

10th November 1941

**THE  
LEGISLATIVE ASSEMBLY DEBATES**

**Official Report**

**Volume IV, 1941**

*(27th October to 18th November, 1941)*

**FOURTEENTH SESSION  
OF THE  
FIFTH LEGISLATIVE ASSEMBLY,  
1941**



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# LEGISLATIVE ASSEMBLY

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

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*CORRIGENDUM.*

In the Legislative Assembly Debates, Budget Session, 1936, Volume I, dated the 10th February, 1936, page 471, for the subject heading "DEMAND OF SECURITY FROM THE ABHYUDAYA OF ALLAHABAD." substitute the following independent heading, namely:—

"MOTION TO DISCUSS A QUESTION OF PRIVILEGE, NAMELY, HOW FAR PRESS PUBLICATION OF A MEMBER'S SPEECH IN THE ASSEMBLY IS PRIVILEGED."

# LEGISLATIVE ASSEMBLY.

Monday, 10th November, 1941.

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

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

#### TERMINATION OF THE CONTRACT OF THE BENGAL AND NORTH WESTERN RAILWAY.

100. \***Shams-ul-Ulema Kamaluddin Ahmed** (on behalf of Qazi-Muhammad Ahmad Kazmi): (a) Will the Honourable the Railway Member please state whether or not Government are aware that there is a general public complaint regarding the Bengal and North Western Railway for want of providing of barest amenities for the passengers, and for the lot of the employees regarding their pay, prospects and privileges, and the big dividends from 17 to 18 per cent. being paid by the Railway to the shareholders?

(b) Are they or are they not aware that a continuous agitation has been going on to this effect for the last four or five years?

(c) Is it or is it not a fact that the contract of the Company is to expire on the 31st December, 1942, and a notice of purchase is to be given to the Railway by 31st December, 1941 according to the terms of the contract, in case Government intend to purchase the concern? If not, what are the correct dates?

(d) Have Government come to any decision regarding the purchase of the concern? If not, by what time are they likely to come to a decision in this respect?

**The Honourable Sir Andrew Clow:** (a) and (b). Some complaints have come to the notice of Government. I would not describe them as constituting continuous agitation.

(c) The contract is terminable with effect from 31st December, 1942, by one year's notice.

(d) The question is under active consideration and a decision must be taken before the end of this year.

**Mr. Lalchand Navalrai:** What have Government done to remove these inconveniences about the absence of amenities which are complained of?

**The Honourable Sir Andrew Clow:** It is not a matter for the Government. At present it is a railway owned by a private company.

**Mr. Lalchand Navalrai:** I believe there is some control exercised by the Railway Board over the company-managed railways also. Therefore, I am asking whether the Honourable Member will at least enquire into these inconveniences and do something to remedy them?

**The Honourable Sir Andrew Clow:** There is control by the Government for the purpose of securing the safety of passengers, and that we are exercising.

**Mr. Lalchand Navalrai:** Safety of passengers also includes inconveniences such as the trains not running in time and so on. Will the Honourable Member at least send this question and answer to them so that they may do something?

**The Honourable Sir Andrew Clow:** I imagine, Sir, that complaints have come to their notice.

**Lieut.-Colonel Sir Henry Gidney:** Did I correctly hear the Honourable Member to say that the question is under active consideration?

**The Honourable Sir Andrew Clow:** Yes, Sir.

**Lieut.-Colonel Sir Henry Gidney:** Then, may I ask the Honourable Member what he actually means by "active consideration" and are there any matters which receive the "passive consideration" of Government?

**The Honourable Sir Andrew Clow:** By active consideration is meant that it is under consideration at this moment.

#### TERMINATION OF THE CONTRACT OF THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

101. \***Shams-ul-Ulema Kamaluddin Ahmed** (on behalf of Qazi Muhammad Ahmad Kazmi): Will the Honourable the Railway Member please state:

- (a) whether or not Government are aware of the large number of complaints regarding the Shahdara-Saharanpur Light Railway from the point of view of passengers, *e.g.*, narrow seats, want of latrines in carriages, slow speed due to light rails on the track, lack of necessary number of engines and rolling stock, undue stoppages at some stations, and others;
- (b) whether Government are aware of the complaints of the staff of lack of prospects, especially want of graded scales of pay, and promotion in the Locomotive Department;
- (c) whether the contract of the Railway terminated this year; if not, when it is likely to terminate;
- (d) if the answer to part (c) be in the affirmative, whether a new contract has been entered into; if so, when and for what period;
- (e) whether Government have considered the advisability of purchasing this Railway; if so, when they propose to purchase it;

- (f) the approximate amount that Government will have to pay for the purchase of this line and what are the likely profits;
- (g) whether Central Government will be entitled to purchase this line, or the Government of the United Provinces; if the latter, whether the Central Government will be prepared to finance it; and
- (h) with whom the initiative lies for the purchase of this line, with the Central Government or the Government of the United Provinces?

**The Honourable Sir Andrew Clow:** (a) Government are aware that there have been some complaints.

(b) No.

(c) and (d). No. The option to terminate the contract was not exercised this year. The next option will fall in 1948. No new contract has been entered into. The existing contract, unless determined, continues automatically.

(e) The question of purchasing the railway was considered last year but it was not considered advisable to exercise the option on financial and administrative grounds.

(f) I cannot say definitely what the purchase price would be in 1948, but if there was no large capital expenditure in the interval, it might be about two-thirds of a crore. It is impossible to forecast the net profits to be secured by purchase on that date, and if Government had to incur appreciable expenditure on the provision of amenities and improving the prospects of the staff, it is not certain that there would be any.

(g) The Central Government will be entitled to purchase the line. The question in the latter part does not, therefore, arise.

(h) With the Central Government.

**Mr. Lalchand Navalrai:** What did the Railway Board do when they got these complaints which are mentioned in part (a)?

**The Honourable Sir Andrew Clow:** I do not think the Honourable Member who drafted this question was necessarily referring to complaints addressed to Government.

**Mr. Lalchand Navalrai:** When these matters have come to the notice of the Government what do they propose to do now?

**The Honourable Sir Andrew Clow:** It is a line not merely managed but owned by a company and it is not Government's intention to interfere in this matter.

**Mr. Lalchand Navalrai:** May I take it that in the case of company-managed railways, the Railway Board or the Government will do nothing in the matter?

**The Honourable Sir Andrew Clow:** It is not merely company-managed; it is a company-owned railway.

**Mr. Lalchand Navalrai:** What is the position of the Railway Board or the Government with regard to a company-owned railway?

**The Honourable Sir Andrew Olow:** The position is that the Government have certain responsibilities in the matter of safety of passengers, and others which they enforce.

**Mr. Lalchand Navalrai:** What have the Government done when complaints about safety of passengers come in?

**The Honourable Sir Andrew Olow:** I have seen no complaints of any negligence in the matter of safety.

**Mr. Lalchand Navalrai:** Then what were the complaints about?

**The Honourable Sir Andrew Olow:** I think they are indicated in part (a) of the question.

**CLASSIFICATION OF CERTAIN SUBORDINATE SERVANTS AS INFERIOR SERVANTS ON THE NORTH WESTERN RAILWAY UNDER THE REVISED RULES.**

**102. \*Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that in the Supplementary Rule 2 (13) the definition of the term 'Inferior servant' includes any kind of service specially classified as such by the Governor General in Council and any other kind of service on pay not exceeding Rs. 10? If so, why was the limit of pay raised to Rs. 30 in case of railway employees under Rule 2202 (12), Chapter XXII of the State Railway Establishment Code, Volume II?

(b) Is it a fact that the limit of Rs. 30 referred to in the second portion of part (a) has also been made applicable to the old employees on the North Western Railway, such as, Clerk Markers, and Fireman, who were considered as subordinate servants for all purposes but under the revised rules are now classed as inferior servants? If so, why?

(c) Does the Honourable Member propose to allow employees to retain their old service conditions and apply revised rules to new entrants? If not, why not?

**The Honourable Sir Andrew Olow:** (a) The answer to the first part is in the affirmative as far as rules applicable to Government servants other than railway servants are concerned. As regards the second part, the revision was made to bring the definition into conformity with another definition that had been issued in respect of other matters.

(b) The answer to the first part is in the affirmative; as regards the second part the orders did not provide for any exceptions.

(c) On reconsideration orders are being issued for the classification that existed prior to 27th May, 1936, to be retained as a concession personal to the staff concerned.

**Mr. Lalchand Navalrai:** What were the reasons for raising the pay from Rs. 10 to Rs. 30 as mentioned now?

**The Honourable Sir Andrew Clow:** I have given this in reply to part (a).

**NORTH WESTERN RAILWAY NOTIFICATION ADVERTISING RECRUITMENT TO POSTS OF GUARDS, CLASS I, GRADE I.**

**103. \*Mr. Lalchand Navalrai:** (a) Will the Honourable the Railway Member be pleased to state whether it is a fact that the qualifications for recruitment to the post of Guards class I, grade I, on the North Western Railway, were laid down *vide* paragraph 3 of the North Western Railway Notification No. 132, which appears on page 342 of the *North Western Railway Gazette*, No. 16, dated 8th August, 1941, as F.A. or F.Sc.?

(b) Is it a fact that F.A. or F.Sc. in Sind is recognised as First Year Arts or Science?

(c) Is it a fact that owing to this advertisement, all applications from Sindhi candidates were rejected?

(d) How many selections for the post of class I, grade I Guards have been held on the North Western Railway since 1st January, 1939, and how many candidates from Karachi Division were sent up at the Headquarters office for final selection?

(e) How many of such candidates were Sindhis, for each Selection Board separately? And how many applications were rejected at these Boards in the preliminary selection for want of Intermediate Arts or Science qualifications, which is known in the Punjab as F.A. or F.Sc.?

(f) What steps do Government propose to take to clarify the advertisement and remove the wrong done to the Sindhi candidates? If not, why not?

**The Honourable Sir Andrew Clow:** (a) The answer is in the affirmative.

(b) I understand that students in Sind who have passed the examination at the end of their first year at college often describe themselves as F.Y.A. or F.Y.Sc. It does not appear that the terms F.A. or F.Sc. are understood in the manner suggested by the Honourable Member.

(c) No; applications received by the Divisional Superintendent, Karachi, from those who had passed the Intermediate Examination, which corresponds to F.A. or F.Sc., were not rejected.

(d) As regards the first part, Guards have been selected for appointment on four occasions since 1st January, 1939. Five candidates were sent up by the Karachi Division to Headquarters.

(e) As regards the first part, I understand that none of them was a Sindhi, but that recruitment is not made on a territorial basis. As regards the second part, 14 candidates on the first occasion and three on the last occasion were rejected for not possessing the prescribed educational qualifications; I have no information concerning the other two selections.

(f) I have no reason for believing that any wrong has been done to Sindhi candidates. In view, however, of the possibility of misunderstanding which the Honourable Member has pointed out, future advertisements will specify the Intermediate Arts or Science Examination as equivalent to F.A. or F.Sc.

**Mr. Lalchand Navalrai:** Are F.A., and F.Sc., equivalent to Intermediate in Science or Arts of the Punjab? In Sind also they call them F.A. and F.Sc.?

**The Honourable Sir Andrew Clow:** My understanding is that Intermediate in Arts or Science does correspond to F.A. or F.Sc.

**STEPS FOR FULL EXPLOITATION OF THE RESOURCES IN THE MADRAS PRESIDENCY FOR SUPPLY OF WAR MATERIALS.**

**104. \*Sir F. E. James:** Will the Honourable the Supply Member be pleased to state:

- (a) if his attention has been called to the report of the Director of Industries of the Madras Government for the year 1940-41 in which it is stated that, apart from textiles, timber and tiles, the orders received for materials and stores for military purposes were limited and sources of supply remained untapped;
- (b) what steps have been taken, or are under contemplation, to exploit to the fullest extent the available resources in the Presidency; and
- (c) of the 164 crores of rupees orders placed in India by the Department of Supply during the first two years of the war, what proportion was placed in Madras, Travancore, Cochin and Mysore?

**The Honourable Sir H. P. Mody:** (a) Yes.

(b) In meeting war demands, the Supply Department are utilising the resources of the Madras Province in ever increasing degree. The orders placed in the Province include, to name only a few of the important items, textiles, timber and tiles, Engineering stores, munitions components, scientific instruments, acids and chemicals, leather and leather manufactures and foodstuffs. New capacity is being constantly discovered and every encouragement and assistance is being given in expanding existing production. Since 1st April, 1940, the number of firms registered by the Purchase Branch of the Supply Department has increased from 206 to 293 in the Madras Province.

(c) The value of the orders placed on the South India Circle (which comprises the Madras Province and the Indian States of Travancore, Cochin and Mysore) during the first two years of the War is about Rs. 10 crores.

**Sir F. E. James:** Did the Honourable Member himself go down to Madras to make personal inquiries?

**The Honourable Sir H. P. Mody:** No, Sir.

**Sir F. E. James:** Will he consider the advisability of going down there to see for himself whether the resources in South India which are enormous have yet been touched by the department over which he presides with so much dignity?

**The Honourable Sir H. P. Mody:** Sir, I admit my education has been incomplete, but I hope to pay a very early visit to Madras to find out for myself whether all those enormous resources which my Honourable friend has referred to exist actually or merely in his imagination.

DEPLETION IN THE STRENGTH OF THE TRAFFIC SECTION OF THE POSTS AND TELEGRAPHS DEPARTMENT.

**105. \*Lieut.-Colonel Sir Henry Gidney:** (a) Will the Honourable Member for Communications please state whether it is a fact that the Traffic Section of the Posts and Telegraphs Department is below strength?

(b) How many of the retired Telegraphists, Telegraph Masters and Superintendents of the Telegraph Traffic Service, have been reappointed since September 1939, and what are their respective salaries?

(c) How many Telegraphists, Telegraph Masters and Superintendents, Telegraph Traffic, have been granted extensions of service during the same period?

**The Honourable Sir Andrew Clow:** (a) Yes, at present, in relation to the abnormal rise in traffic caused by present war conditions, but suitable measures have been taken to augment the staff wherever necessary.

(b) and (c). Information is being collected and will be laid on the table of the House in due course.

**Lieut.-Colonel Sir Henry Gidney:** Sir, I regret the Honourable Member has not been able to obtain the information yet, but I should like the Honourable Member to tell the House whether in the matter of recruitment of these dug-outs—to give them that name, for want of a better term,—it is the policy of Government that these men should be engaged on salaries which are absolutely out of proportion to the salaries that are given to dug-outs in other services, that is, the minimum that is given to these men who have been dug out and brought back to service; and (b) whether it is the policy of Government in recruiting these men to allow men who are waiting for promotion to be superseded or kept behind by extensions given to the senior men on the eve of retirement aged 55 years and who have had their day?

**The Honourable Mr. M. S. Aney:** Sir, on a point of order, can one Honourable Member put more than one supplementary question at a time?

**Mr. President** (The Honourable Sir Abdur Rahim): Only one supplementary question should be put at a time, but if the Honourable Member is able to reply to both the questions that have been put, he can do so.

**The Honourable Sir Andrew Clow:** I am not sure that I remember them perfectly but I think the answers are that it depends to some extent on circumstances. We have a habit of offering employment, which is mainly intermittent employment, to telegraphists who have retired and taken their pensions. That is not rewarded by salary but by a daily payment for the work done. On the other hand the present circumstances have necessitated and are likely to necessitate the grant of extensions to

experienced men who have reached an age at which they would otherwise retire. That is a feature which I think is common to all the technical services, and I am sure the Honourable Member will realise that as the war goes on we would be unwise, in some services, in losing the advantage of experience.

**STEPS FOR ENSURING STEADY FLOW OF TRAINED TELEGRAPHISTS FOR CIVIL AND MILITARY PURPOSES.**

**106. \*Lieut.-Colonel Sir Henry Gidney:** Will the Honourable Member for Communications please state whether Government propose to take steps to ensure a steady flow of trained telegraphists for both civil and military purposes and, if so, will he please state the special steps that Government intend taking in this direction during the period of emergency, especially if there is a shortage of personnel in the Traffic Branch?

**The Honourable Sir Andrew Olow:** Under normal conditions a steady flow of trained telegraphists for civil purposes is assured. To meet the present emergency additional telegraphists are being recruited, and other special steps have been taken such as acceleration of the telegraphists' training, grant of extensions of service to telegraphists who are due to retire but remain efficient, and employment of non-departmental telegraphists.

**Lieut.-Colonel Sir Henry Gidney:** Will the Honourable Member inform this House whether Government are prepared to abolish examinations for entrance into the telegraphists cadre of this service and demand an educational qualification instead? I am asking this not in the interest of my community but for the sake of Indians who are prepared to serve and have to pass a competitive test.

**The Honourable Sir Andrew Olow:** I am not sure that that arises, but in any case I see no reason to change the present procedure.

**Lieut.-Colonel Sir Henry Gidney:** I am talking of the present emergency. I am aware that there is a serious dearth and the Department is out more for retrenchment and economy than for giving service, and that two crores were lost last year. But is the Honourable Member prepared to consider this proposal of having a standard of education instead of an examination?

**The Honourable Sir Andrew Olow:** No, Sir, I must deny that the Posts and Telegraphs Department is not out for service; and I am not clear that the suggestion made by the Honourable Member would meet the difficulty.

**RESTRICTION ON RAILWAY WORKSHOP APPRENTICES AS REGARDS APPLYING FOR SERVICE IN HIS MAJESTY'S FORCES.**

**107. \*Lieut.-Colonel Sir Henry Gidney:** Will the Honourable Member for Railways please state:

- (a) whether an apprentice mechanic who had not completed his training is entitled to terminate his agreement with the Administration in accordance with the provisions of the agreement at the present time;

- (b) whether the National Technical Personnel Ordinance is applicable to apprentices now working in the various Workshops of Indian State Railways;
- (c) whether he is aware of the fact that there have been cases where apprentices who had volunteered for service in the war in other units have been granted permission to terminate their agreement; and
- (d) whether there is any restriction now on the liberty of the individual applying for any particular service or unit of His Majesty's forces while he is an apprentice in a railway workshop?

**The Honourable Sir Andrew Clow:** (a) Yes.

(b) The National Services (Technical Personnel) Ordinance is not applicable to apprentices in State Railway Workshops.

(c) I have no information, but am prepared to take the Honourable Member's word for it.

