs. 2,000. We know it, we have lived that life, and I will say this, that all the people who make Rs. 2,000 should not be credited with the capacity, with the literacy or with the conveniences to promptly pay up or to send in the necessary returns or otherwise to declare their incomes. Sir, if called upon, even these men, Mr. Town will agree, will declare their incomes readily and without any form of pressure: in fact there are adequate penalties for wrongful declaration. Therefore, I welcome the relaxation of the penalty clause, and I also welcome the restoration of section 27 for re-assessment on sufficient cause being shown. There are welcome modifications also with regard to dividend and depreciation, but I fear that the obligations which are still left, as for example, the obligation to inform under section 38, the deduction at source under section 18, the collection from non-residents and various other obligations which fall on small and large assessee, will make it compulsory for almost every assessee to employ an adviser, I think the Finance Member's name will go down to posterity by his manner and method of making the income-tax laws more onerous and for establishing the profession of income-tax consultants for ever who were hitherto employed only by the rich, but who will henceforward be employed by practically every assessee, except, of course, Government servants.



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Sir, no one is disputing the fact that Government are entitled to take such money as they need with some relation to the ability of the population to bear. But the procedure for getting the money and the legal obligation on the tax-payer I feel need not go to the extent to which it has gone. I dislike phrases like this—"Salary due to him whether paid or not"; "income received or deemed to be received"; "intended to be paid"; "shall be deemed to have been distributed"; "shall be deemed to be an assessee"; "income receivable"; "deemed to be an agent"; "deemed to be under the control of" as in 23A. I will read for the entertainment of the House a section which has altogether too many "deems" in it.

"When a company is a shareholder deemed under sub-section (f) to have received a dividend, the amount of the dividend thus deemed to have been paid to it shall be deemed to be a part of their total income."

Why does not the Finance Member *deem* that he has already received what is due from us and be done with it!

Sir, many clauses of the Bill are proceeding on the assumption that every tax-payer is a dodger and that his honesty is not worth a penny's purchase. Apart from the fact that any comparisons between England and India to the disadvantage of this country are entirely misplaced—as those of us who have lived several years of our life in England can readily demonstrate and prove,—apart from that, I say that no allowance has been made by the Finance Member for human feelings at all in framing the Bill. No allowance is made for the limited capacity, for the limited literacy and for the peculiar circumstances of most of the assesses in this country. The fact that legitimate social trusts, legitimate occasions for settlement which arise in the life of the citizens of this country, the fact that that is not recognized itself shows the amount of basic distrust on which the Bill is framed.

In spite of this, Sir, even if all the provisions here were accepted with such modifications as we propose to urge in due course, I submit that several important items will still remain undecided. For one thing the depreciation rates still remain undecided. I am not satisfied with what my Honourable friend, Mr. Chambers, said, that these rates will be decided in consultation with the trade concerned. Sir, I know some of these consultations. We have consultations with Government officials who come to us and tell us what they propose to do. They hear what we have to say and they go and do exactly what they intended and liked to do. This, Sir, may be all right in getting over a Chamber of Commerce, but this is the Legislature and I warn my friends in the House not to be content merely with this assurance but either to secure an option of the old method or to say that these rules will come through this House for acceptance before they are adopted.

Then, I want to know with regard to the slab system the minimum rates which will be exempt. The Honourable the Finance Member in dealing with this point mentioned that it will be *nearly* Rs. 2,000. Now I am not quite clear why he said "nearly Rs. 2,000" instead of mentioning a specific figure. My reading of the slab rates and the scale, as drafted in the Income-tax Committee's report, is that only the first Rs. 1,500 will be entirely free of all tax. If that is so I would like to know why the Minimum limit which is Rs. 2,000 at present should be lowered to bring in

people with a lesser income than those who were already free before. I would like to have that made clear. Then it is quite right that whatever fractional escape there was under the step system should not take place, but, Sir, I do not know why this exemption of the first Rs. 1,500 of income should also go on in the case of higher incomes. Then with regard to the slab system another criticism of mine is that there was a specific promise at the hands of the Finance Member's predecessor with regard to the surcharges, that those surcharges had to be removed as and when the time arose. But, unfortunately, no steps have so far been taken for such removal. I find that the slab scale as devised by the Income-Tax Committee takes no notice of these surcharges. From Sir Otto Neimeyer's report I am inferring that the officials feel inclined now to ignore the promise which they had made in the matter of these surcharges. My English business friends have already mentioned this point and I think it is necessary for us to know before we proceed clause by clause with the Bill in the reply which the Honourable the Finance Member will give as to where we stand in this matter.

