

Wednesday, 27th March, 1940

THE COUNCIL OF STATE DEBATES

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SEVENTH SESSION OF THE FOURTH COUNCIL OF STATE, 1940



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CONTENTS.

	PAGES
Friday, 16th February, 1940—	
Members Sworn	1
Questions and Answers	1—4
Statements, etc., laid on the table	4—7
Governor General's Assent to Bills	7—8
Bills passed by the Legislative Assembly laid on the table	8
Messages from His Excellency the Governor General	8—9
Committee on Petitions	9
Presentation of the Railway Budget for 1940-41	9—17
Thursday, 22nd February, 1940—	
Short Notice Question and Answer	19—20
Motion for Adjournment <i>re</i> Unsatisfactory arrangements for admission of candidates to the Indian Audit and Accounts and Combined Services Examination—Disallowed	20—23
Death of Sir Nasarvanji Choksy	24—26
Registration (Emergency Powers) Bill—Considered and passed	26
Foreigners Bill—Considered and passed	26—27
Royal Indian Navy (Extension of Service) Bill—Considered and passed	27—28
Offences on Ships and Aircraft Bill—Considered and passed	28—29
Friday, 23rd February, 1940—	
Questions and Answers	31—33
General Discussion of the Railway Budget for 1940-41	33—77
Monday, 26th February, 1940—	
Questions and Answers	79—84
Bills passed by the Legislative Assembly laid on the table	85
Ruling <i>re</i> Right of reply in a Motion for Adjournment	85—90
Parsi Marriage and Divorce (Amendment) Bill—Motion to refer to Select Committee, adopted	90—91
Standing Committee on Pilgrimage to the Hejas	91
Thursday, 29th February, 1940—	
Parsi Marriage and Divorce (Amendment) Bill—Presentation of Report of Select Committee	93
Statements, etc., laid on the table	93
Presentation of the General Budget for 1940-41	93—104
Statement of Business	104
Monday, 4th March, 1940—	
Questions and Answers	105—126
Bills passed by the Legislative Assembly laid on the table	126
Standing Committee on Pilgrimage to the Hejas	126
Resolution <i>re</i> Price control policy—Withdrawn	126—138
Parsi Marriage and Divorce (Amendment) Bill—Considered and passed	139—140

	PAGES.
Tuesday, 5th March, 1940—	
Questions and Answers	141—142
Standing Committee for Roads, 1940-41	142
Standing Committee on Pilgrimage to the Hejas	143
Trade Marks Bill—Considered and passed	143—145
Indian Coinage (Amendment) Bill—Considered and passed	145—146
Factories (Amendment) Bill—Considered and passed, as amended	146—149
Reserve Bank of India (Closing of Annual Accounts) Bill—Considered and passed	149—150
Indian Emigration (Amendment) Bill—Considered and passed	150
Reserve Bank of India (Amendment) Bill—Considered and passed	150—151
Arbitration Bill—Considered and passed	151—153
Wednesday, 6th March, 1940—	
Questions and Answers	155—159
Statements, etc., laid on the table	159
General Discussion of the General Budget for 1940-41	159—220
Monday, 11th March, 1940—	
Questions and Answers	221—226
Bill passed by the Legislative Assembly laid on the table	226
Standing Committee for Roads, 1940-41	226
Resolution <i>re</i> Making India self-sufficient in respect of defence—Negatived	226—247
Resolution <i>re</i> Senior Government Inspectors of Railways—Adopted	247—248
Thursday, 14th March, 1940—	
Condemnation of the outrage committed at the East India Association meeting resulting in the death of Sir Michael O'Dwyer and the wounding of Lord Zetland, Lord Lamington and Sir Louis Dane	249—251
Questions and Answers	251—255
Resolution <i>re</i> Contracts for supplies of food, etc., on Railways—Withdrawn	255—270
Resolution <i>re</i> Raising of India to the status of a Self-governing Dominion—Withdrawn	270—272
Statement of Business	272—273
Monday, 18th March, 1940—	
Questions and Answers	275—277
Resolution <i>re</i> Birth control—Adopted	277—295
Delhi Masajid Bill—Introduced	295—296
Thursday, 21st March, 1940—	
Member Sworn	297
Statements, etc., laid on the table	297—300
Bill passed by the Legislative Assembly laid on the table	300
Standing Committee for the Department of Communications	300
Standing Committee for the Department of Commerce	301
Central Advisory Council for Railways	301
Standing Committee for the Labour Department	301
Standing Committee on Emigration	301
Coal Mines Safety (Stowing) Amendment Bill—Considered and passed	302
Income-tax Law Amendment Bill—Considered and passed	302—303
Reserve Bank of India (Second Amendment) Bill—Considered and passed	303—304
Statement of Business	304

Tuesday, 26th March, 1940—

Questions and Answers	305
Statements, etc., laid on the table	305
Standing Committee for the Department of Communications	306
Standing Committee for the Department of Commerce	306
Standing Advisory Council for Railways	306
Standing Committee for the Labour Department	307
Standing Committee on Emigration	307
Excess Profits Tax Bill—Motion to consider— <i>not concluded</i>	307—342

Wednesday, 27th March, 1940—

Question and Answer	343
Excess Profits Tax Bill—Considered and passed, as amended	344—361

Saturday, 30th March, 1940—

Bill passed by the Legislative Assembly laid on the table	363
Farewell speeches in connection with the retirement of Kunwar Sir Jagdish Prasad	363—373

Tuesday, 2nd April, 1940—

Members Sworn	375
Questions and Answers	375—381
Bill passed by the Legislative Assembly laid on the table	381
Indian Finance Bill—Motion to consider— <i>not concluded</i>	381—418

Wednesday, 3rd April, 1940—

Member Sworn	419
Statements, etc., laid on the table	419—421
Bills passed by the Legislative Assembly laid on the table	421
Message from the Legislative Assembly	421
Indian Finance Bill—Considered and passed	421—463
Statement of Business	463

Friday, 5th April, 1940—

Bills passed by the Legislative Assembly laid on the table	465
Messages from the Legislative Assembly	465
Standing Committee for the Department of Commerce	465
Central Advisory Council for Railways	465 & 498
National Service (European British Subjects) Bill—Considered and passed	466—497
Statement of Business	498

Monday, 8th April, 1940—

Questions and Answers	499—516
Bills passed by the Legislative Assembly laid on the table	515—516
Defence of India (Amendment) Bill—Considered and passed	516—522
Agricultural Produce Cess Bill—Considered and passed	522—540
Insurance (Amendment) Bill—Considered and passed	540—546
Indian Tariff (Amendment) Bill—Considered and passed	546—547
Indian Tariff (Second Amendment) Bill—Considered and passed	547—548
Statement of Business	548—549

	PAGES.
Wednesday, 10th April, 1940—	
Questions and Answers	551—556
Statements, etc., laid on the table	556—557
Congratulations to the Honourable Sir Girja Shankar Bajpai	557
Drugs Bill—Considered and passed	557—565
Indian Mines (Amendment) Bill—Considered and passed	565—566
Petroleum (Amendment) Bill—Considered and passed	566
Motor Vehicles (Amendment) Bill—Considered and passed	566—567

COUNCIL OF STATE.