(d) None that I am aware of; but I am prepared to consider the question of whether restrictions should be imposed.

**Lieut.-Colonel Sir Henry Gidney:** The Honourable Member, in his reply to part (d), has made, more or less, a positive statement than a reply to my question. I did not ask him to consider whether restrictions should be imposed. I should like the Honourable Member to inform this House whether he is prepared to make inquiries at all railway workshops asking how many apprentices have been refused permission to join the army, considering that they are not employees of the railway and under what authority or Ordinance?

**The Honourable Sir Andrew Clow:** As far as I understand the position, I do not see any point in making an inquiry because I believe it is open at present to an apprentice to leave his employment if he so chooses. I have stated, in view of the possible difficulty which appears to arise out of the Honourable Member's suggestion, that I am prepared to consider the possibility of imposing restrictions.

#### RESTRICTION ON RAILWAY WORKSHOP APPRENTICES AS REGARDS APPLYING FOR SERVICE IN HIS MAJESTY'S FORCES.

**108. \*Lieut.-Colonel Sir Henry Gidney:** (a) Will the Honourable the Railway Member please state whether Government are aware that apprentices in railway workshops find it very difficult to secure permission from their employers to apply for service in the army on the ground that they would be of much more national use on the railway than in any other position?

(b) Do Government propose (i) to reconsider their attitude in this matter, particularly in view of the fact that apprentices are not regular employees of the Railway and Railway Administrations do not guarantee employment at the conclusion of their agreement, and (ii) to permit apprentices to apply for any branch of His Majesty's forces for which they may be considered suitable without having to obtain permits from the National Service Labour Tribunals?

**The Honourable Sir Andrew Clow:** (a) Government have no information, but it is not unlikely that in view of their activities in connection with munitions production Railways do not look with favour on apprentices leaving them.

(b) (i). Government have issued no instructions in the matter.

(ii) The permission of National Service Labour Tribunals is not necessary for the apprentices to terminate their apprenticeships.

**Lieut.-Colonel Sir Henry Gidney:** But will the Honourable Member make sure that the Railway Administrations do not demand these permits from these apprentices? I say with great responsibility that these men are prevented by these railways from applying without these permits from the National Service Labour Tribunals. It is wrong to do that, and I should like the Honourable Member to consider this matter.

**The Honourable Sir Andrew Clow:** I must differ entirely from the Honourable Member. I appreciate as much as he does the anxiety of young men to get as near to the front line as possible; but I am sure that as a Commissioned Officer himself he will realise that the recruit is not always in the best position to judge what position he will take up in battle.

**Lieut.-Colonel Sir Henry Gidney:** Will the Honourable Member state whether an officer on the railway is a better man to judge a lad than the lad's patriotism and keenness for service for King and country?

**The Honourable Sir Andrew Clow:** I think Government who are able to take account of both railway and defence needs are certainly in a better position to judge.

#### **APPOINTMENT OF OFFICERS IN THE CONTRACTS DIRECTORATE AND THE INDIAN STORES DEPARTMENT FROM INDUSTRIAL AND COMMERCIAL CONCERNS.**

**109. \*Sardar Sant Singh:** (a) Will the Honourable the Supply Member be pleased to state if it is a fact that officers are being appointed in the Contracts Directorate and the Indian Stores Department from persons who are in the service of industrialists who are contractors to Government and that such persons are appointed for the duration of the war?

(b) Will he be pleased to lay on the table a list of officers who have been appointed from industrial concerns which have been given contracts for supplies in connection with the war?

(c) Will he state what action has been taken to see that the gentlemen so recruited do not patronise their own former masters?

(d) Is it a fact that canvas water-proofing and gas-proofing of cloth have been the monopoly of certain European firms, mostly of Calcutta? Why have not attempts been made to encourage the Indian industry in this line in other parts of India?

(e) Which are the supplies that have been marked for entrusting to European firms only, or, in the alternative, which are the supplies that have been up to now given to Europeans only, or for which Europeans only hold contracts?

(f) Is it a fact that in the case of officers appointed in the Contracts Directorate from industrial and commercial firms and associations, there is

any understanding that these persons will be taken back by those concerns as soon as they are relieved of their Directorate jobs?

(g) Is there any European firm which is carrying on water-proofing and like work at Bombay which is financed by Government and if so, what are the particular work, the name and the amount advanced?

**The Honourable Sir H. P. Mody:** The question deals with various issues which have nothing to do with one another, but I propose to give a detailed reply to all the points that have been raised.

(a) From the 1st of August, 1941, the Contracts Directorate and the Indian Stores Department have been placed in abeyance, and all recruitment is now made to the Purchase Branch of the Supply Department. Government have set up a Selection Committee presided over by the Chief Administrative Officer of the Purchase Branch who advertises every vacancy of Purchase and Assistant Purchase Officers. The selection is made by Government on the recommendations of the Committee. As it is desirable that purchase officers should have some commercial experience, it is but natural that candidates from commercial houses should also find a place in the selection. Their selection is made purely on merit and no consideration is given to the fact whether the candidates do or do not belong to any firms holding contracts from Government. The posts created for work are ordinarily sanctioned for the duration of the war but the candidates appointed thereto can be discharged at any time.

(b) As over a hundred officers have been recruited for the purchase work since the outbreak of the war, it is not possible, without involving a great deal of labour, to prepare a complete list of such of them as are connected with business concerns which have been given contracts for war supplies. I place, however, on the table of the House a statement giving the particulars of the persons appointed to the Purchase Branch after the 1st of August, 1941.

(c) Government have prescribed definite purchase procedure. They have also set up administrative and financial control over their transactions. They are satisfied that the procedure at present in existence is suitable and prevents any partiality being shown to individual firms.

(d) It is wholly incorrect to say that water-proofing of canvas and gas-proofing of cloth are the monopolies of certain European firms. So far as anti-gas fabric is concerned, only one European firm is engaged on this work as against 13 Indian firms who are at present manufacturing or proofing the material or are interesting themselves actively in the work. I am sure the Honourable Member will be glad to know that the bulk experiments in this highly technical process were successfully carried out by an Indian firm. Five European and three Indian firms are engaged on proofing of canvas and five Indian and one European firms are being encouraged to undertake water-proofing.

(e) No such discrimination is made. There may be certain articles which are obtainable from European firms only and similarly there are a number of articles which are obtainable from Indian firms only.

(f) The Honourable Member is probably referring to the provisions of the National Service (European British Service) Act under which personnel whose services are requisitioned for work in connection with the war

are allowed a lien on their original employments. The Act, however, is applicable to Europeans only.

(g) The answer is in the negative.

*Statement showing the previous employment of officer of the Supply Department (Purchase Branch) who joined since 1st August, 1941.*

Serial No.	Name.	Designation.	Date of joining.	Previous appointment.
1	2	3	4	5
1	Mr. K. G. Morshed, I.C.S.	Chief Controller of Purchase(S).	5-8-41	Secretary to the Government of Bengal.
2	„ K. J. Nicolson	Chief Controller of Purchase(M).	2-8-41	Senior Partner of Gladstone Wyllie and Co.
3	„ M. A. A. Khan	Assistant Purchase Officer (Engineering).	21-8-41	Workshop and Stores Supervisor, The Deccan Marble and Mining Co., Ltd., Hyderabad, Deccan.
4	„ Jishnu Lal	Senior Purchase Officer.	18-8-41	Managing Director, Jai Lakshmi Sugar Co., Ltd., Doiwala.
5	„ P. Venkata Rao.	Assistant Purchase Officer (Engineering).	18-9-41	<i>Unemployed when appointed.</i> Assistant Engineer, Siemens (India) Ltd., Bombay from 1st September 1934 to 30th April 1941.
6	„ P. T. Sipahimalani.	Assistant Purchase Officer (Engineering).	18-10-41	Assistant Inspector, Enemy Trading Customs House, Karachi.
7	„ M. B. Mande	Assistant Purchase Officer (Textiles).		Textiles Expert to the Government of C. P. and Berar, Nagpur.
8	„ T. Maloney	Director of Purchase (Cotton Textiles).	3-10-41	Secretary, Bombay Mill-owners' Association.
9	2nd Lt. N. S. Gidwani, I.A.O.C.	Attached Officer	6-8-41	Appraiser, His Majesty's Customs, Karachi.
10	2/Lt. B. C. Majumdar, I.A.O.C.	Do.	16-8-41	Personal Assistant to Deputy Chief Engineer, Bengal Nagpur Railway.
11	2/Lt. E. R. Hutchinson, I.A.O.C.	Do.	3-11-41	With Messrs. Evans Son Lescher & Webb, Limited, Calcutta.
12	Mr. I. S. Ghulati	Assistant Purchase Officer.	26-9-41	With Messrs. Callender Cable & Construction Co. Limited, Calcutta.
13	„ I. B. Bose	Do.	4-9-41	Messrs. Martin & Co., Calcutta.
14	„ Nasir Ahmed	Do.	28-8-41	Offg. Marketing Officer, Office of the A. M. A.
15	„ S. P. Chatterji	Do.	12-9-41	Messrs. The Britannia Building & Iron Co. Limited, Calcutta.
16	„ A. K. Som	Do.		Messrs. the Braithwaite Burn & Jessop Construction Co. Limited, Calcutta.
17	Major F. P. M. O'Sullivan, R.I.A.S.C.	Senior Purchase Officer.	22-9-41	Transferred from Kohat Military District.

**Sardar Sant Singh:** As regards the answer to part (a) of my question, may I know whether it is a fact or not that before the 1st of August, 1941, some industrialists were taken as from contractors to Government and that they have been patronizing their own firms?

**The Honourable Sir H. P. Mody:** I have already answered my Honourable friend that without a great deal of trouble that information cannot be gathered. I am placing on the table of the House a statement showing the position as from the 1st of August.

**Mr. Lalchand Navalrai:** Is it not objectionable from that point of view that these industrialists who belong to the concerns of the contractors may be partial to them? Is not the Government going to see that they are not taken and some other people are recruited?

**The Honourable Sir H. P. Mody:** As it is, it is extremely difficult to get suitable men from commercial houses and if we lay a ban altogether upon getting men from commercial organizations with which the Supply Department may have dealings, I am afraid that we would not be able to recruit suitable men at all.

**Mr. Lalchand Navalrai:** Is it not the duty of Government to watch and see that they are not partial?

**The Honourable Sir H. P. Mody:** Very careful watch is being kept. We are awake all the time.

**Babu Baijnath Bajoria:** Is it not a fact that persons who have been taken from industrialists were mostly Europeans from European firms and not from Indian firms? If so, why?

**The Honourable Sir H. P. Mody:** That would depend entirely upon the willingness or otherwise of European and Indian firms to make available to the Supply Department the men in responsible positions in their organization.

**Babu Baijnath Bajoria:** Is it a fact or not that Europeans only have been taken?

**The Honourable Sir H. P. Mody:** That can be determined from the statement which I am placing on the table of the House.

**Babu Baijnath Bajoria:** But this is a very straight question and you can give a straight answer.

**Sardar Sant Singh:** Yes, give a straight answer.

**The Honourable Sir H. P. Mody:** My answer is as straight as the question. The question is not very straight. If the suggestion is that Europeans are being preferred, I say emphatically 'no'. Every effort is being made to recruit suitable Indians. The difficulty sometimes is to get suitable Indians in responsible positions made available from Indian commercial houses. I am prepared to accept from any of my Honourable friends a list of suitable Indians who they think would serve the Supply Department in responsible positions, and I am prepared to look into that list very carefully.

**Babu Baijnath Bajoria:** With regard to the answer to question (d), what is the percentage of share of work which has been entrusted to Indian and European firms? The Honourable Member has given only the number of Indian and European firms but I want to know the percentage of share of business.

**The Honourable Sir H. P. Mody:** If my Honourable friend means the value of the orders placed, I am not in a position to give him an answer, but I shall certainly have the matter looked into.

**Dr. P. N. Banerjee:** Is it a fact that the key positions are all held by Europeans?

**The Honourable Sir H. P. Mody:** No, Sir. Recruitment was made, particularly in the Munitions Production Branch, largely from Europeans because of the special qualifications which were required, but, as I have asserted so often, increasing efforts are being made to recruit suitable Indians and it is my intention to approach commercial and industrial organizations for their assistance in this matter.

**Babu Baijnath Bajoria:** Is it not a fact that the high positions in the Supply Department are held either by the Europeans or Muslims to the exclusion of Hindus and other communities?

**The Honourable Sir H. P. Mody:** I am giving the statement which the Honourable Member asks for. If any other statement is required I shall require a notice.

#### COMMUNAL COMPOSITION OF OFFICERS AND SUPERINTENDENTS IN THE SUPPLY DEPARTMENT.

110. \*Sardar Sant Singh: (a) Will the Honourable Member for Supply please state the numbers of Officers and Superintendents, separately, in the Supply Department, communitywise?

(b) Is there a preponderance of non-Indians among the officers, and of Muslims among the Indian officers in the Department? If so, why?

**The Honourable Sir H. P. Mody:** (a) A statement is placed on the table.

(b) There is no preponderance of non-Indians among the Officers, or of Muslims among the Indian Officers in the Department. Every effort is being made to recruit suitable Indians for responsible positions in the Department.

Statement showing the number of Officers and Superintendents employed in the Supply Department and its subordinate organizations by communities.

	OFFICERS.				SUPERINTENDENTS.			
	Hindus.	Muslims.	Europeans.	Other communities.	Hindus.	Muslims.	Europeans.	Other communities.
Supply Department (Secretariat)	8	6	8	1	5	3	1	1
Office of the Chief Accounts Officer (American Purchase)	2		1	..				
Directorate General, Munitions Production	15	4	88	8	8	4	2	3
Directorate General, Supply Purchase Branch	21	8	33	2	6	2	..	1
Controllers of Supplies:—	62	17	35	8	31	3	..	6
Bengal	4	2	1	..	..	..	..	1
United Provinces	1	..	2	..	..	..	..	..
Bombay	1	..	3	2	..	..	..	..
Madras	2	..	1	1	1	..	..	..
Punjab	..	1	..	..	..	..	..	..
Sind	..	1	..	1	..	..	..	..
Paid Deputy and Assistant Advisers:—								
United Provinces	..	..	1	..	..	..	..	..
Bengal	1	..	..	..	..	..	..	..
Mica Organization	1	..	2	..	..	..	..	..
Sulphur Organization	..	..	1	..	..	..	..	..
<b>TOTAL</b>	<b>118</b>	<b>39</b>	<b>176</b>	<b>23</b>	<b>51</b>	<b>12</b>	<b>3</b>	<b>12</b>

**Sardar Sant Singh:** May I know whether the statement which the Honourable Member is laying on the table contains community-wise the positions occupied by Officers and Superintendents?

**The Honourable Sir H. P. Mody:** Yes, Sir.

#### UNSTARRED QUESTIONS AND ANSWERS.

##### PREPONDERANCE OF PUNJABEES IN NORTH WESTERN RAILWAY LOWER GRADE SUBORDINATE SERVICE IN SIND.

**34. Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that a large number of Punjabees are recruited on the North Western Railway even for the lower-grade subordinate service appointments in the Sind Province, controlled by the Divisional Superintendent, Karachi?

(b) Is it a fact that these Punjabees frequently ask for transfer to the stations in the Punjab and that the Divisional Superintendent, North Western Railway, Karachi, had to express openly his inability to do so, *vide* item No. 2 of his Monthly Circular No. 135-E/2 of 1st July, 1941? If so, what are the reasons for the influx of Punjabees in railway service in Sind?

(c) If the Divisional Superintendent's inability referred to in part (b) above be due to the preponderance of the Punjabees in the Railway service in the Province of Sind, does the Honourable Member propose to issue instructions to the North Western Railway administration that in future recruitment for posts in the subordinate services controlled by the Divisional Superintendent, be made in that division and from amongst the inhabitants of the area served by the railway? If not, why not?

**The Honourable Sir Andrew Olow:** (a) A number of non-Sindhies obtain appointments on the Karachi Division of the North Western Railway; I believe they come mainly from the Punjab.

(b) I have no information regarding the first two parts of the question but am prepared to accept the Honourable Member's statements. As regards the last part, recruitment is not made on a territorial basis and the representation that any particular area secures depends on the personal claims of the candidates who present themselves.

(c) Government do not propose to make any alterations in the existing system which has proved convenient in practice and is equitable.

**RESTRICTION ON GRANTING OF TRAVELLING ALLOWANCE TO A RAILWAY EMPLOYEE APPEARING FOR DEPARTMENTAL EXAMINATION ON NORTH WESTERN RAILWAY.**

**35. Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether a railway employee appearing for a departmental examination is entitled to travelling allowance for journey from his headquarters to the place of the examination and back?

(b) Is it a fact that the North Western Railway administration does not allow such travelling allowance, unless the time spent on journey on either side exceeds eight hours? If so, will the Honourable Member please quote the relevant paragraph of the State Railway Establishment Code, under which this power of prescribing time spent on journey is delegated to the North Western Railway administration?

(c) Will travelling allowance be due, if the total time spent in journey both ways on the same day exceeds eight hours? If not, why not?

**The Honourable Sir Andrew Olow:** (a) Yes, subject to the conditions laid down in paragraphs 310, 311 and 313 of the State Railway Establishment Code, Volume I.

(b) and (c). I am not aware of the practice but no delegation of powers has been made or is necessary, as the limit of time is laid down in paragraph 203 of the State Railway Establishment Code.

**RESTRICTION ON GRANTING OF FULL GRATUITY TO A DISCHARGED RAILWAY EMPLOYEE.**

**36. Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state the circumstances under which the railway administration can refuse payment of gratuity to an employee, when he has rendered the necessary period of qualifying service under the rules?

(b) Is it a fact that some four or five years ago, there was no restriction on the grant of full gratuity, even if an employee was discharged from service? Is it a fact that the Railway Board issued some instructions to the effect that the discharged employees need not be given full gratuity? If so, will the Honourable Member please place a copy of these orders on the table of the House?

(c) Is discharge of an employee on the Railways ordered without assigning reasons? If so what is the justification for mere discharge depriving the employee concerned of gratuity when he has rendered service for the period qualifying for such a grant?

(d) Do Government propose to amend the rules to provide for deprivation of the grant of gratuity only when an employee is dismissed? If not, why not?