Then, Sir, there is the uncertainty regarding provisions for the Tribunal.

**The Honourable Sir James Grigg:** I will certainly put down the amendment on that point as early as possible. I hope it is either on the paper or will be very shortly and long before you get to that clause anyhow.

**Mr. Manu Subedar:** Thank you; I am glad the provisions with regard to the Tribunal are now going to be introduced. But I join my friend, Mr. Town, in saying that the applicability of these provisions should not be delayed and there is no reasonable ground for interposing a period of two years between the passing of the Act and the working of the Tribunal.

Then, Sir, there is the question of corporation tax and surtax. I will read the definition of corporation tax as given in section 811.

"Corporation tax means any tax on so much of the income of the companies as does not represent agricultural income, being a tax to which enactments requiring or authorising companies to make deductions in respect of income-tax from payments of interest or dividends or from other payments representing a division of profits have no application."

Sir, this corporation tax definition was not found satisfactory by many, including Sir Otto Niemeyer, and my fear is that some of the provisions in this Bill when made into law will make this definition still more inappropriate. But super-tax, Sir, is put down in section 55 of the Income-tax Act as follows:

"In addition to the income-tax charged for any year there shall be charged, levied and paid for that year in respect of the total income of the previous year of any individual, Hindu undivided family, company, unregistered firm, etc., an additional duty of income-tax, in this Act referred to as super-tax, at the rate or rates laid down for that year by Act of the Central Legislature."

Now, Sir, the problem of super-tax is a problem which I am sure my friend, the Honourable the Finance Member, could have settled if he had consolidated the super-tax rates with the ordinary income-tax. It would have left us a very much simpler machinery. I want to make it quite clear that I am not pleading for any reduction of burden on the class which has borne this super-tax. All I am saying is that you are having two levies under two different names but which are one in fact and which prevents you . . .

**Mr. Deputy President (Mr. Akhil Chandra Datta):** I think the Honourable Member will speak for some time more?

**Mr. Manu Subedar:** Yes.

**Mr. Deputy President (Mr. Akhil Chandra Datta):** Before we disperse I ought to mention that in view of the fact that there are so many other speakers who are wishing to speak on this Bill, it is the desire of some sections of the House that the question hour may be dispensed with. May I take it that that is the general desire?

**Honourable Members:** Yes.

**Mr. Bhulabhai J. Desai:** Yes, Sir, it is the desire, at all events of all the friends whom I have consulted that the question hour should be dispensed with; but I also wish to say that the sacrifice is made in the interests of closing this debate on Saturday. The intention is not that we have got an hour and let us spend it otherwise! It is on that understanding definitely. So far as we are concerned, the present speaker will take another ten or fifteen minutes and we are putting up only one speaker from our Party and no more. I have equally come to an understanding with Dr. Sir Ziauddin Ahmad that his Party will take 45 minutes in all—it may be one or two or three or five speakers, but 45 minutes in all will be their limit; and then there is Mr. Aney, Leader of the Nationalist Party, who will participate in the debate and Mr. Husenbhai Laljee who has been trying to catch your eye for some time. Then Sir James Grigg will come at the end and we expect him to get up at half past four . . . .

**Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural):** There is no Ramzan on Saturday.

**Mr. Bhulabhai J. Desai:** That is what I am saying. Sir James Grigg will rise at half past four and I trust you will sit a little longer than five, if necessary, to enable him to finish, if he has a few more pages of praise for me left.

**The Honourable Sir James Grigg:** Sir, I am extremely grateful for this arrangement because it does ensure that the debate will finish on Saturday. Of course, I realise that giving up question hour is no sacrifice to this side of the House and my gratitude is all the more for the sacrifice of the other side.

**Mr. Deputy President (Mr. Akhil Chandra Datta):** So, the question hour will be dispensed with on Saturday and the arrangement that has been proposed by the Leader of the Opposition is, I take it, accepted by the House.

**Honourable Members:** Yes.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 26th November, 1938.