Wednesday, 27th March, 1940.

The Council met in the Council Chamber of the Council House at Eleven of the Clock, the Honourable the President in the Chair.

QUESTION AND ANSWER.

TOTAL AMOUNT CONTRIBUTED BY HIS MAJESTY'S GOVERNMENT TOWARDS DEFENCE.

63. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state the total amount of British contribution towards the Defence expenditure of India under various heads showing details? How much out of the contribution has been actually received?

THE HONOURABLE MR. C. E. JONES: I would invite the attention of the Honourable Member to the statement in the Budget Speech that His Majesty's Government are spending considerable sums on measures directly connected with the defence of India but it is not in the public interest to disclose either the nature of the measures or the amounts involved.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What I asked was whether the amount promised by the British Government as Defence contribution has yet been paid or not? I do not want any details. I only want the information whether the promised amount has been paid either in part or in full?

THE HONOURABLE SIR JEREMY RAISMAN: I am not quite clear what the Honourable Member means by the promised amount?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: As far as I remember, a certain sum was promised by the British Government towards defence expenditure. Has that sum been received in full or in part? If not, why not?

THE HONOURABLE SIR JEREMY RAISMAN: If the Honourable Member will study with care the Budget Speech he will realise that that sum has now become a much larger sum. Nevertheless, His Majesty's Government continue to carry the responsibility for supplying the equipment of which that sum is the cost.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Can the Honourable Member tell us what part of it was received before the war broke out?

THE HONOURABLE SIR JEREMY RAISMAN: I am afraid I could not give the Honourable Member that figure.

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EXCESS PROFITS TAX BILL—*contd.*

THE HONOURABLE THE PRESIDENT : The debate will now be resumed on the Excess Profits Tax Bill.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammaḍan): Sir, the Bill before the House was introduced, as the Honourable Mr. Sheehy reminded us yesterday, on the 27th of January. He told us, and I think rightly, that it had been considerably modified by the Select Committee and the other place. Sir, before I go on to develop my argument, I should like to express my appreciation of the extreme clarity which characterised Mr. Sheehy's presentation of the case. I should like also to express my appreciation of the ability and tact which characterised Sir Jeremy Raisman's conduct of the Bill in the other place. We are glad to see Sir Jeremy Raisman here today. In the speech which I delivered on the General Discussion of the Budget I made it clear that on the main question as to whether defence expenditure should at this stage be financed by borrowing or taxation I was clearly with Sir Jeremy Raisman who advocates its being financed by taxation. The position as I see it is this. There is a gap of Rs. 3 crores between expenditure and income. The expenditure proposed is not of a staggeringly heavy character and it is an accepted principle of public finance that moderate emergency expenditure should be financed by taxation and not borrowing. I think there is no analogy between defence expenditure here and the defence expenditure that they have to incur in England. Figures there are of an astronomical character. It would have been clearly wrong to leave the Budget unbalanced as such a course is only justifiable in a period of depression. The Budget having to be balanced, Sir Jeremy Raisman had necessarily to see that the burden of taxation falls on those who have the broadest shoulders to bear it. Therefore, Sir, the principle of the Bill is not open to objection. Excess profits—and it is excess profits that are being taxed—excess profits are in the nature of windfalls or unearned increments which the concerns have done little to earn and which are obtained at the expense of the general taxpayer and the consumer. If the profiteer is allowed to escape, the general taxpayer will have to pay in the form of some other taxation and this will no doubt be unfair to the general taxpayer, because he is already being mulcted once in the form of higher prices. Sir, what was the alternative to this taxation? The alternative to this taxation was either an increase in the super-tax and income-tax—and no one who has studied the income-tax and super-tax will deny that they are fairly high—or increase in some other indirect taxation, and we know that the burden of direct taxation in this country is fairly high; our taxation system is regressive. Therefore the principle of the tax is sound and the measure is in conformity with notions of social justice. It was said by the Honourable Mr. Shantidas Askuran that in considering this question we ought to bear in mind that the country is in a comparatively backward condition and the taxation limit must not be of such a character as to hamper the industrial progress of the country. Well, Sir, I will bear this test in mind. Bearing this test in mind, I am glad to note that the Bill as it has come to us in its final form is in many respects an improvement over the measure originally introduced which gave too great a shock to commodity markets. Sir, if I may just dilate on this question of industrial development for a minute, the Honourable Mr. Kunzru, in the forcible speech which he delivered yesterday, emphasised

the necessity of rapid industrial development. But the causes of the industrial backwardness of India are not, as Mr. Shantidas Askuran would have us believe, merely the shyness of Indian capital or the lack of accumulated capital. The deeper causes are, I think, to be found in the political relationship of this country with Britain, in the social organisation of this country, in waste, in luxury, and also in bad management of Indian concerns. I think, Sir, the small investor has not yet developed a sufficient confidence in the capacity of the class from which my friends, the Honourable Mr. Shantidas, comes. That, I think, Sir, is one of the principal difficulties in the way of industrial development and this psychological difficulty you will not remove by opposing the excess profits tax. Excess profits tax or no excess profits tax, this psychological difficulty is here and if Mr. Shantidas Askuran is really anxious to further industrial development, he should work for a higher standard of integrity, so far as the industrial and commercial concerns are concerned.

Coming now, Sir, to the improvements that have been effected in this Bill, I find that, in the first place, the tax will be imposed as now from the 1st of September, 1939. I think this is right because it implies that Government have accepted the contention that the tax should apply to profits during the course of the war and not to profits arising out of the superior efficiency of a concern or any other such cause. For, Sir, in England there was, so far as armaments were concerned, much activity after Munich, and therefore the analogy between England and India is not correct, and I am glad that Sir Jeremy Raisman has accepted the 1st September as the date from which the tax will be imposed.

The second respect in which the Bill represents an improvement is the extension of the standard period for calculation up to 1938 and 1939. 1938 and 1939 can also be taken into calculation as one of the standard periods. Sir, I should like the House to recognise the importance of this concession as it is sure to benefit a number of industries, particularly iron and steel, sugar and jute. I think the result of this concession will be that nearly 2,500 concerns which would have come in under this Bill in its original form will not come in under the operation of this Bill. No doubt, Sir, this and the other concessions which have been made by Sir Jeremy Raisman will reduce the estimated revenue expected from this tax but they will at the same time enable Government to introduce this measure in an atmosphere of goodwill, in an atmosphere of co-operation—intangible things which cannot be valued in terms of rupees, annas and pies.