**The Honourable Sir Andrew Clow:** (a) A gratuity or what is now termed special contribution to the Railway Provident Fund, in the case of those railway employees who subscribe to that fund, is granted at the discretion of Government as a reward for good, efficient and faithful service to a permanent non-pensionable railway servant, and the payment of the gratuity or special contribution can be reduced or refused altogether when the service rendered by the employee has not reached the requisite standard of good, efficient and faithful.

(b) The answer to the first part of the question is in the negative. As regards the second part of the question, I would inform the Honourable Member that instructions explanatory of the rules were issued in 1940. They did not introduce any new rule. As they are not intended for general publication, a copy cannot be placed on the table.

(c) Instructions have been laid down in paragraphs 1707 to 1711 of the State Railway Establishment Code, Volume I, regarding the procedure to be observed before a railway employee can be removed from service. The General Manager or the Head of a department may, however, in exceptional circumstances remove a non-gazetted railway servant without assigning reasons. In such a case, the gratuity or special contribution may be withheld in full, or in part, if the condition referred to in the reply to part (a) is not satisfied.

(d) Government see no reason for a relaxation of the existing rules.

**PAY, SENIORITY, ETC., OF A RAILWAY EMPLOYEE REDUCED IN GRADE ON SUBSEQUENT RE-PROMOTION TO HIS FORMER POST.**

**37. Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that under the Railway Board letter No. E-40-AT-8, dated the 9th April, 1941, the punishment of reduction in pay or grade is considered illegal unless the employee is first discharged and then reappointed in the lower scale?

(b) Is it a fact that under the old rules in force on the North Western Railway prior to the issue of the Railway Board's letter referred to in part (a) above, an employee reduced permanently to a lower grade or post, on re-promotion to his former post carried the concession of his former pay in that post? What will now be the pay and place on the seniority list of such a person dealt with under part (a) on his re-promotion to his former post?

(c) Do Government propose to clarify these points and circulate them to the Railway staff? If not, why not?

**The Honourable Sir Andrew Clow:** (a) The answer is in the negative; but the orders did state that it is open to an administration to remove a railway servant from service and re-employ him in a lower post if it so desired.

(b) Government have no information regarding the first part, as regards the second part Government have not considered the question concerning pay. Seniority is a matter within the competence of the railway administration to decide.

(c) Government do not propose to take any action until an occasion for it arises.

**POLICY re CORRECTION OF THE RECORDED WRONG AGE OF NON-GAZETTED RAILWAY EMPLOYEES.**

**38. Lieut.-Colonel Sir Henry Gidney:** (a) Will the Honourable the Railway Member please state whether the policy enunciated by the Chief Commissioner for Railways in the Council of State on the 26th April, 1934, in regard to the correction of the recorded wrong age of non-gazetted employees of the Railway has been modified in any way?

(b) If the answer to part (a) be in the affirmative, will Government please state the reasons why Government decided to change the policy?

(c) Will Government please place on the table of the House a copy of the present orders on the subject? If not, why not?

**The Honourable Sir Andrew Clow:** (a) Yes.

(b) Government see no reason why an employee should not be held to the age he declared at the time he entered service unless it is discovered that he had falsely stated his age to secure an advantage otherwise inadmissible or, in the case of illiterate staff, that there has been a clerical error.

(c) The current orders of Government are contained in paragraph 144 of the State Railway Establishment Code, Volume I, as amended by correction slip N2 copies of which are in the Library of the House.

**RULES OF PROCEDURE ON EAST INDIAN RAILWAY re CORRECTION OF THE RECORDED WRONG AGE OF NON-GAZETTED STAFF.**

**39. Lieut.-Colonel Sir Henry Gidney:** Will the Honourable the Railway Member please state whether it is a fact that according to the orders now in force on the East Indian Railway in the matter of the correction of the recorded wrong age of non-gazetted staff, different rules of procedure govern (i) those who were in service prior to the date of the said order, and (ii) those who joined the Railway subsequent to that date?

**The Honourable Sir Andrew Clow:** I understand that in the orders issued on the 14th February, 1939, the East Indian Railway did make the distinction referred to by the Honourable Member, but the Railway Board issued instructions in August 1940 that all cases that came up for decision thereafter should be dealt with in accordance with the latest orders on the subject.

**RULES AUTHORISING STATE RAILWAYS TO REJECT MEDICAL RECOMMENDATIONS FOR LEAVE FROM DOCTORS OTHER THAN RAILWAY MEDICAL AUTHORITIES.**

**40. Qazi Muhammad Ahmad Kazmi:** Will the Honourable Member for Railways please state the particulars of the rules made under section 47 of the Indian Railways Act, IX of 1890, authorizing the Eastern Bengal, the East Indian, the Great Indian Peninsula and the North Western Railways Administrations not to accept medical recommendations for leave made by the Civil Surgeons, or by the Medical Officers in charge of Civil Hospitals and dispensaries, or by registered medical practitioners other than Railway medical authorities? If not, why not?

**The Honourable Sir Andrew Glow:** The rules governing the acceptance of medical certificates for the grant of leave are not made under section 47 of the Indian Railways Act, IX of 1890, but by virtue of the powers conferred by section 241(2) of the Government of India Act, 1935. These rules, which permit of the acceptance of certificates issued by registered medical practitioners other than railway doctors in certain circumstances, will be found in Appendix VI of the State Railway Establishment Code, Volume I, a copy of which is in the Library of the House.

**PROVISIONS AUTHORIZING WITHHOLDING OF PASSES TO RETIRED RAILWAY SERVANTS.**

**41. Qazi Muhammad Ahmad Kazmi:** Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 111, asked on the 20th November 1940, viz., "Under certain circumstances the passes granted to retired Railway servants may be withheld"; and state the particulars of the provisions of the Government of India Act, or of the Indian Railways Act, IX of 1890, or of the Rules made thereunder, or of the Despatch to and from the Secretary of State for India in Council, or of the Pass Rules, authorizing to withhold under certain circumstances the passes granted to retired Railway servants? If there is no such provision, what are the reasons for such practice and do Government now propose to cancel the orders of withholding passes? If not, why not?

**The Honourable Sir Andrew Glow:** There appears to be no necessity for any special authority to withhold what is in the nature of a gift. Government do not propose to interfere with the present practice, as circumstances may warrant the use of the power in question.

**DISTINCTION AS REGARDS THE DATE OF PAYMENT OF RAILWAY DUES WHEN PAID BY A CHEQUE AND WHEN PAID BY A POSTAL MONEY ORDER.**

**42. Qazi Muhammad Ahmad Kazmi:** (a) Will the Honourable the Railway Member please state whether it is or it is not a fact that when payment is made of the Government dues by means of a cheque, payment is deemed to be made on the date when the cover containing it is put into the post, according to paragraph 1439, if it fulfils the provision of paragraph 1407 of the State Railway General Code?

(b) Is it or is it not a fact that when such money is sent by Postal money order, then in spite of the compliance with the conditions laid down in paragraph 1407, the date of posting is not considered to be the date of payment?

(c) If the answer to part (b) be in the affirmative, have Government considered the advisability of making the necessary changes in the rules to place postal money order on the same level as cheques on banks? If not, why not?

**The Honourable Sir Andrew Glow:** (a) Yes, if the provisions in the present revised paragraph 1438 of the State Railway General Code are fulfilled. This paragraph now contains the relevant rule and not paragraph 1439 which has been cancelled.

(b) No.

(c) Does not arise.

**REPORTS OF FOOD INSPECTORS ON THE CATERING CONTRACTS OF BALLABHDAS ESHWARDAS.**

**43. Qazi Muhammad Ahmad Kazmi:** Will the Honourable Member for Railways please refer to the reply given to part (d) of starred question No. 13, asked on the 11th February, 1941, viz. "The Inspectors make the reports direct to the Administration", and lay on the table of the House the reports made during the years 1937-38, 1938-39, 1939-40 and 1940-41 on the catering contracts of Ballabhdas Eshwardas, and if no reports were made, state the reasons therefor?

**The Honourable Sir Andrew Clow:** The duties of inspecting catering arrangements devolve on many railway officials, each of whom makes his report to the Administration in the prescribed form or in a separate note. Government are not prepared to direct the Administration to collect the information from all sources, as this would entail considerable time and labour and these reports are prepared for departmental and not for public use.

**NON-EXHIBITION OF COMPLAINT BOOKS AND OTHER COMPLAINTS AGAINST BALLABHDAS ESHWARDAS, CATERING CONTRACTORS.**

**44. Qazi Muhammad Ahmad Kazmi:** (a) Will the Honourable Member for Railways please refer to the reply given to part (c) of starred question No. 14, asked on the 11th February 1941, viz. "The Divisional Superintendents within whose competence the matter lies are at all times prepared to receive complaints from passengers", and state the particulars of the procedure prescribed for the maintenance of the records of the complaints received both by post and by the entries in the Complaint Books provided for the purpose?

(b) Is it a fact that separate books are maintained by Ballabhdas Eshwardas for recording adverse reports and for recording appreciations? If not, what are the reasons for not exhibiting the complaint books in the refreshment rooms at Delhi, Cawnpore, Allahabad, Patna and so on, catered by Ballabhdas Eshwardas?

(c) Will the Honourable Member please lay on the table of the House a list of the nature of complaints received against Ballabhdas Eshwardas's contracts on the East Indian and North Western Railways together with the action taken thereon during the years 1937 to 31st October, 1941? If not, why not?

**The Honourable Sir Andrew Clow:** (a) I presume the procedure conforms with the ordinary practice followed in railway offices, i.e., records are presumably maintained by the Divisional Offices in separate files for each station.

(b) Government have no information regarding the upkeep of such separate books and are not aware that the complaint books are not exhibited in the refreshment rooms at the stations mentioned.

(c) I am not prepared to ask the East Indian Railway Administration to collect the information required. As regards the complaints against the contractors' work on the North Western Railway, I would refer the Honourable Member to the information laid on the table of the House on 27th October, 1941, in reply to part (f) of Pandit N. K. Das's unstarred question No. 58 of 25th February, 1941.

**DESIRABILITY OF PROHIBITING CATERING CONTRACTORS FROM SELLING ARTICLES FOR WHICH NO RATE IS FIXED.**

**45. Qazi Muhammad Ahmad Kazmi:** (a) Will the Honourable Member for Railways please refer to the reply given to starred question No. 126, asked on the 25th February 1941, viz. "and against the sale of which there is no prohibition by the terms of the agreement", and state the particulars of the terms of the agreement with Messrs. Ballabhdas Eshwardas on the East Indian Railway prohibiting the sale of articles not mentioned therein, and if the articles are not mentioned in the terms of agreements, what are the reasons therefor?

(b) Is it or is it not a fact that the terms of the agreement do not prohibit the sale of many kinds of food, cooked or uncooked, and for which no rates are fixed in the tariff? If not, what are the facts?

(c) Do Government now propose to prohibit the contractors from selling articles for which no rate is prescribed? If not, why not?

**The Honourable Sir Andrew Clow:** (a) Vending without a license is prohibited and the agreements between the East Indian Railway and the firm mentioned limit the sale, by license, to edibles and certain other types of articles normally in demand by the travelling public. It is unnecessary in the circumstances to detail articles which may not be offered for sale.

(b) It is a fact.

(c) No, as Government see no reason for doing so.

**AUTHORISING STATION MASTERS ON DUTY TO FIX RATES FOR ARTICLES SUPPLIED TO PASSENGERS NOT INCLUDED IN THE TARIFF LIST.**

**46. Qazi Muhammad Ahmad Kazmi:** Will the Honourable Member for Railways please state the reasons for not authorising the station masters on duty to fix the rates chargeable for articles supplied on the special request of a passenger for which rates are not prescribed in the tariff?

**The Honourable Sir Andrew Clow:** Government see no advantage in doing so. The contractors are not obliged to supply such articles and station masters are not specially equipped to arbitrate in such matters.

**MOTION FOR ADJOURNMENT.**

**CLOSING OF MARKETS TO PROTEST AGAINST METHODS OF ASSESSING INCOME-TAX IN CALCUTTA.**

**Mr. President** (The Honourable Sir Abdur Rahim): I have received a notice of adjournment motion; it is in the name of Sardar Sant Singh. He wants to discuss the grave situation in Calcutta leading to the closing of markets to protest against methods of assessing income-tax and racial discrimination in application thereof. I would like to know exactly what is the nature of the assessment that is complained of, and why it has led to the closing of markets?

**Sardar Sant Singh** (West Punjab: Sikh): In Calcutta, as it was published in the *Hindustan Times*, exception was taken to the methods adopted by the Income-tax authorities in assessing the income-tax of commercial concerns; and many Indian concerns—including Muslims and others dealing with various commodities—have closed their markets as a protest . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Is it shops that have been closed?

**Sardar Sant Singh:** The markets have been entirely closed for one day as a protest against those methods and the complaint, as it is voiced in the press, is that there has been racial discrimination in the adoption of these methods, as well as hardships, and the local authorities who are in charge of the income-tax there are not given a free hand but received instructions over and above those which are already contained in the rules and regulations. I do not know how far that is correct, but . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): What is the paper?

**Sardar Sant Singh:** The *Hindustan Times*, Monday, November 10, 1941.

**The Honourable Sir Jeremy Raisman** (Finance Member): As far as I understand, it is a question of expression of dissatisfaction with assessments which are made in the ordinary course of law under the provisions of the Act and for which remedies are provided by that law. There is an appeal in these cases and there is access to the High Court on questions of law.

**Sardar Sant Singh:** May I say, Sir, that my question does not deal with the question that the tax should not be levied or should not be realized in accordance with the law.

**Mr. President** (The Honourable Sir Abdur Rahim): Supposing there has been any discrimination, that is a matter also which can be set right by the Courts of Appeal or by the High Court.

**Sardar Sant Singh:** My adjournment motion deals with the question of Government harassing Indian firms outside the scope of the law.

**Mr. President** (The Honourable Sir Abdur Rahim): Even that is a matter which can be considered by a Court of Appeal.

**Sardar Sant Singh:** No, Sir. It would be considered . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Why not? Certainly.

**Sardar Sant Singh:** The trouble has arisen in Calcutta on account of the methods adopted, which are not quite in accordance with the provisions of the Income-tax Act.

**Mr. President** (The Honourable Sir Abdur Rahim): I hold that the motion is out of order. If there has been anything wrong in the assessment, there are remedies provided in the Income-tax Act itself, and this is not the forum where a question like this can be properly discussed.

#### STATEMENT LAID ON THE TABLE.

CASES IN WHICH THE LOWEST TENDERS HAVE NOT BEEN ACCEPTED BY THE HIGH COMMISSIONER FOR INDIA.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar** (Commerce Member): Sir, I lay on the table a statement furnished by the High Commissioner for India, showing all cases in which the lowest tenders have not been accepted by him in purchasing stores for the Government of India, during the half year ended the 31st December, 1940.

**High Commissioner for India  
India Store Department.**

**Abstract of cases in which tenders for stores demanded by the Central Government, other than the lowest complying with the technical description of the goods demanded, were accepted on the grounds of superior quality, superior trustworthiness of the firm tendering, greater facility of inspection, quicker delivery, etc.**

**HALF YEAR ENDING 31ST DECEMBER 1940.**

HIGH COMMISSIONER

INDIA STORE

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

HALF YEAR ENDING

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

*Nil.*

PART B.—Cases in which the discrimination

			£. s. d.
Brass and Copper tubing and Wire.	Z. 1565/13457/2-7-40.	Chas. Clifford & Son, Ltd.	245 11 1 (British.)
Vices, bench, 4½", No. 64	Z. 1694/1630/10-7-40.	C. & J. Hampton, Ltd.	95 18 10 (British.)
Gauges, Matrix Slip 1 set.	Z. 2288/2405/6-8-40.	Pitter Gauge & Precision Tool Co., Ltd.	47 5 0 (British.)
Lathes, capstan 5½" centre with motors and starters, No. 2.	Z. 3074/12097/2-10-40	Alfred Herbert, Ltd.	905 12 8 (British.)
Pliers, Sidecutting 7", No. 502.	Z. 3451/4298/20-11-40	George Plumpton & Co.	30 6 0 (British.)
Snap fasteners (complete) 6,000 Gross.	Z. 3592/53001/4-12-40	Newey Bros., Ltd.	2,512 10 0 (British.)
Vices hand 4", No. 329.	Z. 3645/2785/10-12-40	Buck & Hickman, Ltd.	115 3 0 (British.)

PART C.—Cases in which the discrimination

*Nil.*

PART D.—Cases in which lower British tenders

*Nil.*

FOR INDIA.

DEPARTMENT.

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

31ST DECEMBER 1940.

Lowest tender not accepted.	Reason for acceptance.
<i>foreign made goods, have been set aside wholly or partially in favour of British ders.</i>	<i>Nil.</i>
<i>is between British firms only.</i>	
£. s. d. 243 7 0 (British).	The lowest tenderer required 46-50 weeks to complete delivery. As the tubing and wire were urgently required, the order was placed with the next lowest tenderer who offered delivery in 16-20 weeks.
95 1 3 (British).	The lowest tenderer required 16/18 weeks for delivery and the price quoted was subject to a variation clause. As the vices were urgently required the order was placed with the next lowest tenderer who offered delivery in 6/8 weeks and quoted a firm price.
37 10 0 (British.)	Supply was very urgently required. Of the two tenders received, the lower could not undertake any time for delivery.
813 18 0 (British.)	The lower tenderer required 66 weeks for delivery, and as the lathes were urgently wanted in India their tender was passed over in favour of that of Alfred Herbert Ltd., who offered to deliver the lathes in 3 months and their equipment 3 months later.
30 5 0 (British.)	The lowest tenderer required 6/8 months for delivery. As the pliers were urgently required the order was placed with the next lowest tenderer who offered delivery in 3 weeks.
2,437 10 0 (British.)	Two tenders were received. The lower offered delivery at the rate of 250 gross per week commencing in 12 weeks, the other at the rate of 500 to 800 gross per week commencing in 10/14 days. With the approval of the Government of India, Supply Department the latter was accepted.
44 13 6 (British.)	The lowest tenderer offered delivery in 45 weeks without guarantee. As the vices were urgently required for Defence Services their tender was passed over in favour of that of Messrs. Buck and Hickman who undertook delivery in 4 to 5 weeks.