The third respect in which Government have accommodated the business community is in raising the taxable minimum from Rs. 20,000 to Rs. 36,000. This means that a number of concerns will not come under the operation of this Bill. It will be only after you exceed the figure of Rs. 36,000 that you will be liable to taxation under this Bill. This, therefore, no doubt will exclude many small concerns and, with the provision as it now stands, the Bill will affect the bigger concerns only. It is, I say, Sir, to the credit of Sir Jeremy Raisman that he has shown a spirit of accommodation in this matter.

The fourth respect—and I look upon it as a very important respect—the fourth respect in which the Bill is a definite improvement over the Bill as originally introduced is that the rates will be subjected to periodical revision and review by the Legislature. Sir, I look upon this as an important concession for we are a Legislature which cannot control the Executive. Periodical discussions will enable us to exercise pressure which a permanent Act would have deprived us of. I think it was a right principle for which the

[Mr. P. N. Sapru.]

Members of the other House stood, that the Act should be subject to revision periodically and I am glad that this principle has been accepted by Government.

Another point to note is that the Bill will cease to operate unless extended on the 31st of March, 1941. I think I am right in stating this. I also, Sir, welcome the proposal for the exemption for the reasons given in the Report of the Select Committee, of insurance businesses from the operation of the Act. I should like this exemption, Sir, to be extended to the cinema industry which requires encouragement. Reference was made to the Report of the Rangachariar Committee by the Honourable Mr. Kunzru and I would like to endorse what he said in regard to the cinema industry.

There is one respect, Sir, in which I should have liked the Bill to be different. I find, Sir, that loans or debentures borrowed from banks will be regarded as capital but this concession is not going to be extended to loans borrowed from private firms or private individuals. We know how money-lending is carried on in this country. We know that under the economic organisation of this country, *hundis* and private bankers play a large part. There may be administrative difficulties in placing the private firms and private individuals who carry on money-lending business on the same footing as banks. But I think justice requires that there should be no discrimination between one class of lenders and another class of lenders, I, therefore, would like to see a change in the Bill in this respect.

The Honourable Mr. Shantidas Askuran, in the attack that he launched on this Bill, stated that in the Dominions there was no excess profits tax. I do not know whether Australia and New Zealand have any excess profits tax or not. I am not certain about South Africa either. But Canada certainly has an excess profits tax and reference was made to the provisions of the excess profits tax in the other place by no less a person than the Dictator of the Muslim League—

THE HONOURABLE MR. SHANTIDAS ASKURAN: There is no excess profits tax in Canada.

THE HONOURABLE SIR JEREMY RAISMAN: Certainly, there is an excess profits tax there.

THE HONOURABLE MR. SHANTIDAS ASKURAN: When was that introduced, Sir?

THE HONOURABLE SIR JEREMY RAISMAN: It was introduced, I believe, in September or October last.

THE HONOURABLE MR. P. N. SAPRU: Sir, the Honourable Mr. Shantidas Askuran stated that this Bill would damp the enthusiasm of all those who were going to promote new industries. I do not know whether it is going to damp their enthusiasm. But I know this, that it will help to some extent to check the growth of mushroom companies and it will also help to check speculation, and if it checks speculation, I think it is all to the good.

Sir, I should like to endorse what was said yesterday by the Honourable Mr. Kunzru and the Honourable Mr. Hossain Imam in regard to the provisions of the Bill for relief from double taxation. They have stated the case for India very clearly in their speeches and I have nothing to add to what they have said. All that I want to say is that I am in entire agreement with them

in the attitude that they have taken up in regard to this question. We have to look primarily to the interests of the Indian tax payer and I think the British Treasury ought to be fair to us.

A great deal was said about a cut in the salaries of Government servants. It was suggested, though not stated directly, that the Budget could be balanced by a cut in the salary of Government servants. I am one of those who think that the salaries in this country are far too high—

THE HONOURABLE THE PRESIDENT : We are not discussing the Finance Bill now.

THE HONOURABLE MR. P. N. SAPRU—and irrespective of the budgetary position, I should like them to be reduced. But I do not see how the Budget can be balanced by a mere cut in the salaries of Government servants. You will have either to resort to taxation or borrowing or you will have to leave the Budget unbalanced. These are the only three alternatives—leave the Budget unbalanced, or balance the Budget by borrowing or by taxation. I think the correct thing for Government to do is to balance the Budget by extra taxation. If you think that the principle that the Budget should be balanced by taxation is correct, then there is no other fairer method that either the Government or the Opposition can suggest than the method suggested by this Bill. Why should not those who have done nothing to earn these excess profits be made to part with some of those excess profits? We must remember that we are not taxing the standard profits. Businesses can select their own period. We are taxing only excess profits and then we are not appropriating all the excess profits. We are making a present of Rs. 36,000 to them, and then after they have deducted Rs. 36,000—

THE HONOURABLE MR. HOSSAIN IMAM : No.

THE HONOURABLE MR. P. N. SAPRU : It is the excess over Rs. 36,000 that is taxable under this Bill.

THE HONOURABLE RAI BAHADUR SIB NARAIN MAHTHA (Bihar : Non-Muhammadan) : The first Rs. 36,000 is also taxable.

THE HONOURABLE MR. P. N. SAPRU : If you have a profit of Rs. 40,000 or Rs. 45,000 in excess of the standard profits—

THE HONOURABLE THE PRESIDENT : Please do not argue amongst yourselves, but address the Chair.

THE HONOURABLE MR. P. N. SAPRU : Sir, I do not think that having regard to the concessions that have been made, the figure of 50 per cent. is too heavy. I cannot say that there has been any under-estimation or over-estimation of revenues. I would not like to speak dogmatically on this question. The Honourable the Finance Member thinks that there has been no under-estimation of revenues. I think he has given reasons which appeal to my commonsense, and I am inclined to think that in view of the concessions which have been made, there has been no under-estimation. Therefore, I would say that the figure of 50 per cent. is not too high. If we find as a matter of fact that there has been under-estimation, the Bill will come before us for review next year and we can take our own line then. Those who think that there has been under-estimation of revenues have not made out a convincing case.

[Mr. P. N. Saprū.]

I have so far dealt with the Bill as it is before us, and I have tried to show that in the circumstances in which we find ourselves, this Bill is a right and just Bill. There is, however, a political aspect of this Bill to which reference was made by the Honourable Mr. Kunzru. Into that political aspect I do not propose at this stage to enter. The proper occasion will be the Finance Bill. But I would just like to say this, that we are not satisfied with the manner in which the proceeds shall be spent upon the defence of this country. If there is to be increased defence expenditure, and we have recognised the necessity for strengthening our defences, there must be greater association of the people with the defence of the country; there must be larger control given to the people over the defences of the country, and you have to change the psychology of the people in regard to defence. That psychology you cannot change unless you change your basic political policies.

Then I should like also to say a word about industrialisation. Further taxation is justified if it leads to greater productivity, if it leads to greater efficiency and to the betterment of the community as a whole. The standard of living in this country is deplorably low, and if we are to raise the standard of living in this country we must go in for well-considered and well-planned schemes of industrialisation. From this point of view I am glad that Government have given a grant of Rs. 5 lakhs for industrial and scientific research. But Rs. 5 lakhs is far too little. The grant should have been much larger, and there ought to be a more well directed policy of industrialisation than has been followed so far. There ought to be greater speed in this direction than we have had so far. I should also like a part of the sum that we spend upon industrialisation to be spent upon research into conditions of that essential commodity which employers are often apt to forget, human labour. I do not think they would be able to earn any profits, standard or excess, without the co-operation of labour, and I should like a part of the proceeds of this taxation to be spent also upon that indispensable partner in industrial development, the worker.

These are all the observations that I have to make in regard to this Bill. I look upon this Bill as a just Bill, as a Bill in conformity with my notions of social and economic justice, and I have therefore pleasure in according it my support.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces and Berar : Non-Muhammadan): Sir, I heartily congratulate my Honourable friend the Finance Member on piloting a very controversial Bill so skillfully in the other House. I also congratulate my Honourable friend Mr. Sheehy for his lucid speech and for giving us to understand more clearly the complications in this Bill. This Bill raised a lot of controversy especially in industrial circles when the Government of India announced that they were going to introduce it. Protests were made from all quarters and more especially the industrialist thought that it hit them hard and they therefore closed markets, observed *hartals* and sent protests to the Government against the introduction of this measure. Sir, an Anglo-Indian paper, the *Times of India*, which cannot be said to take extreme views also remarked that though India is sympathetic to the Allied cause she cannot be expected to make the same sacrifices as Britain herself. After that no doubt many of the objectionable features of the Bill were removed in the Select Committee and by the other House, and those industrialists who were opposed to the Bill had ultimately to agree to the passing of the Bill in the other House.

But, Sir, I cannot agree with my friends and Mr. Sheehy who have stated that the Bill will affect only 2,500 assesseees, because the facts which I see are otherwise. I shall just state the facts. As soon as the Bill was introduced or the announcement was made, prices went down.

THE HONOURABLE THE PRESIDENT : The Bill was not introduced. It was published in the *Gazette of India*.

THE HONOURABLE MR. V. V. KALIKAR : An announcement was made that the Bill was going to be introduced and as soon as that announcement was made prices of raw produce went down by 25 per cent. You, Sir, will bear testimony to the fact that in the Central Provinces and Berar the prices of cotton, wheat, and other raw products went down by 25 per cent. (*An Honourable Member :* "And of manufactured goods.") Sir, my Honourable friend says that the case is the same with manufactured goods. If the Bill is going to affect only a limited number of assesseees I cannot understand why the prices should go down. When the prices went down naturally the producers of raw produce were affected. The agriculturists have passed through a period of depression admittedly for the last eight or nine years. We looked to the raising of the prices for some relief and for about two months in November and December we were hopeful that at least this year we would be able not only to meet the cost of production but also to save something.

THE HONOURABLE THE PRESIDENT : That was due to speculation on account of the war, in anticipation of war ; it was not due to the announcement of the excess profits tax.

THE HONOURABLE MR. V. V. KALIKAR : Sir, whether it was due to speculation or manipulation in the market, the immediate effect of the announcement was there, that the prices went down. Therefore, I submit that we were hardly hit and naturally we ascribed this to the introduction of the Bill.

Sir, it is stated that the Bill is not going to affect other classes. I come to the shareholders. What is the position of shareholders ? If their profits—I mean their excess profits—are to be taxed, the shareholders who have not gained any dividend during the last six or seven years owing to the depression or who have got very small dividends and who expected that under these conditions the industry would make some profit would naturally not get the same dividend which they expected they would under the circumstances. Therefore I submit that the Bill is not only going to affect only 2,500 but it has affected and it would affect a very large number of people directly or indirectly. Reference has been made by my Honourable friend Mr. Sapru and was also made in yesterday's debate to the passing of a similar measure in Canada. So far as I know, such a measure has not yet been passed by any other Dominion except Canada and even in Canada the measure that was passed is going to take account of the profits which are to be earned in the fiscal period ending after March 31st, 1940, whereas here the present measure is going to take into account the profits that are to be made after the 1st September, 1939. I do not know whether within two or three months the industrialists have made abnormal profits, because the industrialists are better judges and they can give a better account of themselves on this point. As a layman I think that it is not possible to make abnormal and excessive profits within such a short period of three or four months.

THE HONOURABLE THE PRESIDENT : Didn't the Calcutta people do in jute ?

THE HONOURABLE MR. V. V. KALIKAR : It may be a very exceptional case, but I am speaking generally and I do not think industries which have been experiencing depression for the last so many years can make abnormal and excessive profits within three or four months. It has been stated that as a similar measure was passed in Great Britain, Government also felt the necessity of getting this measure passed here. In Great Britain before the war there were measures of this kind. I refer to the National Defence Contribution and Armaments Profits Duty. The present tax, I understand, in England is not going to add to their revenue. If economic conditions in India differ widely from those obtaining in England, you must have recourse to other remedies and not to a remedy like this. You cannot compare England with India. England is a highly industrialised country, while India has only after the last war made some attempt to develop industries. We know the step-motherly treatment that the Government has given to our industries during the last 20 years. We also know that the industries have had to undergo a period of depression—and a very serious period of depression—and I am rather doubtful whether the industries would be able to rehabilitate their condition after the depression is over and after paying these high taxes that are going to be imposed by this measure. As I said, industrialists are the best judges and if industrialists think that without any damage to the industry, without retarding the growth of industries in India, they can afford to pay taxes, I have every support for this measure. I myself doubt whether they will be able to do it. Sir, it is one thing to say that one believes in a particular principle and it is quite a different thing to say that because a national emergency has arisen everybody ought to bear some burden. It is very easy to invent specious theories and to find out certain arguments in favour of those theories, but it is rather difficult for me to understand as to how those theories can be supported when faced with facts. It was said the other day that artificial inflation of prices ought to be condemned. Sir, I agree with that view, but who is responsible for artificial inflation of prices. The exchange policy of the Government of India, the economic policy followed by them up till now and also the depression in the world is to a very important extent responsible for the artificial inflation of prices that took place after the last war. Sir, it is said that if we do not agree with this principle we must find out some other remedy to fill the gap of Rs. 3 crores. I think if the Government had been responsible to us, if the Government had been responsive to us at least, then the burden would have been laid on us to find out some other remedy.

THE HONOURABLE THE PRESIDENT : I am at a loss to understand you. Are you supporting the Bill or attacking the Bill?