*is between foreign firms only.**Nil.**have been set aside in favour of foreign tenders.**Nil.*

## STATEMENTS LAID ON THE TABLE.

**The Honourable Sir Jeremy Raisman** (Finance Member): Sir, I lay on the table a copy\* of—

- (1) Central Government Appropriation Accounts, Civil, 1939-40, and Audit Report, 1941.
- (2) Central Government Commercial Appendix to the Appropriation Accounts (Civil), 1939-40 and Audit Report, 1941.
- (3) Central Government Appropriation Accounts, Posts and Telegraphs, 1939-40, and Audit Report, 1940.
- (4) Central Government Appropriation Accounts of the Defence Services for the year 1939-40.
- (5) Audit Report—Defence Services 1941.
- (6) Central Government Commercial Appendix to the Appropriation Accounts of the Defence Services for the year 1939-40 and the Audit Report thereon.
- (7) Appropriation Accounts of Railways in India for 1939-40, Part I—Review.
- (8) Appropriation Accounts of Railways in India for 1939-40 Part II—Detailed Appropriation Accounts.
- (9) Railway Audit Report, 1941.
- (10) Capital Statements, Balance Sheets and Profit and Loss Accounts of State Railways in India, including the Balance Sheet and the Profit and Loss Account of Tatanagar Workshops, 1939-40.
- (11) Balance Sheets of Railway Collieries and Statements of all-in-cost of coal for 1939-40.

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## THE TRADE MARKS (AMENDMENT) BILL.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar** (Commerce Member): Sir, I beg to move for leave to introduce a Bill to amend the Trade Marks Act, 1940.

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

“That leave be granted to introduce a Bill to amend the Trade Marks Act, 1940.”

The motion was adopted.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar**: Sir, I introduce the Bill.

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\*Not included in these debates, but copies have been placed in the Library of House—*Ed. of D.*

## THE INDIAN COMPANIES (AMENDMENT) BILL.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar** (Commerce Member) : Sir, I beg to move for leave to introduce a Bill further to amend the Indian Companies Act, 1913.

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

“That leave be granted to introduce a Bill further to amend the Indian Companies Act, 1913.”

The motion was adopted.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar** : Sir, I introduce the Bill.

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## THE MOTOR VEHICLES (AMENDMENT) BILL.

**The Honourable Sir Andrew Clow** (Member for Railways and Communications) : Sir, I move for leave to introduce a Bill further to amend the Motor Vehicles Act, 1939.

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

“That leave be granted to introduce a Bill further to amend the Motor Vehicles Act, 1939.”

The motion was adopted.

**The Honourable Sir Andrew Clow** : Sir, I introduce the Bill.

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## THE ALIGARH MUSLIM UNIVERSITY (AMENDMENT) BILL.

**The Honourable Mr. N. R. Sarker** (Member for Education, Health and Lands) : Sir, I beg to move :

“That the Bill further to amend the Aligarh Muslim University Act, 1920, for a certain purpose, be taken into consideration.”

This is a very simple measure, and the purpose, for which it has been introduced, has been stated in the Statement of Objects and Reasons. It is to admit to its privileges a Degree College for women which it is proposed to organize in the Aligarh Muslim University and to confer degrees on students passing the degree examination from that college. The need for such an amending Bill will be evident on a consideration of one or two provisions of the present Aligarh Muslim University Act. Section 12A provides that in order to admit to its privilege, only intermediate colleges can be taken : degree college cannot be taken to its privilege; and section 5 (3) (a) provides that, in order to confer degrees, the students must have pursued studies in the University. It is not admissible to confer a degree if the training is received outside the University. In order to rectify those two defects, this Bill has been brought in.

There is a women's intermediate college which has been recognised by the Aligarh University, and they have also started organizing the degree

[Mr. N. R. Sarker.]

classes; but unless the Act is so amended as to admit to its privileges the degree college, the degree college students cannot get degrees after passing examinations out of that college, subject, of course, to the rules and regulations of the University and the approval of the Central Government. In order to rectify those two defects, this Bill is being proposed.

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

“That the Bill further to amend the Aligarh Muslim University Act, 1920, for a certain purpose, be taken into consideration.”

**Dr. P. N. Bajerjea** (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, I do not oppose the motion which has been moved by my Honourable friend, but I wish to know whether or not the amendment proposed by him will change the character of the Aligarh Muslim University. That University, so far as I know, is a teaching university and not an affiliating university. Will this change convert it into an affiliating university? That is the point on which I should like to be enlightened by my Honourable friend.

**The Honourable Mr. N. R. Sarker** : Sir, this is so; but that principle has been accepted when amending the Muslim University Act in 1931, because intermediate colleges, even outside the University, are being affiliated to the University; it has power to affiliate intermediate colleges. In order to remove that, I am introducing this Bill so that degree colleges also may be affiliated to this University, and the necessity is that most of the students should follow lectures in these colleges as it is not possible for them to attend classes in the Muslim University. That will affect it. Its nature will be slightly changed, but it will be confined to the Aligarh district; but that principle was accepted by the Legislature in 1931.

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

“That the Bill further to amend the Aligarh Muslim University Act, 1920, for a certain purpose, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Mr. N. R. Sarker** : Sir, I beg to move :

“That the Bill be passed.”

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

“That the Bill be passed.”

The motion was adopted.

### THE INDIAN INCOME-TAX (AMENDMENT) BILL.

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

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

It will be seen that the Report of the Select Committee deals with only one or two points and I do not think that there is much with which I need detain the House. The main changes recommended by the Select Committee are, first, in regard to the date on which the amendments shall come into effect, and in this respect the amendment regarding income arising in States and the amendments connected therewith will take effect, to put it simply, for assessments in the next financial year. That is because a considerable number of the assessments for the current year have already been made, and it would not be possible to make an equitable universal change from any earlier date.

The next point with which the Report of the Select Committee deals is the matter of income which having arisen in an Indian State and having been taken into account for the purposes of the rate of tax in one year subsequently comes into British India in a following year and thereby becomes directly liable to tax. The Select Committee has adopted an amendment which will prevent the hardship whereby such income might have sent up the rate of tax in two different assessments. The amendment provides in effect that once income of that kind has been taken into consideration for determining the rate of tax, then if in a subsequent year it is remitted into British India, the rate of tax shall not be determined with reference to that remittance, but with reference to the total income either in British India or in the State in that year. The other changes made in the Select Committee's Report are unimportant. Sir, I move.

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

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

**Dr. P. N. Banerjee** (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, the Bill, as it has emerged from the Select Committee, is some improvement on the original Bill. But I am sorry to have to say that this improvement is a very slight one; it is very inadequate.

Sir, there are three important features in this Bill. Of these, I will refer only to two, and these are, first, the basis of assessment, and, secondly, the vesting of extraordinary power in the hands of the executive. Now, as regards the first point, namely, the basis of assessment, I wish to remind the House that until the year 1939, income which accrued in an Indian State was taxed in British India on the basis of remittance. In 1939, this basis was changed, and income accruing in an Indian State began to be taxed on an accrual basis, and not on a remittance basis. That is the situation which exists at present. Difficulties soon arose, and the Indian States gave a great compliment to the Government of India by imitating their own methods. Imitation is a form of compliment. And what did the Indian States do? They also adopted the accrual basis. The result was that not only were the assessee greatly harassed and greatly oppressed, but the revenues of the Government also tended to be affected. The Government of India came to their senses as a result of this imitation or the paying of a compliment, and in this Bill the Government propose to adopt the remittance basis, but only partially,—not to the full extent.

The proposal in the original Bill was to adopt the remittance basis so far as the payment of the tax was concerned: but so far as the fixing of the rate of tax was concerned, the accrual basis was continued. Now, this

[Dr. P. N. Banerjea.]

involved a great deal of complexity and hardship. Two processes were involved, and two periods of time were also involved,—one was the process of the assessment of the accrued income, and another was the process of the assessment of the remitted income, and these two processes would have to be gone through perhaps not during the same year, but during different years. This was a great difficulty, and the Select Committee considered the matter. It gave some relief by providing that, if the accrual and the actual assessment fell in different years, then there would be no double assessment. The Select Committee have inserted a long sub-clause which is to be found on page 3 and which consists of two parts. This long and cumbersome sub-clause is very difficult for any one to decipher, and I do not know how it can be worked in practice. But I admit that it seeks to give some amount of relief; still the complexity remains. You have here the remittance basis for one purpose, and the accrual basis for another purpose. In other words, the basis is an admixture,—it is an admixture of two things. Is it desirable to have such an admixture? It is likely to give rise to other complexities and other difficulties. Besides, is it fair? If you are to tax on a remittance basis, why should you take into account the income which accrues in an Indian State for the purpose of fixing the rate of tax? The Honourable the Finance Member did not touch this point in the first speech made by him, nor has he said a single word about this matter now. He evidently wants to evade this question which is rather an awkward one . . . . .

**The Honourable Sir Jeremy Raisman:** On the contrary I shall deal with it.

**Dr. P. N. Banerjea:** Yes, you will deal with it. I thank you. I shall not have an opportunity to reply to you just now, but on a subsequent occasion I shall give a reply.

So, that is the basis consisting of the admixture of the two principles which have been taken into account. I will not read the whole of the Select Committee's report, but I will place before this House only the purport of the thing,—the change which has been made in clause 10. It is said here :

“The new sub-section which we now propose should be added to section 17 provides relief from the hardship which would be incurred if income accruing in an Indian State and once taken into account for rate purposes in the year of accrual were again to be taken into account for rate purposes in the year of remittance into British India. The effect of the new sub-section is to secure that it shall not be taken into account for rate purposes in the year of remittance so long as it does not exceed in amount the British Indian income of that year. If it does exceed the British Indian income in that year, the rate of tax will be the rate applicable to the amount of the income accrued outside British India on the supposition—*mark you, not on the fact, but on the supposition*—that it represented the total income of the assessee.”

You do not depend on facts, you depend on suppositions! I frankly admit that by this provision relief is given, but it is a small relief and does not really go far enough. What you should do would be to adopt a fair, equitable and straightforward basis of assessment.

Now I come to the question, what will be the effect of this,—what will be the reaction in the Indian States of the passing of this measure? Will they not again give you another compliment, will they not again imitate your method? They may do just as you are doing. This point was raised in the Select Committee—I am not going into the secrets of the Select

Committee, but I will refer to what is down in the actual Report. Some Members asked a question of the Honourable the Finance Member—this was a question with regard to the production of the books of account. The books of account relating to all the affairs of a company, in British India as well as in the Indian States, have to be produced before the British Indian Income-tax Officer, and the same books will also have to be produced before the Indian States Income-tax Officer. That gives rise to a great deal of difficulty, and this question was raised at the Select Committee stage. The Honourable the Finance Member expressed the confident belief that the States would ordinarily accept the British Indian determination of the amount of income arising in British India. Such confident belief his predecessor also had. He was absolutely sure that, when the accrual basis was adopted, the Indian States would not grumble, and they would not pay the Government back in their own coin. My Honourable friend says, "I have confidence". It remains to be seen how far this confident belief will be realised in actual practice.

In this connection, I wish to refer to the conference which was held between the representatives of the Government of India and the representatives of the Indian States. Will the Finance Member place before us the proceedings of this conference? That would allay our apprehension to some extent. I read in this morning's newspapers that the Indian States' representatives who are here just at the present moment will soon discuss the income-tax question. I do not know what their attitude will be, but it is possible that the confident belief which the Honourable the Finance Member has will not be realised. The Indian States have begun to assert themselves, and it is quite possible that having asserted themselves once and gained their point to some extent, they will assert themselves again. In order to avoid all these complications, you have to adopt a fair, equitable and straightforward basis of assessment.

Before I pass on to the second important point, I will say only a few words,—I will not discuss this point. It is not a matter of very great importance, I will refer to an assurance which has been given by the Honourable the Finance Member. This assurance is with regard to the Hindu undivided families. The Honourable the Finance Member, in reply to a query about the enjoyment by Hindu undivided families of the rights accorded to British subjects, stated that there was no likelihood of any change in the present practice of treating Hindu undivided families as if they were individual persons in deciding such questions. I hope the assurance given by him will be honoured in the observance not only by the Finance Member himself but by all his successors in office.

Coming to the second principal feature of this Bill, I desire to tell this House that the object of clause 24 (a) is to vest extraordinary powers in the Collector,—an executive officer of the Government. The section which exists at present contains certain restrictions on the exercise of authority by the Collector. But the Honourable the Finance Member is not satisfied with this and he wants to give the Collector extraordinary authority. Now, Sir, I should like to read the Note of Dissent, but I shall not do so. I will give only the purport of the Note of Dissent which has been written by two members of the Select Committee. They say :

"We are strongly opposed to the proposed amendment made by this Clause. The Collector has already got ample powers, and such unfettered powers sought to be

[Dr. P. N. Banerjea.]

conferred on the Collector are likely to be exercised to the prejudice of the assessee. Cases are not uncommon where the Collector has sold, for recovery of land revenue, valuable properties for a song without timely and proper notice being given to the defaulting party."

This brings me to the abuse of power by the executive authority. A few minutes ago my Honourable friend, Saadar Sant Singh, wanted to move an adjournment motion on the situation which has been created by the arbitrary exercise of power by some persons in authority. We have heard complaints from different parts of India,—Bombay, Bengal, the United Provinces—to the effect that the Income-tax Officers exercise their powers in such a way that it is impossible to get any justice. They hold up the papers for such a long time that business almost comes to a standstill. If it had not been so, how is it that the commercial community in Calcutta have called for a strike for one day—the entire commercial community, not one particular body,—not one particular establishment but the entire commercial establishment of Calcutta. Sir, I may point out to this House that a joint meeting of the representatives of the Calcutta Gunny Trades Association, the Jute Balers Association, East India Jute Association, Calcutta, Hessian Exchange, Swadeshi Piecegoods Association, Indian Produce Association, Marwari Association, Marwari Chamber of Commerce, Muslim Chamber of Commerce, Bengal National Chamber of Commerce and the Indian Chamber of Commerce, Calcutta, was held on Thursday last, at which the following resolutions were unanimously passed . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim) : That has got nothing to do with this Bill.

**Dr. P. N. Banerjea** : I want to show how officers exercise their powers arbitrarily.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member can state that complaints have been made about the action of executive officers but he cannot go into details about them.

**Dr. P. N. Banerjea** : I will not go into details. I will only place before the House what they say. They say that they view with serious concern the high-handed manner in which an income-tax assessment has been recently made by the Central Income-tax Department in Calcutta which has caused great alarm to assesseees. They are firmly of the opinion that, if further assessments in this arbitrary manner are made, the interests of Indian assesseees would be unduly jeopardised; and they further say that not only would the interests of individual assesseees be affected but the whole of the trade and commerce of the country would be brought to a standstill.

Now, Sir, I may refer to the case of a person whose name is perhaps well known to the Government as well as to the Members of this House,—Sitla Pershad. This man for two years oppressed all assesseees so much that his name became a by-word of oppression and, ultimately, after two years . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member ought not to discuss particular officers.

**Dr. P. N. Banerjea:** I will only mention this, that even the Government found out their mistake and compelled this man to go on long leave and he is now at Hardwar trying to wipe off his sins in the holy waters of the Ganges.

**The Honourable Sir Jeremy Raisman:** I must protest against the criticism of any individual officer by name. Officers of Government have no opportunity, ordinarily, of standing up in this House and defending themselves and I think it is very unfair that sweeping remarks should be made in that way.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member should not deal with individual cases.

**Mr. P. N. Banerjea:** May I ask whether or not it is a fact that this officer has been compelled to go on long leave?

**Mr. J. F. Sheehy** (Government of India: Nominated Official): That is not correct.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member had better go on with the Bill.

**Dr. P. N. Banerjea:** Now, what is the object of this method of assessment and this sort of oppression? It is to get money. As a Member of the Assembly it is my duty to assist the Government to get as much resource for carrying on the administration as are possible by fair and legitimate means. But I will not agree to the adoption of unfair means. You cannot take money by hook or crook, by illegitimate means.

The Report of the Select Committee is not very satisfactory. It gives some little satisfaction, but it is very unsatisfactory in those respects which I have mentioned. Therefore, this House will do well to deal with this matter as carefully as possible.

**Mr. T. Chapman-Mortimer** (Bengal: European): Mr. President, after listening to the speech which the House has just heard, I almost began to wonder whether popular opinion about this Bill was correct! A few days ago we had a brief debate. We also had the views of various Members on receiving the views of their constituents, and the general consensus of opinion among the commercial community throughout India was that this was an extremely good Bill—not merely “giving” a little thing to the taxpayers but making very considerable concessions.

**Sir Gowasji Jehangir** (Bombay City: Non-Muhammadian Urban): What are those concessions?

**Mr. Husenbhai Abdullahhai Laljee** (Bombay Central Division: Muhammadian Rural): Will you quote some?

**Mr. T. Chapman-Mortimer:** To listen to the speech I have just heard made me wonder why it was that there had been this sudden change. For myself I believe that the previous opinion, that is to say, what we had heard here of the views of the public and our own views—the views

[Mr. T. Chapman-Mortimer.]

of those of us who had given\*thought to this matter—these, I believe, to be the correct opinions, and not this new opinion that has been suddenly sprung upon us today. The reason why, I believe, I am correct in thinking so is that in three major ways this Bill is favourable to the assessee. First of all, it removes a number of ambiguities in the law and defects in the Income Tax Act as amended in 1939. In the second place, it confers definite benefits on, and gives very large concessions to, persons who have income in Indian States as well as in British India.

**An Honourable Member:** Benefits to whom?

**Mr. T. Chapman-Mortimer:** A very substantial modification of the Act has been introduced. In the third place, it fortifies the Government of India against a possible loss of revenue to certain Indian States—revenue to which in my opinion these States are not entitled. Therefore, for these three main reasons, we in the European Group support and welcome this Bill.

Now, Sir, I should like to deal very briefly with one or two of the clauses of the Bill as amended. In clause 1 an amendment was introduced by the Select Committee which clarifies the respective dates on which the various clauses will come into force. This does justice to those who have already paid their tax for the current year of assessment, in relation to those who have not, by making a provision that certain sections will not come into force until the 1942-43 assessment. It, therefore, clarifies the position, avoids the re-opening of assessments and avoids the making of new returns.