THE HONOURABLE MR. V. V. KALIKAR : That you will know, Sir. But when the Government is not responsive, I think the burden does not lie on us to find out a remedy. It is for them to find out a remedy to fill the gap. Then, Sir, the question of industrialists taking high profits and other things was raised yesterday by some of my Honourable friends and I found that they were up against industrialists. I can understand those feelings and I can understand these things coming from a friend who is imbued with principles of socialism. But I cannot understand, Sir, agriculturists running at the throats of industrialists because after all agriculturists in India, at least in these dangerous times, will have to depend upon industrialists for taking their raw materials. It is very easy, Sir, to say that the industrialists should be wiped out, but, Sir, those people who indulge in this sort of theory fail to bear in mind their own position as they are the producers of raw materials and somebody is required to absorb their products. Sir, I wish my friends to

take a more sober view of things in these dangerous conditions. They should not try to run at the throats of the industrialists and preach a theory with a view to wiping away the industrialists from the economic structure of India.

Sir, as I stated, some of the objectionable features of the Bill have already been removed by the other House but, according to the industrialists, there are certain objectionable features in the Bill itself. I endorse the remarks of my Honourable Leader, Lala Ram Saran Das, about reducing the percentage. Sir, even the *Times of India* stated that the percentage of 50 per cent. is too high. What I want to submit is this that, if some of the profits are allowed to remain with the industrialists, they will take advantage of it to build up a reserve and also to expand the industries, which will really be in the ultimate interests of India.

Then, Sir, in the body of the Bill, no doubt in fixing the standard period option has been given of an additional year but, Sir, according to me, you cannot gauge the correct figure of excess profits without fixing a correct standard period. Admittedly, the industries have passed through a period of depression during the last ten years and a suggestion was made in the other House and mentioned in the dissenting minute of Sir Cowasji Jehangir that only the year 1938 alone or the year 1938-39 should be included. Sir, I regret to find that that suggestion has not been given effect to. If that suggestion had been given effect to, you would have been able to judge correctly how much excess profits or abnormal profits the industries have been able to make and then only can you really say, under the present measure, that the tax is on the abnormal profits and not on the normal profits.

The next suggestion that he made was about the profits which are not liable to taxation under the Income-tax Act but which are made taxable under this measure. Sir, if the intention is to tax abnormal profits and not to take a share of the normal profits, if you really desire to tax excess profits which have accrued owing to the war, then, Sir, you ought to have excluded those profits which are not taxable under the Income-tax Act. Sir, he has given an example in his minute of dissent of a company incorporated in an Indian State. If a company is incorporated in an Indian State and the company wants to increase the capital by the profits that have been made and reduces the capital and returns it to those persons who are residing in British India, that amount which comes to British India is not taxable and therefore he says that the meaning that is attached to the word "company" under the Income-tax Act should be retained here. That suggestion, Sir, has not been followed. It seems that the profits that accrue there will be taxed under this measure.

Sir, a further suggestion made by him about not discouraging *bona fide* transactions for a *bona fide* consideration has not been given effect to. I think, Sir, if these points had been accepted by the Government, they would have been able to fix a correct tax on the excess profits arising out of the war. The industrialists seem to think, even now after the passing of this measure, that a portion of their normal profits will be taken by the Government under this Bill. I think, Sir, this impression ought to be removed and steps ought to be taken to that effect. Sir, though I do not agree with the view expounded by some Members here, that the principle is a correct principle, still I agree to give my consent to the Bill simply because these are dangerous times and we must give every help to the Government in these dangerous times.

THE HONOURABLE SIR JEREMY RAISMAN (Finance Member): Sir, I regret that I was not able to be present yesterday when the main part of the

[Sir Jeremy Raisman.]

debate on this Bill took place and I am under the disadvantage of attempting to reply to a debate the greater part of which I have not actually heard. Nevertheless, Sir, I shall do my best to deal with a few of the main points which were brought out in the course of that debate.

From a perusal of a summary of the debate the impression I have received is that this House has rightly in the main supported the principle of the Bill and that its features also, as they now stand, have found acceptance amongst a majority of the Honourable Members of this House. There have no doubt been criticisms of particular points. But, as my distinguished predecessor used to say, many of the remarks have tended

12 NOON.

to cancel themselves out. I admire the mental agility of the last speaker who finds it possible, whilst disagreeing with the principle, to support the Bill. Most of the difficulty which I encountered at an earlier stage was in dealing with people who wholeheartedly supported the principle of the Bill but found themselves unable to agree to any of the steps for carrying that principle into effect. One of the misgivings which have been expressed by more than one speaker in this House relates to the machinery for carrying out this measure. On that, Sir, I can only say that I am as fully aware as any Honourable Member of the paramount importance of securing that the processes of this measure are effectively, efficiently and fairly applied, and that is a problem which is already receiving my very careful attention. I am not in a position to give this House the details of what I have in mind, but I can say this that we shall not attempt to embark on the work of assessment until we have been able to set up a machinery which, in our opinion, is satisfactory and adequate. My Honourable friend Mr. Richardson delivered himself of some animadversions on the existing staff of the Income-tax Department. I am not prepared to claim that the administration of any Department of Government is perfect. But I do think that we have, in recent years, made great improvements in the administration of the Income-tax Department. It must always be the case that the levy of a tax such as the income-tax will be accompanied by a certain amount of, if not friction at any rate discontent. But we have tried our best, and particularly in recent years, to reduce the element of legitimate dissatisfaction to a minimum. And I am not prepared to admit that even where discontent does exist, the causes of dissatisfaction are entirely due to the lack of sympathy or to any unwarrantable arbitrariness on the part of the income-tax officials. Nevertheless, we do bear constantly in mind the desirability of securing as wide a measure of satisfaction as is possible with the administration of direct taxation and we are always prepared to investigate specific cases which are brought to our notice. I shall, therefore, Sir, do my best to secure that the machinery which is set up for the administration of this measure is satisfactory and efficient, and that it does not reduce the efficiency of the existing machinery for the collection of income-tax, within the limitations, of course, which face me. I hope that what I have stated will satisfy the House that this aspect of the matter will receive our very best attention.

I come now to a point which has been mentioned by several speakers, and that is the question of industrialisation, the effect of this tax on the progress of industry and the steps contemplated by Government to assist industry during the war. I agree with those speakers who do not consider that the levy of a tax on the excess profits above a reasonably high standard can operate as a serious deterrent to industry. I would go further and say that industrialists do not present themselves in a very favourable light when they claim that in the absence of a prospect of enormous and uncontrolled profits of

which no undue share shall be taken by the State, they would be incapable of taking advantage of the opportunities presented by the war situation. I do not myself believe that, and I think they do themselves less than justice. I also think that they show a remarkable lack of appreciation of the share, which is due to the community, of profits which arise in the circumstances of the present emergency. They appear to put forward the claim that private profits, however they arise, have a sacrosanct character and that any attempt on the part of the State to share in those profits in order to meet the inevitable expenditure of the emergency is immoral or expropriatory. That is a view which, if accepted, would make the administration of the country exceedingly difficult, if not impossible, and would make it impossible, in particular, for the community as a whole to adjust themselves to the serious financial effects of any emergency. But I have been asked even by speakers who do not support these extravagant and reactionary claims of industrialists what Government intend to do to assist industry to take advantage of the present opportunities. Well, Sir, it is not really my particular business. It is more the concern of my Honourable colleague the Commerce Member to give a detailed reply on this point. But I will say this, that in providing a sum of Rs. 5 lakhs for purposes of research during the coming year I felt that that provision was capable of proving of assistance to industry to a degree much greater than the actual sum itself might appear to suggest. It is familiar knowledge amongst those who have embarked on industrial enterprise that there is a stage of investigation, research, trial, during which a sum, not necessarily exceedingly large, has to be expended the whole of which will be lost if the result is negative. Now, Sir, a sum of Rs. 5 lakhs can go a very long way in financing experiments and enabling us to answer the question whether certain industrial processes could be carried out in Indian conditions or not. Moreover, once that stage is passed and once Government are satisfied that the industry could be carried on in Indian conditions, it is obviously possible to provide assistance in other ways which need not necessarily involve actual large expenditure by Government. If what the critics have in mind is that Rs. 5 lakhs would not actually finance a large number of new industries, then I entirely agree with them. But then I ask in my turn, do they consider that it is the business of the Government actually to embark on carrying out all these new projects itself? If so, what justification would there be for bringing in the private *entrepreneur* at all and allowing him to appropriate any of the resultant profit. I take it that the object is to give such initial assistance and guidance and such subsequent help to new and pioneer industries as will enable them to take the utmost advantage of the opportunity. But it is not the object that Government should itself start and run these new industries.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Will you guarantee these new industries a certain amount of profit percentage?

THE HONOURABLE SIR JEREMY RAISMAN: No, Sir. That exactly illustrates the entirely extravagant nature of the expectation which the class to which my Honourable friend belongs entertains on this subject. We can say to the industrialist, here is a situation in which it appears to us that there are opportunities for private enterprise. We can say more, we can say we have now spent Rs. 10,000 in producing a small amount of this commodity and we are satisfied that it can be produced in India. We can go further and we can say that if any obstacles should arise at a later stage we will endeavour to assist in the removal of those obstacles. But that we should also say to them, now we have done everything for you, go along, invest your money

[Sir Jeremy Raisman.]

and if you do not get 5 per cent., the general taxpayer will pay that to you—that it seems to me is a monstrous proposition ; and if the industrialist is not prepared to take a chance on the basis which I have already indicated then it seems to me he had better put his money in Government paper.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Where is then the encouragement to industry ?

THE HONOURABLE SIR JEREMY RAISMAN : If my Honourable friend does not consider that what I have indicated is a reasonable measure of encouragement to industry, then I am afraid I must differ from him.

THE HONOURABLE MAHARAJADHIRAJA SIR KAMESHWAR SINGH OF DARBHANGA (Bihar : Non-Muhammadan) : Will the Government be prepared to give some sort of assurance to the industrialist that no further measures of taxation or other measures will be introduced which will react prejudicially on industries ?

THE HONOURABLE SIR JEREMY RAISMAN : It is impossible for Government to give large undertakings of that kind to anybody. All I can say is that we have in the drafting of this measure had in mind the special difficulties of new and pioneer industries and I have no doubt that in any future schemes of taxation which may arise we shall endeavour to the best of our power to avoid inflicting damage on such new industries.

My Honourable friend Mr. Kalikar complained that the percentage of the tax was too high and that we should leave more with industry as a reserve. That criticism has I think been answered by a number of other speakers and I agree with those who feel that 50 per cent. of the excess profits over the standard now embodied in the Bill leaves a sufficient margin of reserve to industry against future contingencies. To claim more than this I think is to advance on behalf of industry a demand which is not justifiable and which is not reconcilable with the requirements of the community as a whole. It would not be fair in my opinion to the general taxpayer to take a lesser proportion of a slice of profits determined in accordance with the measure as it now stands. In another place I spoke at some length on the effect of the inclusion of the year 1938-39 in the standard period. I do not wish to go into the point at length, but I trust Honourable Members will realise that the excess profits are determined in the last resort by comparing the average profits during the war with the profits of the standard period, and therefore the adoption of too high a peak has the effect of narrowing the margin of excess profits to a very great extent. That is the reason why it is unfair to take the year 1938-39 alone as a basis of comparison, because it would mean that even a business which could repeat for several years the highest peak which it has ever reached would be regarded as an industry which had received no special advantage from the war.

I come now, Sir, to another point in regard to which there has been criticism and that is the treatment of bank loans and debentures in computing the average capital under Schedule I. I admitted in another place that the provision as it stood might be regarded as not completely logical and that it gave grounds to criticism of discrimination. Well, Sir, the history of the provision is that it is a compromise and being a compromise it is not completely logical. The position was that I was subjected to very considerable pressure to make

some concession in regard to borrowed capital. I therefore agreed to make the provision which now stands in the Bill. I was then subjected to further pressure to extend the provision so as to cover private deposits. I am quite satisfied in my mind that to go to that extent would be to render the administration of this measure almost impossible. It would have opened the door to evasion on a very large scale indeed and would have subjected the staff to constant difficulty and altercation and endless dispute. I myself would have been prepared to retrace the step which I had taken and excluded borrowed capital from the computation of capital employed in the business but the general consensus of those concerned was that it would have been unfair on my part to withdraw from the position to which I had advanced. The result, Sir, as so often in this sub-lunary world, was that I had to stand on a position not entirely justifiable on purely logical grounds but which represented the resultant of numerous forces. I will not attempt to adduce any more logical arguments for the retention of this provision, but I would remind Honourable Members that in judging of a taxing statute it has to be remembered that considerations of equity have frequently to be subordinated to considerations of practicability and expediency. In fact some experts go so far as to say that there is no equity in taxation and that the only principle which can inform a taxation measure is the principle of obtaining the necessary revenue where it can be obtained. My Honourable friend Mr. Kalikar touched on the effect which the publication of this measure had on prices. Well, Sir, you yourself indicated what I believe to be the true position that the markets had undergone a highly speculative inflation and that the bubble was due to be burst by some factor or other in a very short time. It may be that the publication of this Bill was the immediate occasion of a deflation which was in any case absolutely inevitable. The markets in question being highly volatile are subject to fluctuations and those fluctuations obviously in the nature of things cannot all be in an upward direction. It is in my opinion no condemnation of the measure to say that its appearance was the occasion for some reaction from what was an unsound position. I do not agree with the view that the tax reduces the return to the agriculturist. I am emphatically of the contrary opinion and I certainly do not think the argument can be sustained by mere allusion to the reaction which took place in the markets on the publication of this Bill. There is only one other point which I might touch upon before I sit down, Sir, and that is the complaint regarding the arrangements embodied in the Bill for double excess profits tax relief with the United Kingdom. I do not understand what the critics have in mind. What we intend is that when owing to the fiscal jurisdictions of both countries a single assessee is liable both to the excess profits tax of the United Kingdom and to the excess profits tax of India, arrangements should be made whereby he would finally be liable to the higher only of those two taxes and that the amount should be divided in effect between the two countries in proportion to the incidence of the tax. That is the principle which applies in the case of the relief of double income-tax. I cannot see how we can expect to do better than this or on what footing we could ask His Majesty's Treasury to forego the whole of their claim in order that we should occupy undisputed the field of taxation which is in their jurisdiction as well as ours. It seems to me, Sir, that the provision in this Bill is satisfactory from India's point of view. It is certainly more satisfactory than the provision in the measure of 1919 which, as far as I remember, was to the effect that an assessee who was liable to excess profits tax in the United Kingdom should not be liable to excess profits tax in India. That vacated the whole field of this taxation in favour of His Majesty's Government. I think that the provision which we now have is definitely appropriate to the circumstances and as much as India can justifiably claim.