Now, I come to the somewhat contentious clauses 8, 10 and 30. I regret to say I cannot understand at all why my Honourable colleague from Bengal should have adopted the line that he has today. In the Select Committee a most important amendment was introduced into clause 10 to prevent harassment and trouble for these assessees who derive income from the Indian States. The point has been fully and very clearly explained by the Honourable Member in charge of the Bill and there is no need for me to repeat what he has said. It is most definitely a concession and comes on top of the concession they were already given over assessees who have income elsewhere than the Indian States,—that is to say, outside British India,—but who do not share the very considerable benefit that is going to these assessees. Yet in regard to clause 10 of the Bill, I see that my Honourable friend, Mr. Bajoria, has tabled an amendment to modify that clause! Clause 14 clarifies a somewhat intricate point and makes it now quite clear who shall benefit by the provisions in the relative sub-section of section 25 of the Act. Clause 17 has been amended so as to give to the assessee the same right as is given to the Income-tax Commissioner. That was an amendment secured in the Select Committee and I think it is a definite improvement to the Bill. I have not much to say about clause 18 except that it will be widely welcomed by assessees throughout India. It deals with the powers of revision of the Commissioner.

We have just heard a long tale of the wickedness of the income-tax officials throughout India and the way in which they harass . . . . .

**Dr. P. N. Banerjee:** And oppress.

**Mr. T. Chapman-Mortimer:** . . . . and "oppress". I do not agree with that at all. It has not been my experience.

**Dr. P. N. Banerjee:** Because you are not harassed and oppressed.

**Mr. T. Chapman-Mortimer:** I also know many Indians who are not harassed and oppressed. There are of course certain persons who are harassed and "oppressed" and, in my opinion, in nearly every case they are probably very rightly harassed. They are persons who try to evade paying the tax that they should pay.

**Mr. Husenbhai Abdullabhai Laljee:** How do you justify oppression to be right?

**Mr. T. Chapman-Mortimer:** They are certainly rightly harassed. If the intention of the law is that ten rich men should pay the same tax and one man out of these ten does not pay his tax, all that I can say is that the sooner he is made to pay the better!

Now, in regard to clause 24, that is really one that you have to consider when you discuss this question of the alleged oppression and alleged harassment of assesseees. I believe that if the amendment now proposed to be made through this Bill had been carried through before, at the time of the 1939 Act, some of the alleged harassment and the alleged oppression would not have been necessary, because the Government would then have had the power, and their officers would have had the power, to take action in a much more prompt way than they can do now. The result of their lack of that power in the past has been that an unscrupulous person—this one out of ten men to whom I have referred—takes advantage of the law, wriggles and evades and refuses to pay, because he knows that if he goes on long enough, Government have to resort to lengthy legal measures in order to deal with him. Such people are always, like an optimist, hoping for the best and also hoping that even if they are caught evading a tax, somehow or other some little amount of tax they should pay will not have to be paid. Therefore, I fully support clause 24 about which we have just heard so much.

Sir, I believe this to be a Bill which is really going to help by far the greater number of assesseees and those whom it may not seem to help are probably persons who do not deserve very much help or sympathy from this House.

Sir, I support the Bill.

**Babu Baijnath Bajoria** (Marwari Association: Indian Commerce): Sir, the Bill, as it has emerged from the Select Committee, is no doubt greatly improved as compared to what it was when it was originally introduced. This Bill, on the whole, is a good Bill for the assesseees. I made that clear in my first speech when the Bill was referred to the Select Committee and I repeat it now. But the Bill is not without its bad features. I know Mr. Chapman-Mortimer does not agree with me in that respect. Still, there is a good deal of opinion that the powers that are at the present moment in the hands of the Income-tax Department are not used as they should have been used. I have, therefore, tabled two amendments and I hope the House will give them due consideration when they are moved.

[Babu Baijnath Bajoria.]

Mr. Chapman-Mortimer has said a good deal that this Bill has given a lot of concessions to the assesseees who have got income both in Indian States and in British India. I will tell the House what this Bill has done. So far as the financial relief is concerned, it has given none to such persons. The only thing which it has done is that it has given them a protection against harassment by the Indian State Rulers. To that extent, we are very much obliged and grateful to the Government. We have not got any financial relief from clauses 8 and 10 (b) to which my Honourable friend, Mr. Chapman-Mortimer, was referring. As a matter of fact, these clauses give the Government much more relief—I will say hundred times more relief—than to the assesseees. But for these clauses, the revenue of the Government from income-tax from people who come from Indian States would have been greatly reduced. The Indian States would have taken a big slice of their income. Therefore, I welcome this clause because the Indian States will not be able to get the money to which they are not entitled. But I do think that the Government of India should have gone a step further as has been proposed by my amendment. When they have got so much out of these clauses, they should have given some financial relief to the assesseees also. I will explain in detail what I mean.

At the present moment, what the Government has proposed to do is that if the income of a person A in British India is Rs. 50,000 and if his income in an Indian State is Rs. 5,000, then in the year of accrual they will charge him on the income of Rs. 50,000 at the rate applicable to Rs. 55,000. I am glad that they have provided by the addition of sub-clause (4) in clause 10 (b) that when the remittance is received in later years, they will be charged tax on the total income of that year in British India together with remittances from Indian States at the rate applicable to the higher of the two incomes. But it does not solve the problem completely. They want to calculate the rate at the time of the accrual on the joint income in the Indian State and in British India and to charge on the joint income at the rate applicable to the greater of the two incomes in the year of remittance. This is a complicated and an undesirable proposal. My proposal is very simple. After all the Government had agreed that the accrual basis will be given up as regards income in Indian States is concerned; that is exactly what they propose to do under clause 8 of the Bill. I would say they must not bring in the question of rate also in assessing the income of the assessee in British India. They should only charge on the income arising in British India as well as any other foreign income excepting income in Indian States at the rate applicable to those incomes. Then, when the money is brought in or remitted from the Indian State, they can charge for the whole income at the rate applicable to that whole income. This is very simple and very fair. I do not think Government stand to lose much money on this. Whereas this will save the assesseees any amount of harassment and it will also give them small financial relief.

After all, what the Government propose to do according to the Bill as it is placed before the House now, is that they will charge on the income of Rs. 50,000 at the rate applicable to Rs. 55,000. What I want is that they should charge only at the rate applicable to Rs. 50,000; and that when Rs. 5,000 is brought in or remitted to British India in later years, then according to the remittance basis, they can charge in that year, on the income which accrues to the assessee in that year in British India together with the amount which is remitted from the Indian State in that year at

the rate applicable to the total income. I do not see what objection Government can have to this proposal of mine, which is very fair and simple. Apart from the small benefit which the assessee will get as regards the rate which will be applicable in the year of accrual, it will also avoid the harassment of the assessees in the Indian States, and the Indian States will not be able to get undue advantage of the income of the assessee in British India. Admittedly the income of the assessees is much higher in British India than in the Indian States. The Indian States are expected to make their Income-tax laws reciprocal to the laws obtaining in British India. If clause 10 (b) is allowed to remain in its present form, then on an income of Rs. 5,000 which arises in Indian State, the latter will be within their rights to charge the assessee the rate applicable to Rs. 55,000 on that income of Rs. 5,000. Is that just and fair? They should charge on the income of Rs. 5,000 at the rate applicable to Rs. 5,000. If they charge at the rate applicable to Rs. 55,000 they will take a major share or practically the whole of the income of Rs. 5,000 which accrued in the Indian State.

Further, if the rate question is separated altogether, then the question of accounts books will also be separated and the harassment on this score will be done away with. At present the income-tax authorities in British India will have to go through and scrutinise the books of accounts relating to income both in British India and in the Indian State, so that they can ascertain the rate applicable to the total income. The Indian States authorities will also see the books of accounts relating to income in the Indian States. I am glad that at my instance the Government of India have agreed that the Indian States will not call for books of accounts relating to income in British India. I hope they will see that they do not allow the Indian States to call for those books. If the rate question is separated, the British Indian Government will also be saved the trouble of seeing the account books of income in Indian States. The books from Indian States will have to be brought down to British India, so far away as Calcutta and Bombay and other cities and they will again have to be sent back to the Indian States. There might be difficulty, the assessment might be in the course of progress at both the places and some of the books might be required at both the places and it would not be possible for the assessee to comply. For these reasons I think the Government should simplify this matter and agree that they will assess the income in British India at the rate applicable to British India and would not complicate matters by increasing the rate to that applicable to the income both in Indian State and in British India.

There is another point and that is about clause 24 (a) which deals with the Collector's powers. I have appended a Minute of Dissent showing clearly what I wanted. Sir, it is not that we do not want to give powers to the Government so that they might recover the dues which are justly due to them. What we object to is that we do not want such arbitrary powers in the hands of the Government so that they may be tools or instruments of harassment and oppression for the assessees. Sir, after all, what is my suggestion? What have the Government provided in this Bill? They say that after the case has been decided and the demand is finally settled, then the Collector shall be given power to sell immovable property or the assets of the debtors as if it were arrears of land revenue.

[Babu Baijnath Bajoria.]

This will mean that we will be placing powers in the hands of the Collector to sell property in a summary fashion.

**The Honourable Sir Jeremy Raisman:** He has that power now.

**Babu Baijnath Bajoria:** At the present moment the power he has got is only with respect to moveable property, and that is why they have added this clause to this Bill. In this clause they want wider powers so that the Collector may recover these dues in a summary fashion. The Chambers of Commerce in Calcutta, Bombay and other places have most violently opposed this clause. What I suggest is a *via media* between the two, between the present powers which the Collector has got and the powers which are sought to be taken by the provisions of this Bill.

**Mr. President** (The Honourable Sir Abdur Rahim): I find the Honourable Member has tabled an amendment to that effect. So he can deal with this point then.

**Babu Baijnath Bajoria:** I wanted to speak briefly on it so that Honourable Members may know why I tabled it. My only point is that the assessment demand may be treated as a decree of the High Court and the Collector may go to the Court and have execution proceedings started exactly as a decree of the Court. In that case the property will be valued, time will be given to the assesseees and then it will be advertised and it will take its own course as a Court's decree. I do not want to deal in detail with the harassments through which the assesseees have to pass. Something has been said already by Dr. Banerjea. But I have received, and I hope the Finance Member and the Central Board of Revenue have also received, a long telegram today from Dr. Narendra Nath Law, the President of the joint representative meeting which was held in Calcutta to protest against the arbitrary methods which are employed by the Income-tax Department.

**Mr. President** (The Honourable Sir Abdur Rahim) Those cases are not before the House.

**Babu Baijnath Bajoria:** I am not referring to any case. I think this is the only opportunity, when we are discussing the Income-tax and Excess Profits Tax Bills, to say something to enlighten the Finance Member . . .

**Mr. President** (The Honourable Sir Abdur Rahim): This is not the time for a general discussion of policy. The Honourable Member must apply himself to the Bill which is before the House now.

**Babu Baijnath Bajoria:** Very well, Sir: I will not go into those matters and I myself feel embarrassed because if I say much about it I might be harassed myself!

As regards the Collector's powers, Indian opinion is opposed to such powers being given to the Collector and I think the ends of justice and the requirements of Government will be met if they accept my amendment.

Sir, I agree to the motion moved by my Honourable friend, the Finance Member. This Bill has got very much to commend itself to the House because it gives relief to the assesseees in several ways. But at the same time there are some provisions which neutralise the benefits which are proposed to be given. If you have decided that the assesseees need some relief, give them that relief with grace and not in such a way as to take away with one hand what you give with the other.

**Sir Vithal Narayan Chandavarkar** (Bombay Millowners' Association: Indian Commerce): Sir, I am sorry I was not in the House when this Bill was referred to the Select Committee; and in speaking today I am not going to make any general remarks but I wish to place before the House and through the House before the Finance Member certain aspects regarding double taxation within British India and the Indian States. I have had considerable experience of such form of taxation for the last 16 or 17 years. I am not going into the question whether the income-tax authorities in British India or in the Indian States are in the habit of harassing people. I take it that they are doing their duty and we have to meet them and to face them. I welcome this Bill in a not very enthusiastic manner because it does not give us all that we want; but I do welcome it to the extent that it does show a very keen and sincere desire on the part of Government to respond to public opinion and to the representations made by commercial bodies from time to time.

Now I will come to the main question about double taxation between Indian States and British India. The main object of the Bill, as stated by the Finance Member, was

"to make such changes in respect of the liability to tax of income arising in Indian States to residents in British India as will secure a satisfactory and equitable basis for reciprocal double income-tax relief arrangements with the States."

I speak from personal experience that very often our troubles do not end with legislation but begin with legislation, for the simple reason that there are two independent authorities who interpret acts in their own way and try to extend their own jurisdiction. When I go for satisfaction of my claims to the authorities of the State in which my mills are located they refer me to the British authorities in Bombay. When I go to the latter they say they can do nothing, that they act on their interpretation and that they are carrying out the orders of the Central Board of Revenue and that it is for me to fight the matter out in the Indian State where my mills are located. If I wanted I could easily have avoided payment of the British Indian income-tax by holding the Board meetings of my Companies in the State and controlling the business from there and keeping a small office for correspondence in Bombay, as is done, I am told, by some concerns. But we have not done that and we have tried to meet this taxation in a fair and equitable manner. The Honourable the Finance Member should not think that his task is ended and that our troubles are over by an enactment of this kind. The real trouble will start when this section is enacted. I submit that Government, the Central Board of Revenue and the various States authorities should sit together and provide a machinery for adjusting their mutual differences of opinion, so that the assessee is left free to mind more important matters of running the business.

[Sir V. N. Chandavarkar.]

Sir, I have got a very good authority here in a report prepared by Mr. Mitchell B. Carroll on the Methods of Allocating Taxable Income prepared under the auspices of the League of Nations; and when I read this I was glad to find an echo of what I have been feeling all these years whenever I have had to face the income-tax authorities either in the State where my mills are located or in Bombay. This is what he says:

"Cases arise where the tax-payer has tried meticulously to allot profits in a fair way between the various establishments, but the authorities of the several countries are of a different opinion as to their share of the taxable income. It may happen that one country to which the taxpayer has thrown a large share of his profits will assess tax thereon, and then another country in which little profit is shown will increase the assessment and thereby subject a part of the profit to double taxation. The natural tendency of each tax administration is to view the local establishment as exercising the most important influence in the production of profits and therefore ascribe to it a commensurate share of the income. When all the assessments are added together, the enterprise finds that it has paid taxes on much more than 100 per cent. of its net income. Incidentally, it has had to argue with the authorities of each country in regard to the amount of profit allocable thereto, and possibly has had to produce copies or extracts of its head-office accounts in order that the authorities of each country may examine the local accounts in the light thereof. This all requires expenditure of time and money on the part of the taxpayer as well as that of the tax-collector."

Sir, I wish to draw the attention of the Honourable the Finance Member and the Board of Revenue to this aspect of the question, and if they could devise any machinery by which the British authorities and the Indian State authorities could come to some understanding as to how they should adjust their mutual differences, then real relief will be given to the assessee. Now, in the Select Committee's Report, confident belief is expressed that the Indian States will not ask for the production of books. Now I know of a case where the British Income-tax authorities called upon a Commission Agent in an Indian State to bring his books all the way from his headquarters to Bombay, because a small share of his business had been transacted in Bombay. He was asked to produce his books in spite of the fact that he had submitted audited statement of accounts. He had to send his Auditor all the way from his headquarters to the Income-tax authorities in Bombay who ultimately, was able to persuade the Income-tax authorities to accept the audited accounts. I know that, if properly approached, in more cases than one—and that has been my experience—Income-tax authorities are quite reasonable, but it does mean, Sir, a considerable amount of waste of time on the part of the executives of commercial concerns when they have to devote their own time and attention in trying to reconcile the view-points of the different Income-tax authorities. If the Finance Member and the Board of Revenue are able to devise some means by which this trouble can be avoided, I am sure, we shall feel that we are getting a real relief.

As regards other amendments, I do not propose to say anything at this stage. If I have anything further to say, I shall do so later.

**Sir Cowasji Jehangir:** Sir, I do not propose to speak on the general principles of this Bill because, after all, I consider the Bill a fairly simple one, and the points that are controversial are not of extraordinary importance. But with regard to this double Income-tax relief, I may point out that this Bill gives relief to an assessee who has an income in an Indian State only and when he does not bring that income to British India. If he

brings it to British India then it makes no difference between the Act as it stands and the Act as it will be when this Bill is passed. Therefore, those who can afford to keep their money in an Indian State will get relief from British Indian taxation so long as they keep it there. When they bring it to India—two years income or three years income at a time or every year—they will have to pay income-tax . . . . .

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): But it will mean higher rate.

**Sir Cowasji Jehangir:** I am not talking of the higher rate. The principle is that when money is brought to British India from Indian State it will be taxed. If you don't bring the money into British India it will not be taxed. That is the principle, and, therefore, for those persons or companies or firms who have investments in Indian States and who have to bring their income to British India every year, I am afraid this Bill is not going to be of any assistance.

Now, Sir, with regard to the trouble of getting refunds. I must say that I have great sympathy with what my Honourable friend from the Millowners' Association has said. We do have great trouble in getting refunds. Take Burma and India. It is not a pleasant experience. We pay double income-tax and it takes months and years to get a refund. What will be the trouble to those who have investments in Indian States to get refunds, I do not know.

**An Honourable Member:** There is no complaint.

**Sir Cowasji Jehangir:** I am told they very often cannot get it at all. I am informed by my friends who have investments in Indian States—luckily I have no experience because I have none myself—that that part of the refund which has to come from the Indian States takes a long time coming and may never come at all. Well, I do think, Sir, that so far as Indian States are concerned, if these facts are correct—if the assessee has trouble in getting a refund, that is to say, when he brings his money to India,—Government should help him and see that he does get a refund according to the proportion laid down in the Act. And if the Indian States play the game to investors in their States and give the refund promptly as British Government would do, I think they would be doing a great service. It becomes very important on account of this amendment, because some of the assessees may not bring their income back immediately but by force of circumstances may have to bring a few years income at a time in which case a refund would be claimed and then it is rather awkward and inconvenient when you meet with unheard of obstacles from the other side in getting a refund. I would bring that point to the attention of the Government Benches because I have heard several complaints. I have heard complaints from some of my friends—a very serious charge—that they will never get their refund, it will never come. In that case, I think, something might be done by the British Government.

**The Honourable Sir Jeremy Raisman:** Sir, I deliberately made a short speech on the motion for consideration, because I assumed that Members who were moving amendments would bring their points forward at the stage when they move the amendment and that I would not anticipate what I would have to say later on. I see my friend, Dr. Banerjea, suspects me of trying to evade some issue or other, but since the point with which he was dealing is the subject of an amendment by Mr. Bajoria, I was saving my remarks on that subject for that stage and I still think, Sir, that I had better deal with that point when Mr. Bajoria moves his motion. The same applies to Mr. Bajoria's remarks on the subject of the powers of the Collector to realize outstandings of tax. That also I would prefer to deal with at the stage when he moves his amendment.