THE HONOURABLE THE PRESIDENT : The Question is :

"That the Bill to impose a tax on excess profits arising out of certain businesses, as passed by the Legislative Assembly, be taken into consideration."

The Motion was adopted.

Schedule I was added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

"That Schedule II stand part of the Bill."

THE HONOURABLE MR. SHAVAX A. LAL (Nominated Official) : Sir, I move :

"That rules 3A, 4 and 5 of Schedule II be renumbered 4, 5 and 6, respectively."

Sir, this is a purely formal change consequential on the insertion of rule 3A.

The Motion was adopted.

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

Clauses 2 to 5 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

"That clause 6 stand part of the Bill."

THE HONOURABLE MR. SHAVAX A. LAL : Sir, I move :

"That in the second proviso to sub-clause (1) of clause 6 of the Bill, for the words 'which was not in existence before' the words 'which was commenced on or after' be substituted."

Sir, this is another drafting change. This amendment proposes to make it clear that the proviso applies to the businesses referred to in clause 8 (1). The amendment follows the wording of the United Kingdom Act, on which clause 6 is modelled.

Sir, I move.

Clause 6, as amended, was added to the Bill.

The Motion was adopted.

Clause 7 was added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

"That clause 8 stand part of the Bill."

THE HONOURABLE MR. SHAVAX A. LAL : Sir, I move :

"That in sub-clause (2) of clause 8 of the Bill, for the words and figures 'the 1st day of January, 1940' the words and figures 'the 1st day of September, 1939' be substituted."

Sir, as sub-clause (2) stands, it conflicts with the other sub-clauses of the section which have the date of 1st September, 1939. Those who moved for the amendment of sub-clause (2) in the other House, after an interval of reflection decided that the amendment was a mistake and Government undertook to move this amendment here to put the original date back in sub-clause (2).

The Motion was adopted.

Clause 8, as amended, was added to the Bill.

Schedule III was added to the Bill.

Clauses 9 to 12 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

" That clause 13 stand part of the Bill. "

THE HONOURABLE MR. SHAVAX A. LAL : Sir, I move :

" That in the proviso to sub-clause (2) of clause 13 of the Bill, for the words and figures ' the year 1935-36 ' the words and figures ' the previous year ' as determined under section 2 of the Indian Income-tax Act, 1922, for the purpose of the income-tax assessment for the year ending on the 31st day of March, 1937 ' be substituted."

Sir, these amendments were accepted by the Government in the other House, but on further examination it does not appear that the year 1935-36 has any definite legal meaning. If it means the financial year, then it will prevent the Excess Profits Tax Officer calling for the books referred to in clause 6 (2) (a) at the end of the period. This was not the intention and therefore the proviso has to be amended in order to bring it into line with clause 6 (2) (a).

Sir, I move.

The Motion was adopted.

Clause 13, as amended, was added to the Bill.

Clauses 14 and 15 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

" That clause 16 stand part of the Bill. "

THE HONOURABLE MR. SHAVAX A. LAL : Sir, I move :

" That in clause 16 the brackets and number '(1)' and the whole of sub-clause (2) be omitted."

Sir, this amendment and the next which stand in my name go together and the reason for them is that, when it was pointed out in the other House that the Bill as it stood did not exclude prosecution in every case where a penalty was imposed, Government undertook to move an amendment in this House to put the matter right.

Sir, I move.

The Motion was adopted.

Clause 16, as amended, was added to the Bill.

Clauses 17 to 24 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

" That clause 25 stand part of the Bill. "

THE HONOURABLE MR. SHAVAX A. LAL : Sir, I move :

" That sub-clause (2) of clause 25 be re-numbered sub-clause (3) and the following be inserted as sub-clause (2) :—

' (2) No prosecution for an offence punishable under section 23 or section 24 or under the Indian Penal Code shall be instituted in respect of the same facts as those in respect of which a penalty has been imposed under this Act'."

[Mr. Shavax A. Lal.]

Sir, I have already explained the reason for this.

Sir, I move.

The Motion was adopted.

Clause 25, as amended, was added to the Bill.

Clauses 26 and 27 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. F. SHEEHY (Nominated Official): Sir, I move :—

“That the Bill, as passed by the Legislative Assembly, and as amended by the Council of State, be passed.”

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan): Mr. President, the turmoil caused by the publication of this Bill did not in any way reflect itself in the passage of the Bill in this House. We had a very serene and calm atmosphere.

THE HONOURABLE THE PRESIDENT: We always have in this House.

THE HONOURABLE MR. HOSSAIN IMAM—and in addition, it had almost universal support. When the biggest capitalist of India, the Honourable the Maharajadhiraja of Darbhanga supports the Bill, it is some satisfaction and some justification for existence of Second Chambers which are wrongly supposed to be the strongholds of capital and conservatism alone. We find in India it is a topsy turvy world and people who were supposed to be most conservative and most capitalistic have given their blessing to Government, and the little difficulty which they had to meet was in the other Chamber. Even in that place, the Government was not faced with unreasonable criticism, with the result that confidence begot confidence and moderation was replied to by Government by reasonableness on their part too. This Bill, Sir, is an example of what compromise can do, how even the most controversial measure can be passed as an agreed thing if there is sweet reasonableness present. I rather deplore the fact, Sir, that our friends of the Federation were not satisfied with this Bill. They would never be satisfied with this Bill until and unless they get the Congress in the House. The absence of the Congress was cited as a reason for sending a deputation to the Government and the Viceroy, and those who are self-styled champions of the masses have now been found to be the champions of the capitalists.

Sir, at this stage, it is not proper for me to dwell on the details of the Bill but I should like one or two points to be clarified. There seems to be some misconception about the duration of this Bill. I personally believe that the revision will have to come in the Finance Bill of 1942, and not in the Finance Bill of 1941. On that point, I wish the Honourable Mr. Sheehy will enlighten us, because the wording of section 4 is that the chargeable period extends to 31st March, 1941.

THE HONOURABLE MR. J. F. SHEEHY: That is quite correct.

THE HONOURABLE MR. HOSSAIN IMAM: Well, Sir, it seems that the Reporters will have to correct your speech (of yesterday's) because they have taken down as 31st March, 1941.

THE HONOURABLE MR. J. F. SHEEHY: What I mean is that what you said, namely, that the tax extends up to 31st March, 1941, is quite correct.

That does not mean that the Finance Member is not going, if he wants to extend it, to bring proposals to that effect in the Finance Bill of 1941. It is for the Finance Member to say what he is going to do.

THE HONOURABLE MR. P. N. SAPRU : This Bill will not automatically come before us in 1941 ?

THE HONOURABLE MR. J. F. SHEEHY : I think it will have to, because, this Bill imposes taxes on all chargeable accounting periods only up to 31st March, 1941. If you look at section 4, you will find that.

THE HONOURABLE MR. HOSSAIN IMAM : There is another point which the Honourable Member has not elucidated. The money of the people who are carrying on banking business is regarded as part of the capital. When they receive interest from the concerns, will it be exempted from the excess profits tax or will it be taxed under the Excess Profits Tax Act ?

THE HONOURABLE MR. J. F. SHEEHY : Yes, it will be taxed ; if they are doing business, it comes under this Act naturally. If the Bank lends money to the industrialist at 5 per cent., and if the industrialist's standard profits are calculated on the statutory percentage basis, he will be allowed 10 per cent. on that capital but the bank will pay only on the 5 per cent. which it receives.

THE HONOURABLE MR. HOSSAIN IMAM : So it will be double excess profits tax.

THE HONOURABLE MR. J. F. SHEEHY : No.

THE HONOURABLE MR. HOSSAIN IMAM : The same profits and there will be no relief to the banks.

THE HONOURABLE MR. J. F. SHEEHY : We lose on it. We give the industrialist 10 per cent. and we only tax 5 per cent. in the hands of the bank.

THE HONOURABLE THE PRESIDENT : These questions ought to have been asked at the second reading.

THE HONOURABLE MR. HOSSAIN IMAM : I had expected that these questions will be cleared up in the Finance Member's speech.

Another point on which I wish to put in a few words is about the justification of giving double excess profits tax relief. Our action has been strengthened by the statement made by the Finance Member today. If it was possible for His Majesty's Government alone to tax profits arising in India, there is nothing ethically wrong in India alone taxing profits accruing in its own country and His Majesty's Government allowing that part of the tax to go scot-free as we did in 1919. It would have been a sort of giving proof of the partnership if they had made a return for what we did in 1919 in the year 1940. Once we allowed their nationals to pay all the excess profits to His Majesty's Government and is it too much for us to demand that in return for that we alone should tax.

THE HONOURABLE THE PRESIDENT : This is all merely academic because this House has no power to supersede an Act of Parliament.

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, this is not an Act of Parliament, but it is the rules and agreements made thereunder, because under this Bill of ours, we empower our Government to enter into agreements. The agreement is not incorporated in the Bill itself. Similarly, the Parliament has empowered the Executive to make reciprocal arrangements with the countries which are prepared to give concessions, and Parliament is not so unreasonable as to tie the hands of its own Executive and leave them no latitude for beneficent action—

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadan) : May I ask you, Sir, what Parliamentary statute you had in mind ?

THE HONOURABLE THE PRESIDENT : The Income-tax Act in England.

THE HONOURABLE MR. HOSSAIN IMAM : The excess profits tax is a new one and as I believe that Englishmen are very adept in passing laws, they would not in any way hamper or tie down their Government in coming to a right settlement, especially in the present day when the policy of all Parliaments is to give greater power to the executive to meet the autocratic action of the dictators. It may be said in answer that our executive too should be armed with more extensive powers than was the practice in the past. Sir, even if we do not get relief for this year, that is no bar to the Government continuing this talk with His Majesty's Government and asking for a relief in the next period ; because during this financial year which is to commence on the 1st April, 1940 we will not be collecting a very big amount of excess profits duty. Consider that if the agreement is on those lines and since in England taxation is from the 1st of April and we are imposing taxation only from the 1st of September, if you give relief on the higher of the two taxes then we will get practically no share out of the excess profits duty, because there it will be for a complete year whereas we will only have it for four months only. That aspect should be taken into consideration. When this Bill automatically comes into effect on the 1st April, 1941, when we have a complete year's income subject to excess profits duty, it will then come to quite a big sum.

THE HONOURABLE THE PRESIDENT : Won't you be glad if it comes to a big sum ?

THE HONOURABLE MR. HOSSAIN IMAM : Sir, I do not want that big sum to go to His Majesty's Government.

THE HONOURABLE THE PRESIDENT : You will have no further taxation.

THE HONOURABLE MR. HOSSAIN IMAM : It is doubtful. This is one aspect on which I wish to say something. People do not understand the provisions of section 4 completely. Many people even in this House were under the belief that this Bill will automatically come before us for consideration before the 31st March, 1941. That erroneous conclusion has been cleared up by Mr. Sheehy.

THE HONOURABLE THE PRESIDENT : It is not fair to the Honourable Finance Member that you should raise all these points when he is not here.

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, I had raised this point in my speech yesterday, and he did not refer to it. It was in reply to one of my questions that Mr. Sheehy is reported to have said "that it will have to come up in the Finance Act, 1941".

THE HONOURABLE MR. P. N. SAPRU : On a point of order, Sir. This is the third reading ; did the Honourable Member put in any amendment ?

THE HONOURABLE THE PRESIDENT : These remarks ought to have been made by him at the earlier stage of the debate. He is not entitled.

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, I am not going to press this point. I simply wish to ask the Government to keep this matter in view and try their best to get an agreement more favourable to India than the agreement they have at this stage with His Majesty's Government.

THE HONOURABLE MR. SHANTIDAS ASKURAN (Bombay: Non-Muhammadan) : There is I think great misunderstanding about my remarks. (*Several Honourable Members :* "Not in the least.") It is thought that I was opposing it. What I said was, give Industry one or two years during which many of the concerns which have not been able to write down depreciation much less pay interest might be able to recover themselves. Otherwise what will happen to them in a lean time ? We had in Bombay 86 mills after the last war. After 1922 to 1939 24 mills have gone into liquidation and 60,000 people were thrown on to the street for whom those people who are now criticising our request have done nothing to aid them. Not only that, Sir, you will know that yesterday the market had gone down on account of the rumour that Japan is not going to buy our cotton. I only wish to say that we want breathing time.

THE HONOURABLE THE PRESIDENT : If this is meant as your personal explanation I would point out that you ought to have got up there and then to ask permission of the Chair to make this explanation. It does not arise on the third reading of the Bill.

The Question is :

"That the Bill, as passed by the Legislative Assembly and as amended by the Council of State, be passed."

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : The Council will now adjourn till 11 A.M. on Saturday, the 30th March, 1940. I may point out to Honourable Members that that will be the last day when the Leader of the House will be present and Honourable Members will be permitted to pay tribute to his work in this Council during the last five years.

The Council then adjourned till Eleven of the Clock on Saturday, 30th March, 1940.