As regards the observations made by Sir Narayan Chandavarkar and Sir Cowasji Jehangir, I can assure them that we are fully conscious of the difficulties and hardships to which assesseees might be subject, who find themselves liable to tax in our jurisdiction and also in the Indian States. But nothing that we are doing here, of course, will affect that position. You cannot take away from a State its right to levy taxation which is within its powers of jurisdiction. The moment that is admitted then all these difficulties may arise. All I can say is that our influence is constantly exercised in the direction of trying to get a simple and businesslike basis and to prevent the assessee from being subjected to undue inconvenience and harassment. I cannot obviously go into detailed questions of our relations with Indian States; but I can assure the Honourable Member that I am informed that even individual cases are pursued by us and that we do our best so far as is possible and we are continuing to devote our attention to the question of putting these troublesome and complicated matters on a satisfactory basis; and, of course, one of the main amendments in this Bill is directed to that same object.

I know, that my friend, Mr. Bajoria, thinks that if I had gone further it would have simplified the position very greatly and that without our losing a lot of revenue the assesseees might have been saved from the possibility of considerable inconvenience on the other side. But I am not sure whether he is correct. After all, although I contemplate that we should decline to enter into double income-tax relief arrangements with States which trench on our jurisdiction and on our fiscal rights to an unwarrantable extent, and to a greater extent than our system of taxation trenches on theirs, I do not know whether it is possible to demand that every clause of their legislation should correspond to ours; and does Mr. Bajoria think that I should be on very good ground in saying in the case of an assessee who had, say, a lakh of income in British India and two thousand rupees in an Indian State, in insisting that his income in the State must be assessed as if his total income were 2,000 and not a lakh? After all there is a point of principle involved. If a man has half a lakh income in British India and half a lakh in a State, then he is a man who should be subjected to the rate of taxation which a man who has a total income of a lakh of rupees is subjected to. That is a question of principle. I do not know how my friend, Professor Banerjea, who is considered an authority on economic and fiscal matters, could bring himself to stigmatise as unfair and inequitable and even lacking in straightforwardness the basis which we have adopted which says that that man, if he has an income

in British India and an income in the States should be taxed on his income in British India at the rate applicable to his total income in both places . . .

**Sir Cowasji Jehangir:** Where is he resident?

**The Honourable Sir Jeremy Raisman:** He may be resident in both places but he is resident in British India also . . . .

**Sir Cowasji Jehangir:** He pays his tax in both places.

**The Honourable Sir Jeremy Raisman:** But why is he less able to pay tax at our rate on a lakh of rupees? To take a simple case, suppose for the sake of argument that the rate in the State is the same as the rate in British India. Then I consider that the final position should be that that man pays tax on one lakh of rupees, half of which would come to us and half would go to the State. If his income is 50,000 in British India and 50,000 in the State, then his final position should be, not that he pays double the tax on 50,000, but that he pays tax on one lakh of rupees. I would like Professor Banerjea to explain to me how, in accordance with any kind of fiscal principle, he can stigmatise that as being unfair or inequitable or not straightforward . . . . .

**Dr. P. N. Banerjea:** I will give a reply later on . . . . .

**Sir Cowasji Jehangir:** Are you talking of the rate or of the amount?

**The Honourable Sir Jeremy Raisman:** I am talking of the rate. I can see some force in Mr. Bajoria's argument that if we adopt this basis and if we take cognisance at all of the man's income in the State then we may be said to be giving a handle to the Indian States for taking cognisance of the man's income in British India. There is some force in that; but what I say to Mr. Bajoria is that in any case you could not expect the States to deal with a man purely on the basis of a comparatively small income within their jurisdiction, if he were known to be a man of considerable resources . . . . .

**Sir Cowasji Jehangir:** Would it not depend entirely on his residence? He must be either a British Indian subject or an Indian State subject. That point will depend upon that.

**The Honourable Sir Jeremy Raisman:** It is possible in any case for both jurisdictions to hold that he is resident there: each may hold that he is a resident in their State. If I hold that he is a resident in British India, that does not preclude a State from coming to the conclusion that he is also resident in that State; and as a matter of fact it has, I believe, been held in Courts of law that a person can be resident in more than one jurisdiction.

I do not want to anticipate Mr. Bajoria's amendment, but it is because there is a principle involved, which I consider to be sound, namely, that the man should pay tax according to his total income, that the fractions of tax, so to speak, which he pays in each place should still be in accordance with his total income—that principle I regard as important, and it is because I am convinced that Mr. Bajoria's amendment would not save the

[Sir Jeremy Raisman.]

assessee from the harassments which he suggests that I am not prepared to go to the point which he put forward. But I do think that the provision as it now stands in the Bill is a reasonable one and that the Bill has emerged from Select Committee in a satisfactory form.

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

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

The motion was adopted.

Clauses 2, 3, 4, 5, 6, 7, 8 and 9 were added to the Bill.

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

"That clause 10 stand part of the Bill."

**Babu Baijnath Bajoria:** Sir, I move:

"That sub-clause (b) of clause 10 of the Bill be omitted."

This sub-clause deals with the question of the rate which will be applicable to the assessment of an assessee who has got income both in an Indian State as well as in British India. I have heard with great attention the stand which the Honourable the Finance Member took in regard to the question of principle. I also wish to take my stand on the same principle. By this Bill the Government of India have already given up the principle of accrual basis, and so what I want is that the *status quo* which existed before the amendment of the Incometax Bill was passed in 1939 should be restored . . . . .

**Sir Cowasji Jehangir:** You should first explain what is the effect of your amendment.

**Babu Baijnath Bajoria:** Very well, I shall do so. Sir, the effect of my amendment is this, that an assessee who has an income in an Indian State as also in British India will be assessed in British India at the rate applicable to the income accruing in British India. I quite agree with the Honourable the Finance Member that he cannot force the Indian States to have a law similar to that which exists in British India in regard to income-tax matters. We confidently believe, in the Honourable the Finance Member's own words, the Indian States will not go beyond the income-tax laws of British India, because if they do so, the Government of India have also got the power indirectly to curb their attempts to get more revenue illegitimately. They can refuse to give them the benefit of the double income-tax relief provisions. My point is, when you tax only the income accruing in British India and not the income arising in an Indian State, you should not ascertain the income of the assessee in the Indian State and should save him from the harassment of asking him to produce his books for Indian States income and getting them scrutinised. My friend says that if an assessee has got a total income of a lakh of rupees in British India and an Indian State, he should pay income-tax at the rate applicable to the whole income of a lakh of rupees. What I say is, he will pay at that rate if and when he brings his income accruing in an Indian State to British India. Then you can tax him for the income which he derives in British India together with the remittances which he receives from outside British India including the Indian States. Sir, here

I do not think I am departing from the principle which the Honourable the Finance Member has enunciated.

Then, Sir, my friend has admitted that my amendment will give relief to the assesseees to some extent and, thereby, a very considerable amount of revenue will not be lost to the treasury. If my amendment is accepted, the position will become quite clear. The British Indian Government shall have to deal with the books of accounts of assesseees in British India and tax them on that income. The Indian States will tax the assesseees on the income which they derive in their States according to the rate applicable to that income in their States. The question of double relief will only come in when that money is brought into British India. Even then I am very much doubtful if the Indian States,—we all know what they are,—will grant the assesseees refund of half the income-tax paid on remittances, and it will be very difficult to get refunds from these Indian States. But the position in the Bill as it stands is still worse. I think, Sir, in all fairness the Government of India should accept my amendment, and I would also request Sir Vithal Chandavarkar who has come to this House and who is an asset to us, to appreciate the difficulties which he mentioned in his speech,—and those difficulties will also be removed if my amendment is accepted. The Indian States people will not be able to harass him in respect of his income in Bombay . . . . .

**Sir Vithal Narayan Chandavarkar:** I did not say that the Indian States I referred to harassed me.

**Babu Baijnath Bajoria:** Sir, I would ask the Honourable the Finance Member to consider my amendment more seriously bearing in mind the principles which are involved in it, because if my amendment is accepted, it will give some financial relief to the assesseees, and it will also relieve them from needless harassment. I hope, Sir, the Honourable the Finance Member will accept my amendment..

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

“That sub-clause (b) of clause 10 of the Bill be omitted.”

**Dr. P. N. Banerjea:** Sir, I find that my friend, the Finance Member, is a double-faced man. He says in the beginning that he wants a simple, businesslike basis, but afterwards he says, “what is there in having one basis for the taxation of income and another basis for the rate of tax”? He does not find any incongruity. Does it become very simple when you adopt the remittance basis and again complicate it by adopting the accrual basis for the fixation of the rate? Does it become very simple, I again ask? Does it become very businesslike either? Sir, my friend speaks of doing things in a businesslike manner. Is this very businesslike? An assessee is asked to produce his books in India and again in the Indian States. Is that very businesslike? In British India his books may be held up for a number of months . . . . .

**An Honourable Member:** For years.

**Dr. P. N. Banerjea:** Yes, for years, and, then, afterwards, his books may be required in an Indian State.

[Dr. P. N. Banerjea.]

Then, again, as regards the principle that an assessee who had an income of a lakh of rupees in British India and Rs. 2,000 in an Indian State, my friend said that what should be done is the rate should be increased. But do you increase your revenue by the backdoor, instead of by the front door? That is why I say that it is not a straightforward method of assessment.

Again, Sir, various difficulties have been pointed out by my friend, Sir Vithal Chandavarkar, who has businesses in British India as well as in an Indian State,—the Mysore State. He knows where the shoe pinches. But our Finance Member in one breath says—‘I want a simple and businesslike basis’, and in another breath he wants to deny that very basis. He further complicates the matter by saying that the person may be resident in both jurisdictions. When the present Act was passed in 1939, elaborate precautions were taken by the then Finance Member and the two gentlemen who had been brought out all the way from England, to define resident, non-resident, ordinarily resident, extraordinarily resident, and so on and so forth. Now, my Honourable friend says that a person can be resident in two jurisdictions. That further complicates the matter. In order to avoid this complication, I ask you to adopt one method of assessment, either the accrual method or the remittance method. Don’t complicate, don’t have an admixture of the two methods, which will only create greater complexity. The more complicated the law the greater is the opportunity for administering this law in a manner which may be oppressive to the assessee,—and not only that, but which may be unproductive of revenue to the Government. If you adopt the simple and businesslike standard, then you will derive a greater amount of revenue and you will prevent harassment to the assessees. What happens at the present moment is that a great portion of the revenue is filched away between the assessee and the Government. The Government do not benefit, but the assessee loses. Therefore, I use the words, “fair, equitable and straightforward”. My Honourable friend is not satisfied with these words which I have used. Will he substitute better words and give satisfaction?

The income-tax law at the present moment is so complicated that people say that it is enacted for the benefit of the income-tax lawyers and for the benefit of other persons who act as middlemen. I will not go further but you can understand what I mean. I do not want the State to be deprived of its legitimate revenue, but the State has no business to earn its revenue by hook or crook,—by means fair or foul. Therefore, I appeal to the Honourable the Finance Member to adopt a basis which is not only fair, equitable and straightforward but is also understandable—a basis which would be clearly understood by the assessee himself and by those persons who administer the law. Income-tax Officers very often find it extremely difficult to understand the provisions. The time has come when the income-tax law should be simplified and not made more complicated, as is sought to be made by the Honourable the Finance Member in this Bill.

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

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

**Sir Vithal Narayan Chandavarkar:** Grateful as I am to Mr. Bajoria for the compliment he paid me, I find it rather difficult to support his amendment. Not that I have no sympathy with it, for this amendment seems to be a very simple solution of the problem which we have to face. But simple as it may look, it might create difficulties in the way of granting relief as regards double taxation. Moreover, I believe the principle accepted by the Government of India is also followed by some of the States, because I know that in the Mysore State in case of debentures floated in the State and on which interest is payable in the State, British residents who are the owners of debentures when they apply for refund, have to disclose the whole of their income both in Mysore State and in British India and this whole income is taken into account to arrive at the rate at which refund can be granted. Therefore, this is a matter which cannot be dealt with by one sided legislation. If a new principle is to be followed it must be followed in the whole country as a result of negotiation and understanding between the Indian Government and the States. Otherwise the poor assessee might get into trouble with regard to any relief he might expect as regards double taxation. I do not think Mr. Bajoria was fair to me when he said that I complained of harassment in the Mysore State. I never made any complaint either about harassment in the Mysore State or in British India.

**Babu Baijnath Bajoria:** I did not say about harassment in Mysore State.

**Sir Vithal Narayan Chandavarkar:** I have had to face income-tax authorities for the last 17 or 18 years both in British India and in Mysore. I have got used to face them and perhaps, I even enjoy facing them. The point at issue is whether one sided legislation on the lines suggested by Mr. Bajoria will be helpful to the assessee. If you want to give relief to the assessee on the present basis, the only way suggested is that suggested by the Select Committee.

**Babu Baijnath Bajoria:** How is it one sided?

**Sir Vithal Narayan Chandavarkar:** Because Indian States must also accept the principle underlying your amendment. Let it be understood distinctly that as far as legislation of this kind is concerned, the Indian States are autonomous sovereign bodies. The Government of India can only deal with them through political action and come to a private and friendly understanding. They cannot legislate to regulate taxation in the Mysore State or any other State. The British Government can only negotiate with the States Governments and arrive at an understanding. You cannot say that because the British Government will accept a certain basis, Indian States will also accept the same basis. If a new principle has to be accepted it must be on the basis of an agreement between the Indian Government and the various States which have got income-tax within their territories.

**Sir Cowasji Jehangir:** I agree with my friend, Sir Vithal Chandavarkar, that the matter is not so simple as it appears. To understand it, one must understand the position in British India today. Under the Income-tax Act as it stands, an assessee resident in British India has to pay income-tax on his world income. It does not matter where that income accrues. He will have to pay at the rate of the whole of his income. That is the

[Sir Cowasji Jehangir.]

position in India today. So far as I understand, most Indian States who have got Income-tax Acts are trying to follow on the same lines. Let us examine what is the position of an assessee who is not resident in British India. He may have an income in British India. He may have an income outside British India. He then pays income-tax only on that portion of his income which accrues in India. The Indian British Government are not concerned with the amount of his income in other parts.

**The Honourable Sir Jeremy Raisman:** May I correct my Honourable friend? For the purposes of the rate of tax, they are concerned.

**Sir Cowasji Jehangir:** That is not the position. Under the present Act as it stands. . .

**Mr. J. F. Sheehy:** World income is taken into account for the purpose of the rate of tax. See section 17 (1).

**Sir Cowasji Jehangir:** I missed that fact. Then for the purpose of the rate of assessment, you take his world income. Suppose there is an Englishman resident in England. He has an enormous income there. He may have an income of a thousand pounds in India. You assess that thousand pounds at the rate of his whole world income.

**The Honourable Sir Jeremy Raisman:** That is so.

**Sir Cowasji Jehangir:** If that is the position, then the whole matter does change. Then what you do is that you simply exempt incomes in Indian States from income-tax which is not brought into British India but you charge the income-tax on his British Indian income at the rate of the whole income. You want to continue the practice that is at present prevailing. The principle is there in the Income-tax Act today.

**Mr. J. F. Sheehy:** For non-residents.

**Sir Cowasji Jehangir:** Yes. Of course, for residents, there is no question about it, because he pays income tax on the whole income. I am talking of the present position. Not only the income-tax but also the super-tax he pays on the whole of his income. You do exempt these assesseees by this amendment, in the case of their incomes in Indian States if it is not brought into India. Of course, we know that it is not a great favour conferred upon the assesseees. There is a very good reason which we all support for your bringing in this amendment but when it is called a great concession. . . .

**The Honourable Sir Jeremy Raisman:** I never said so.

**Sir Cowasji Jehangir:** You did not but my Honourable friend, Mr. Chapman-Mortimer, who knows less about it than you do called it a very great concession. There are assesseees who do not very often leave their incomes in the States. If they did leave their incomes, those States would get their income-tax. Now, what my Honourable friend wants is that the rate that should be charged on incomes accruing in British India should not be more than what would be the rate on the amount of income in

British India. I know that it will cause considerable complications but when you give up your tax on such incomes, it does seem rather curious that you still want the rate that applies as if this amendment had never been passed. That is the position. If you do one, you might as well do the other. Now, one of the principal reasons that have been given is that in the Indian States they may charge income-tax at the rate for the full income. Now, my main point is this that having introduced in India a principle to which we never agreed, that world income should be taxed, I do not think there should be any other principle adopted in the Indian States. The main factor will be where he is resident. If under your law as it stands today a man is resident in an Indian State, that Indian State may have the right to tax his world income. But if he is resident, according to your law, in British India, I think it is wrong for an Indian State to tax him on his world income. They should only tax him on the income that accrues in the Indian State. But if they make any other law in an Indian State, I think my Honourable friend is powerful enough to stop it. You ask for nothing more in an Indian State than the Act that prevails in British India. I could not follow my friend, Sri Vithal Chandavarkar, when he said that a resident in British India is made to pay a rate in Mysore on his world income in getting refund.

**Sir Vithal Narayan Chandavarkar:** An application for a refund of income-tax received in the Mysore State is taken into account to arrive at a rate at which refund should be allowed.

**Sir Cowasji Jehangir:** That is according to the Finance Member adopting the same principle that prevails in India today.

**The Honourable Sir Jeremy Raisman:** Yes.

**Sir Cowasji Jehangir:** Therefore, you cannot complain. Of course, you can complain very seriously if a man has a very small income in an Indian State but he happens to be a resident in British India and, according to your law, he is made to pay the income-tax in that Indian State on his world income. There, I think, you have a very good ground to protest and I, personally, cannot see why you should not protest and stop it. I understood that there was some fear of Indian States charging British India residents who may have a small property in an Indian State full income-tax on their world income, which is quite contrary to the principles of your Act. I am talking of the Indian States Act. I understand that there is some chance of an Indian State having such legislation, and the fear of that makes you resist the amendment moved by my Honourable friend. Now, I cannot realise how it is possible for an Indian State to legislate to that effect. If he is resident, according to your own definition of residence, in an Indian State, then surely the Indian State has a right to claim income-tax on his world income. But there are very few persons who are residents in an Indian State; they are generally residents in British India. And if the Indian State tries to get income-tax on the whole of his British Indian income, then I think you have a very strong case to protest and I do not see why it should be tolerated. They may be Indian States, but there are also other independent countries with whom negotiations have to be carried on when they have legislation which you feel is not quite fair.

[Sir Cowasji Jehangir.]

As a matter of fact, this Income-tax Bill is brought in on account of legislation in Indian States. But the other proposition is going much too far and to sit down coolly and to allow it if it is to be, is not a correct attitude notwithstanding the fact that the Indian States are independent. I would strongly urge that no Indian State should be allowed to have any Income-tax Act which is more stringent than our Income-tax Act. Of course, if they have an Income-tax Act like the Indian Income-tax Act and administer it fairly, then we have not got anything to complain about. In that case, the Honourable the Finance Member may see the consequences it may have on his revenue and take such measures as he thinks best and he ought to have the support of this House. That is exactly why we are supporting the Bill. We are giving him those measures so that the British Indian income-tax shall not be reduced more than is absolutely necessary. But the proposition which I place before the Honourable the Government Benches is a different one, not to allow them to go much further.

**Mr. Husenbhai Abdullabhai Laljee:** Sir, I rise to support the amendment that has been moved by my friend, Mr. Bajoria. I admit that the provision at present made is in the interests of the assessee. But we also know that when we tried to assess an income accrued in the Indian States, we did not know that the Indian States would also bring in Bills for this sort of legislation and would take the same action that we are taking. Having realised that, I think it is but fair that we ought to drop that idea. In all fairness, we ought to rely upon what is now considered by Government to be really the best way, namely, remittance basis. My friend the Finance Member tried his level best to explain to us the position and we do agree that the procedure that he has adopted or wishes to adopt may be of some advantage to the assessee. But we also know it very well that there are many Indian States which are out to have an Income-tax Bill on the same lines as ours or perhaps a little more stricter. I do not agree with my friend, Sir Cowasji Jehangir, that we have any power. Of course, we have political power. But as we are constituted today, we ought to have more real powers which we can exercise ourselves. Look at the real working of the whole show. We are going for a thing which is absolutely speculative. We are going to try for a year or so to assess our assessee on some speculative basis. We are going to watch as to what happens in the future. Why should we, then, make a speculation at this stage. Let us wait a little more. What are you going to lose, after all? Here an attempt is made that so far as the income that is accrued in an Indian State is concerned, our Income-tax Department will, I think, rely on the facts placed before them by the assessee. Sure enough, the Government cannot insist that the assessee should bring income-tax returns or certificates from Indian States. As I pointed out in the very beginning during the first reading of the Bill, there are a number of small States in which there is nothing like income-tax, nor can they afford to have anything like income-tax. That fact is much more known to the Government than to anybody else. Therefore they have to give the go-by to that aspect of the question, they cannot rely upon the return that an assessee can bring from an Indian State. If at all, they have to rely only upon the assessee's statement. Look at that. On that account, we have got to go further more into another speculation. Thank God we are not asked to pay income-tax on every income in State but we are asked to pay

higher rate taking every income and putting all together, we are asked to pay at the rate on the gross. Here again, the Government want to have for a temporary period, for a short period, a little better rate, hoping that till the time when the Indian States bring their own Act into force, they will get tax on the gross income and that will bring them some more revenue. On the other hand, again, they say we want to be just. I am very glad that ought to be the real honest spirit. It is very seldom that we find the Honourable the Finance Member to be so very fair, so far as income-tax is concerned. He says, I will not charge you more when the actual money is brought into the country, but even then what he means is he will charge the assessee at a rate which would be that if his income in British India is less and the remittance that he gets from the Indian States big, at that time, he will assess the rate on the bigger of the two amounts. Again, a further speculation comes in, by which, I do not know whether he will really get adequate benefit to the exchequer. In the first place, he thinks that because of war time, probably there is glut of money and he will be able to get income-tax on the accrual income and at the time of depression when the money will come into the country, at that time probably the remittance that will come will not be so great, it will be such as would not make him lose on what he does at present. But this is all speculation again dependent upon the fact that the Indian States will bring in Bills or will bring some device, or some ways and means by which the assessee there will be able to bring money into British India.

Well, Sir, I do not see why for a short period this is being done. Furthermore the great fear that is lurking in the minds of the people of British India is that once the books of accounts of British India are called for in Indian States, then it is very difficult for them to get them back within a certain period by which they would have again to file their returns in British India. I can assure the Honourable the Finance Member that there have been many many instances in which the machinery is absolutely lacking in the Indian States. There may be one or two honourable exceptions, but in a large number of Indian States, there is no machinery whatsoever to look into the books of accounts. Far less is there any idea of what the income-tax is. The only result would be that the British Indian assessee would be asked to pay a certain amount or keep the books there pending for years and years. I do feel, being aware of the position in the Indian States, being aware of the fact that certain Indian States are going to have legislation in this respect, being also aware of the fact that a large number of Indian States have no such machinery, in view of the fact that even now what is intended by this Bill is only to levy a rate on accrual basis, not the actual income-tax, and in view of the further speculation that when the remittance actually happens to come, he will charge the maximum rate of the two incomes, I do feel that all this for a period of one year is not fair. In fact, while for bringing in this Bill, we are obliged to him, but he has admitted the fact that so far as taxing the accrual income in the Indian State is concerned, it is not an advisable thing. Therefore he has tried to remedy the wrong that has been done. I do hope that in that spirit, if the Government will take it, they will admit that to avoid all this trouble, all this unnecessary going into this Act, they can omit clause 10. In fact it will make it different. It will create a lot of trouble. Unnecessarily you will have trouble of a kind in which the Indian States will be encouraged to have all sorts of legislation, not only with regard to income-tax but also later on more and more

[Mr. Husenbhai A. Laljee.]

will come. Up to now it has been the practice that in British India, even the subjects of Indian States have been treated on an equal footing. There has been no difference between a British Indian assessee and an Indian State assessee. There has been no sort of exploitation of the one or the other. The prosperity of the one is the prosperity of the other and the two are interdependent upon each other. I do hope that under these circumstances, the Honourable the Finance Member will consider still seriously the position.

**The Honourable Sir Jeremy Raisman:** Sir, I have listened with unusual interest to the speeches that have been made on this particular amendment and I must admit that I find myself completely unmoved and in fact, I feel that many of the arguments which Honourable Members have attempted to adduce in support of their case have worked exactly the other way. I am confirmed in my impression that this is an ill-conceived move on the part of my Honourable friend, Babu Baijnath Bajoria, that it is undesirable and that it is really in my opinion not very good tactics. I have already indicated that it is not very easy in dealing with a matter which involves the relations of British India and the Indian States to speak with great detail or precision. But my Honourable friend, Sir Vithal Narayan Chandavarkar, touched on an aspect of the matter based on his own experience which I trust will not be lost on this House. We have to remember that although we are sitting as the legislature of British India, there is another point of view concerned in these cases. As I have stated in the Statement of Objects and Reasons, one of the main intentions of this measure was to make such changes in respect of the liability to tax of income arising in Indian States to residents in British India as will secure a satisfactory and equitable basis for reciprocal double income-tax relief arrangements with the States. Well, that has got to be on a satisfactory, reasonable and equitable basis not only from our point of view but from the point of view of the other party.

Now, Sir, my Honourable friend, Sir Cowasji Jehangir, dealt with a case where income is being taxed in the State and he took the case, first of a person resident in the State in which case he thought that the State was entitled to tax the whole of his world income, and, secondly, he took the case of a person not resident in the State where he thought . . .

**Sir Cowasji Jehangir:** I mean resident according to your definition, not according to the definition of the State.

**The Honourable Sir Jeremy Raisman:** In the case of a person not resident he seemed to think that I could take up a very strong attitude if any attempt is made to take into account the income in British India even for purposes of rate.

I must point out that section 17(1) of our own Act which was brought to his notice during the course of his remarks, if adopted by  
 3 P.M. a State, as it naturally would be by a State which was adopting our Act in toto, specifically entitles the State, even in the case of a person not resident in the State but resident in British India, to take account of an individual's income in British India. Will Mr. Bajoria kindly tell me how I can go to the State and say that I cannot accept that and if they start to take account of the income in British India I

will not play? And when we are discussing what can be done *vis-a-vis* the States and other countries and so on, you have to remember that if negotiations break down the victim is the assessee. He remains liable to taxation in both countries; he is ground between the upper and the nether millstone. So that unless you have a basis which is likely to prove acceptable, it recoils on your own head. You must remember that; you must remember that in your desire to avoid liability in the other place you may create a state of affairs in which there will not be a satisfactory basis for double relief at all.

**Mr. Husenbhai Abdullahai Laljee:** You know the administration of Indian States.

**The Honourable Sir Jeremy Raisman:** We know there are many difficulties and imperfections both in our own systems of administration and those possibly in other places. But what I am drawing attention to is a very severely practical consideration. You can take a horse to the water but you cannot make him drink. And again, another trite proverb, --it takes two to make a bargain. And although if you are on strong ground of equity you can exercise your influence, you must have a basis which the other side also recognises to be reasonable and fair if you are to press your point.

Sir, there has been a good deal more discussion on this amendment than I anticipated and I do not think there is anything more that I can add. But I just want to answer a point taken by Dr. Banerjea who seemed to think that there was something not quite straightforward or unduly complicated in the idea that a man's income may be one thing for purposes of rate and another thing for purposes of taxation. I would like to point out to Dr. Banerjea that in a very large percentage of assessments the total income for the purpose of determining the rate to be applied is a different thing from the income to which that rate is applied in order to yield the quantum of tax and there is no abnormal complication in that feature. Sir, I oppose the amendment.

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

"That sub-clause (b) of clause 10 of the Bill be omitted."

The motion was negatived.

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

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

Clauses 11 and 12 were added to the Bill.

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

"That clause 13 stand part of the Bill."

**Babu Baijnath Bajoria:** Sir, I should like to say something about sub-clause (d) of clause 13. As regards the change proposed I have no objection but it is connected with section 23 (5) (b). I want some clarification from the Finance Member. The first thing is that supposing a person has incurred a personal loss of Rs. 10,000 in a year and he has

[Babu Baijnath Bajoria.]

got a partnership profit of Rs. 5,000 from an unregistered firm, what will be the amount which he will be allowed to carry forward? Will he be allowed to carry forward Rs. 10,000 which was his personal loss or whether that Rs. 5,000 which was his share of the profit in an unregistered firm will be deducted while allowing the carry-forward of Rs. 10,000; that is, whether he will be allowed to carry forward the loss of Rs. 10,000 or Rs. 10,000 minus Rs. 5,000?

Again, Sir, this clause says that if a person dies or retires from an unregistered firm the firm will not get the benefit of carrying forward the loss amounting to his share. It is quite just that others who follow the retiring partner should not get the benefit of carrying forward the loss which was suffered by another person. But cases may arise in which that person who was a partner in the unregistered firm retires from that firm but he has got his own personal business or business in partnership in another firm. He must be allowed to set-off that loss against the profit which he may have made in his personal capacity or in the capacity of a partner in any other firm, unregistered or registered. Otherwise this loss lapses. Government get the benefit of that loss entirely. They do not allow it to be carried forward; they do not allow it to be set off against another profit and assess the other profit which accrues to a person in full and do not allow that particular person to get the benefit of the deduction of the loss which may be incurred in this unregistered firm. I have not tabled an amendment because I think Government can do this by necessary instructions to the Department. I have no objection to this clause but it is another section which will have to be amended and I have no power to move an amendment to that section. As a matter of fact, this question of registration of firms brings me to point out something to the Honourable the Finance Member. In England there is no such thing as a registered firm or an unregistered firm. This artificial distinction has been made in India with a view to make higher assessments in the case of unregistered firms.

**The Honourable Sir Jeremy Raisman:** They can register. It is not at our option that they are unregistered; it is at their option. So it cannot be said that it is to enable us to make higher assessments.

**Babu Baijnath Bajoria:** There may be circumstances in which registration might not have been made and they should not take undue advantage of this. After all, in India, everybody is not fully conversant with all the provisions of this Income-tax Act and in many cases Indian firms do not care to register their firms. However, I cannot, in this speech, make the Honourable the Finance Member agree to keep the registered and unregistered firms in the same category. What I was trying to get at was that there should not be the distinction which I have just mentioned. The Government should not try to get undue advantage out of it. Another thing is that even if the firm is registered according to the Indian Partnership Act and a declaration has been filed to that effect with the Registrar of Partnership Firms, it is open to the Income-tax Department to say that 'you are not a registered firm'. They cancel registration. They do not allow registration. They will say, it is a Hindu undivided family or it is an unregistered firm. Next year they will cancel the registration. I do not want to go into great details but one point which I would like to mention is the imposition of a tax of 32 lakhs

of rupees about which many Honourable Members including the Honourable the Finance Member have received telegrams. This has been done by this very process—by cancelling the registration which that firm was enjoying for several years.

**Sir Cowasji Jehangir:** By cancelling the registration?

**Babu Baijnath Bajoria:** Yes, it is a fact. The registration has been cancelled.

**An Honourable Member:** By whom?

**Babu Baijnath Bajoria:** By the Income-tax Officer.

**The Honourable Sir Jeremy Raisman:** I must object to features of this particular assessment being mentioned unless the Honourable Member is prepared to hear some other unpleasant features of the same assessment mentioned

**Babu Baijnath Bajoria:** I am not going into the matter in any further detail. As a matter of fact I will be very pleased if the Honourable the Finance Member will agree to see some Members of the House so that we may discuss the whole matter. If the firm is in the wrong, they must suffer, but they must not be squeezed and extorted which is the feeling in general in Calcutta at the present moment. I promise I will not go further but I am saying that this question of registration is also not so simple as the Honourable the Finance Member thinks when he stood up and said "why don't you register?" Even if they are registered he would not accept it as a registered firm. These are the points to which I would like to draw the attention of the Finance Member. If the firm is a registered one they should accept it as such unless and until they have sufficient grounds to prove that there is something very wrong with it. But the point is that when they grant registration, then the revenues go down and that is why they do not accept registration without very great hesitation. About this particular clause, I would like to know what is the correct interpretation of section 24(I).

**The Honourable Sir Jeremy Raisman:** I am afraid the Honourable Member has defeated his own purpose by making a rather long and irrelevant speech on this item. The result is that the questions which would in any case be somewhat difficult for Members to understand on the floor of the House have become over-laid with a mass of somewhat irrelevant comment, and I am not in a position to give the Honourable Member an answer to his question. Of course, if he desires to have a precise answer as to our interpretation of the law applicable to particular circumstances, then if he will send an exact statement of the point to me I shall furnish him with a considered answer.

**Mr. Husenbhai Abdullabhai Laljee:** May I request that with a view to helping further discussion a definite reply may be given. We want to know if a man loses Rs. 10,000 in a business and he has a partnership profit of Rs. 5,000 in an unregistered firm, will he be allowed to carry forward that Rs. 10,000 or 10,000 minus 5,000?

**Mr. J. F. Sheehy:** I think the answer is Rs. 10,000, but I am not too sure about it.

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

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

**Mr. Deputy President (Mr. Akhil Chandra Datta):** Is there any question about clauses 14 to 23? (No reply was given.) The question is:

"That Clauses 14 to 23 stand part of the Bill."

The motion was adopted.

Clauses 14 to 23 were added to the Bill.

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

"That clause 24 stand part of the Bill."

**Babu Baijnath Bajoria:** Sir, I move:

"That for sub-clause (a) of clause 24 of the Bill the following be substituted:

'(a) For the existing proviso to sub-section (2) the following proviso, shall be substituted, namely:

Provided that without prejudice to any other powers of the Collector in this behalf, he shall, for the purpose of recovering the said amount, be deemed to be a judgment creditor of the assessee for the said amount and be entitled to apply for execution under the Code of Civil Procedure, 1908, to a Civil Court within whose jurisdiction the said amount became payable, as if the said amount was due under a decree passed by such Civil Court against the assessee.'

Sir, at present the proviso in section 46 sub-section (2) reads thus:

"Provided that without prejudice to any other powers of the Collector in this behalf, he shall, for the purpose of recovering the said amount, have in respect of the attachment and sale of debts due to the assessee the powers which under the Code of Civil Procedure, 1908, a Civil Court has in respect of the attachment and sale of debts due to a judgment-debtor for the purpose of the recovery of an amount due under a decree."

By the proposed amendment in the Bill it is intended to delete the words "in respect of the attachment and sale of debts due to the assessee" and also to delete "in respect of the attachment and sale of debts due to a judgment debtor". Sir, the whole idea is this. At the present moment the Collector has power, for the purpose of recovering the amount, to proceed according to the Code of Civil Procedure, 1908, only in respect of debts which may be due to the assessee. By including these words he shall get the power to proceed according to the Code of Civil Procedure, 1908, in respect of everything which the assessee may have got. It includes sale of his immoveable properties; it includes as a matter of fact anything which he may have. I feel that these powers should not be given to the Collector. I feel that the ends of justice will be met if the Collector has got the power to treat the amount of demand as if it were a decree of a Civil Court, and then he could go to a Civil Court and have execution proceedings started as if it were a decree of that Court. There are very grave objections to the Collector having such wide powers. Firstly, questions of law may come in in the case of immoveable properties. The assessee may have immoveable properties with charges and obligations thereon of the co-parceners and widows, or with private religious

trust upon it. A question may arise in the course of execution proceedings by the Collector which may involve the determination of serious and complicated civil rights and obligations which can only be determined by competent Civil Courts. It is important, therefore, that the Collector of a district or the certified officer to whom the powers of the Collector may be delegated, may be quite innocent of the civil law or the administration thereof. They should not be entrusted with such summary powers which cannot be properly exercised by them. I think that it encroaches upon the civil rights of the parties who are not assessee at all. There are numerous things which may arise in the case of the sale of immoveable property. First, there is the question of title . . .

**The Honourable Sir Jeremy Raisman:** May I ask the Honourable Member a question, which will perhaps clear my mind? Is he under the impression that the Collector under the existing provision has not got the power of sale of immoveable property? Is that his impression? Because if so, I am advised that he is entirely wrong. He has got such powers . . .

**Babu Baijnath Bajoria:** What is the implication of this amendment?

**The Honourable Sir Jeremy Raisman:** I will deal with that; but since the Honourable Member is basing so much of his case on the question of immoveable property, I feel I must put him right on that point at once.

**Babu Baijnath Bajoria:** We are told here that these powers are absolutely necessary so that the Collector may recover dues from the assessee: powers which he has not got at present. If these words do not mean anything, then why should you make this provision in the Bill?

**The Honourable Sir Jeremy Raisman:** I will explain it.

**Babu Baijnath Bajoria:** May I have the views of the Finance Member and then it will be better for me to reply to his objections? Otherwise I think I shall have to go on in the light in which I understand the thing. What I understand is that the Collector is being empowered under these provisions to sell property in summary fashion. We know that in the case of arrears of land revenue the properties are sold by the Collector without proper valuation being made by experts. They are not properly advertised and properties valued at a lakh of rupees are known to have been sold even for a few thousand rupees. These are my objections. The same thing will happen in the case of income-tax demand, which I do not like. I would like that the Civil Court must know exactly what the rights of the assessee are in these properties. They must be valued properly and then time will be given to the assessee and execution proceedings will proceed as if it were the dues of a judgment creditor. I think, if I am correct, the Government should not have any grievance whatsoever but should readily accept my amendment. My amendment does not in any way interfere with the recovery of the dues. It only asks that the Collector should go to the Court and have the execution proceedings carried through the Court instead of doing it himself. This is in substance the effect of my amendment, and I cannot understand what objections Government can have to this amendment of mine.

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

“That for sub-clause (a) of clause 24 of the Bill the following be substituted :

‘(a) For the existing proviso to sub-section (2) the following proviso shall be substituted, namely :

Provided that without prejudice to any other powers of the Collector in this behalf, he shall, for the purpose of recovering the said amount, be deemed to be a judgment creditor of the assessee for the said amount and be entitled to apply for execution under the Code of Civil Procedure, 1908, to a Civil Court within whose jurisdiction the said amount became payable, as if the said amount was due under a decree passed by such Civil Court against the assessee.’”

**Mr. Lalchand Navalrai:** Sir, I would very much like that the powers should not be in the hands of the Collector at all, and, from that point of view, I would support the amendment. But there are some difficulties. If the powers are not given to the Collector, and attachment and sale is made through the Civil Court the whole thing will be constitutional and legal, and not in a summary fashion. But, according to Order 21, rule 54 of the Civil Procedure Code, where proclamations are issued, then certain other preliminaries have to be gone through, and then when the time comes for sale, everything is done judicially; and if the Collector is given power to recover the money through the Civil Court, it will be much better. But my difficulty is this. I find that the amendment is with regard to the proviso only. There ought to have been an amendment to sub-section (2) itself. I shall read that sub-section and then show that it may be construed that the Collector has got all the powers to recover the amount by sale of immoveable property or debt or anything. The sub-section reads :

“An income-tax officer may forward to the collector a certificate under this section specifying the amount of arrears due from the assessee and the collector on receipt of such certificate shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue.”

If the interpretation of this sub-section is that, when the Collector gets the certificate, he has got the power to recover as if it were an arrear of land revenue, it is not mentioned here that it is restricted to movable property only. Of course, there is some doubt about it, but as the words read, it will cover even immovable property and debts and all. But this amendment now sought to be made to the proviso to sub-section (2) would, in my opinion, be inconsistent with the proviso too. Because if we read the proviso as amended, it comes to this :

“Provided that without prejudice to any other powers of the Collector in this behalf, he shall, for the purpose of recovering this amount, have the powers which, under the Code of Civil Procedure, 1908, a Civil Court has for the purpose of recovery of an amount due under a decree.”

Formerly this proviso was restricted to attachment and sale in respect of debts, but now it is going to be applied to income-tax recovery also. But then I understand it is inconsistent with the powers of the Collector for recovering income-tax as land revenue, because arrears of land revenue are recovered in a summary manner . . . . .

**The Honourable Sir Jeremy Raisman:** Yes, it is in some provinces; the Honourable Member is quite right, but there are provinces where these . . .

**Mr. Lalchand Navalrai:** But then this will apply to all, and, therefore, it will be inconsistent. It is as plain as anything. If the Collector has got powers, summary powers, to recover arrears of land revenue under the Land Revenue Code, he will have similar powers in this case also when it is now provided that he can recover income-tax . . . . .

**Sir Cowasji Jehangir:** Provided that such section shall not apply to such persons.

**Mr. Lalchand Navalrai:** My point is, under the powers given to the Collector under clause 2, he can recover income-tax as arrears of land revenue. It would be under the summary powers, and not even under the judicial powers, but under the executive powers vested in him under the Land Revenue Code. If this amendment is made, he will exercise his powers as if it is a decree by a Civil Court. Therefore, this supersedes the question of the recovery under the Land Revenue Code . . . . .

**Sir Cowasji Jehangir:** The words are "provided that without prejudice to any other powers of the Collector in this behalf".

**Mr. Lalchand Navalrai:** Quite right, but that is a proviso to clause 2, and there the powers are under the Land Revenue Code.

**Sir Cowasji Jehangir:** The words are "Provided that without prejudice to any other powers of the Collector in this behalf". The other powers . . .

**Mr. Lalchand Navalrai:** He may have some other powers . . . . .

**Sir Cowasji Jehangir:** The powers are given under clause 2 without prejudice to other powers.

**Mr. Lalchand Navalrai:** If you add this proviso, then it supersedes the powers under the Land Revenue Code, and that, I submit, is quite inconsistent with the amendment that is going to be made here. I have already said that I should much like that the Collector should have no powers of recovery, because we know in practice what they do. They recover this amount not judicially, nor in a constitutional manner, but they, in the capacity of executive officers, send round their Muktears or Tahsildars who in turn go round and ask the people to pay down the amount. If it is not paid, the consequences are serious. The amount is paid under a threat, it is paid under harassment, it is paid under maltreatment. Therefore, to take away these powers from the Collector would be perfectly correct. Sir, the Income-tax Act itself is a very complicated piece of machinery, and it is causing great harassment and trouble to the people, and if this additional power is also given to Collectors, then it would mean adding insult to injury. I, therefore, submit that the powers of the Collector should be taken away.

**Dr. P. N. Banerjee:** Sir, this morning I spoke at some length about the additional powers which were to be vested in executive officers. I expressed the view that such powers are likely to be misused, and I cited some instances in which the powers led to oppression and harassment of people. I don't wish to repeat what I said then, but I should like to invite the attention of the Honourable the Finance Member to the Notes on

[Dr. P. N. Banerjea.]

Clauses attached to the Statement of Objects and Reasons. When my friend, Mr. Bajoria, was speaking, he intervened with the remark that no additional powers are being given . . . . .

**The Honourable Sir Jeremy Raisman:** I beg your pardon. That was not what I said.

**Dr. P. N. Banerjea:** He is sometimes very inaudible. However, I did not catch his exact words, but I should like to point out that on page 3 of Notes on Clauses the following occurs:

"It has been found in practice that the Collector's powers of recovery of income-tax demands is inadequate."

I don't care for the grammer,—the Finance Member is not expected to be a good grammarian . . . . .

**The Honourable Sir Jeremy Raisman:** The printer's devil is responsible.

**Dr. P. N. Banerjea:** Apart from grammar, his view is that the Collector's powers are inadequate, and he goes on further to say this:

"It is, therefore, proposed to make this amendment, the effect of which would be that the Collector would have for the purpose of recovering the tax the powers which under the Civil Procedure Code a Civil Court has for the purpose of recovery of an amount due under the Income-tax Act."

Now, Sir, the Civil Court's powers are to be vested in the Collector. I take strong exception to it. I have already said that the executive officers very often misuse their powers, and if we accept this provision as it stands, it will lead to a great deal of harassment and oppression. I support the amendment which has been moved by my friend, Mr. Bajoria.

**The Honourable Sir Jeremy Raisman:** Sir, my friend, Mr. Lalchand Navalrai, apparently thought that nobody should have powers of recovery of income-tax at all. He objected to the Collector having powers to collect income-tax, and I gathered that he would be prepared to support the amendment if it succeeded effectively in withdrawing the existing powers which the Collector has. The position is really quite simple. The amendment which is included in the Bill has arisen from actual practice. The legal position is that income-tax can be recovered in the same manner as an arrear of land-revenue, and in a large majority of cases those powers are quite sufficient. In fact, I am glad to say that the vast majority of assesseees pay up their tax without giving us too much trouble when the tax has been finally assessed; but there are cases,—and these are usually the cases of wealthy assesseees who have at their disposal a large array of legal talent—cases where such assesseees have discovered that although the Collector has very drastic powers, much more drastic powers than those which we are now seeking to include,—there are certain powers which he has not got in particular provinces where the land revenue system differs from others. Now, these clever gentlemen discovered that, if you do certain things with your money,—although, if you were an ordinary individual, you could be sold out, including your immoveable property, at once, as Mr. Lalchand Navalrai rightly said, by a summary procedure—your immoveable property could be sold out in order to realise the tax, yet it was discovered once by a clever tax-dodger that your debts for instance. . . . .

**Dr. P. N. Banerjee:** On a point of information, Sir. Is the tax-dodger a gentleman?

**The Honourable Sir Jeremy Raisman:** Well, I leave it to my Honourable friend to decide. The extraordinary thing is, whereas in my conception a certain type of tax-dodger is definitely not a gentleman, and, in fact, is a type of individual whom you would expect the majority of respectable people to have nothing to do with,—yet you find that a lot of estimable gentlemen come forward to protest, when he is dealt with according to his deserts. That is the extraordinary thing. Some of the most heated arguments which I have had on the subject of income-tax are in relation to cases where I am amazed to find that the sympathies of so-called respectable citizens are enlisted, not on the side of revenue and of the general taxpayer, but on the side of the “non-gentleman” who is trying to evade payment of his just dues. However, what I was pointing out was that we have discovered in practice that these cunning individuals find that by disposing of their assets in a certain way in relation to the land revenue system obtaining in a particular province they may actually put themselves beyond the scope of the Collector’s powers as defined in the Act.

**Sir Cowasji Jehangir:** How can he do it?

**The Honourable Sir Jeremy Raisman:** Well, there was one stage at which we discovered that, whereas we could sell out the poor fellow who had a bit of land and so on, we could not deal with a man who had a debt due to him and took care not to realise it. We could not attach his debt.

**Sir Cowasji Jehangir:** We are not talking of a debt. We are talking of land revenue. Take Bombay, for instance.

**The Honourable Sir Jeremy Raisman:** In a particular province, although the Collector had powers to sell out almost completely, he did not have power—I think it was Bombay—to realise the debts due to that individual in satisfaction of the demand.

**Sir Cowasji Jehangir:** There is the proviso.

**The Honourable Sir Jeremy Raisman:** At that stage the existing proviso was put into the Act. We now find that there are other incidental matters in which a man from whom tax is due can take shelter from the powers included in the use of this particular formula. We are not really asking for more drastic powers to be given to the collector. He already possesses under the provisions of the Act much more drastic powers than those which we are now seeking to ensure that he shall have in all provinces. We are attempting to stop up a loophole, of which, as I say, certain types of evaders of the revenue have taken advantage. I do think that this House should not assist such people and that it should give to the revenue officers the powers which are necessary to collect the tax which has been finally assessed.

**Mr. Lalchand Navarai:** May I put a question to the Honourable Member? In places where the collector has got powers under the Land Revenue Code for arrears, will he there, according to this law, be empowered to do the thing under the Civil Procedure Code?

**The Honourable Sir Jeremy Raisman:** The proviso, as I read it, gives him, in addition to the drastic powers which he already possesses to recover the tax as an arrear of land revenue, and in addition to the powers which have already been given to him in relation to the realisation of debts—it will give him the powers of a Civil Court in certain other respects, in the remaining respects.

**Mr. Lalchand Navalrai:** It will be at his own discretion—to recover it either under the Civil Procedure Code or under the Land Revenue Act.

**The Honourable Sir Jeremy Raisman:** That is so. Quite correct.

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

“That for sub-clause (a) of clause 24 of the Bill the following be substituted:

‘(a) For the existing proviso to sub-section (2) the following proviso, shall be substituted, namely:

Provided that without prejudice to any other powers of the Collector in this behalf, he shall for the purpose of recovering the said amount, be deemed to be a judgment creditor of the assessee for the said amount and be entitled to apply for execution under the Code of Civil Procedure, 1908, to a Civil Court within whose jurisdiction the said amount became payable, as if the said amount was due under a decree passed by such Civil Court against the assessee.’”

The motion was negatived.

Clause 24 was added to the Bill.

Clauses 25 to 31 were added to the Bill.

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

“That clause 1 stand part of the Bill.”

**Babu Baijnath Bajoria:** There has been an addition to this clause. Sub-clause (2) has been added so as to give effect to some of the provisions of this Bill from the 1st April, 1941, if I understand correctly. It reads:

“It shall come into force at once; but effect shall not be given to the amendments hereby made in the Indian Income-tax Act, 1922, by section 4, section 6, section 7, section 8, clause (b) of section 10 and clause (a) of section 13 in the making of any assessment under that Act for any year before the year ending on the 31st day of March, 1943.”

I take it that the intention is that the benefit to the assessee under those sections shall be given to him in the previous year to the year of assessment ending in the year, 31st March, 1943. That means he gets the benefit from the year 1941-42. The reason which has prompted the Government to include this sub-clause in this clause is they do not want to reopen the question of assessments which have already been made in the current year. I think that should not have been the ground for not giving benefit to the assessee. The full benefit of these clauses which are favourable to the assessee from the current assessment year should be given even at the risk of reopening cases which might have been decided before. When the justice of the thing has been admitted—I won't say justice, probably the Honourable the Finance Member will dash at me and say, I do not accept it as an injustice—but when he feels that these sections ought to have been revised in the way in which they have been by the provisions of this Bill and that the former provisions were not proper,

then I think full benefit ought to have been given to the assesseees from the current year and not from the next assessment year as proposed in this sub-clause.

**The Honourable Sir Jeremy Raisman:** I did explain in the few remarks I made on the motion for consideration why we had brought into effect these particular provisions from, what I call, the next financial year and not earlier. The reason was, as Mr. Bajoria rightly says, that a large number of the assessments for this year have already been made and it is not fair to make a change in the middle of the year which will purely accidentally affect a certain number of assesseees favourably and not others. If I were to attempt to give any earlier effect to these provisions I should inevitably have to reopen all the cases which have already been dealt with this year and that is impracticable. That, Sir, is the reason for this provision.

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

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

“That clause 1 stand part of the Bill.”

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Sir Jeremy Raisman:** Sir, I move:

“That the Bill, as reported by the Select Committee, be passed.”

I did not anticipate that there would be so much discussion on a measure which was generally recognised, as several speakers have pointed out, as being a measure consisting largely, almost entirely, of concessions or adjustments in favour of the tax-payers but human nature being what it is, I suppose the desire to get an ell instead of an inch predominates and several attempts have been made to make us go further than we intended when we drafted this Bill. I have once or twice pointed out that this is not very good tactics, and that on the rare occasions, as critics would say, when the Finance Member is prepared to make adjustments in favour of the tax-payer he should be welcomed and encouraged by an atmosphere of unanimous support.. But that has not been my experience on this occasion and I shall do my best to forget the little acrimonious arguments that have arisen at certain stages in this discussion. I have no doubt that the great majority of assesseees who are not interested in the particular points which have formed the subject of alteration in the course of the debate in this House will welcome the enactment of this measure.

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

“That the Bill, as reported by the Select Committee, be passed.”

The motion was adopted.

## THE MADRAS PORT TRUST (AMENDMENT) BILL.

**The Honourable Sir Andrew Olow** (Member for Railways and Communications): Sir, I move:

"That the Bill to alter the constitution of the Board of Trustees of the Port of Madras, as reported by the Select Committee, be taken into consideration."

As Honourable Members will see, we have, in spite of the plea that I made at an earlier reading, enlarged the number of trustees in this Port. We have added three more seats. These have gone in part to a body which is at present represented by two seats and in part to a new body which had one seat at present. I cannot say that I view the enlargement of the Port Trust with any great enthusiasm but perhaps I am guilty of the feeling of every mother who feels that her own baby is as beautiful as it can be and incapable of improvement. But there is one fact that impressed me very much and I hope will impress the House also. We had the advantage on the Select Committee of five Honourable Members who knew Madras and these have all accepted these amendments and have put in no further amendments to the Bill. I notice that there are amendments to the Bill coming from gentlemen from the Punjab and from Bombay but apparently Madras is well contented with it and that satisfies me. Sir, I move.

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

"That the Bill to alter the constitution of the Board of Trustees of the Port of Madras, as reported by the Select Committee, be taken into consideration."

There are a number of amendments in the name of Mr. Jamnadas Mehta.

**Mr. Jamnadas M. Mehta** (Bombay Central Division: Non-Muhamadan Rural): Sir, I beg to move:

"That the Bill be re-committed to the same Select Committee."

I am sorry that the Honourable Member in charge of the Bill has made an attempt to prejudice whatever I may be going to say by telling the House that he had the support of five members from Madras and that, therefore, others should hold their tongue in silence. This attitude is rather unfortunate. We, in this House, may be elected from one province but we are the custodians and guardians of the well-being and the interests of the entire people of this country and it is rather unfortunate that Government should try to divide us, for the very small purpose of getting the Bill passed, into representatives belonging to the Punjab, Madras and so on. I would beg of the Honourable Member to avoid such tactics, because they are not healthy. I have been compelled to move this amendment because the Bill, as amended, is worse than the position that existed before this Bill was brought forward. The Bill in the Statement of Objects and Reasons stated that Government do not wish to encourage sectional representation. In fact, the Honourable Member had a very sound and healthy instinct when he brought in this Bill. Unhappily the more he went into it the worse that instinct became and today he has come forward to ask the House to consider a Bill which is worse than the existing Act in its support of sectional interests. Not only that. It perpetuates a vicious principle.

The trade and commerce of this country should be taken as one whole. Instead, the State deliberately goes out of its way to divide it into sectional interests and perpetuates an evil practice. The Madras Chamber of Commerce is not British but European in its composition. There may be an Australian; there may be a South African and a New Zealander; there may be a Kenyan; there may be many more gentlemen of the type who have systematically wronged this country and who treat us in their own country as a piece of dirt and yet want to be represented on the Port Trusts of this country. I, therefore, think that this principle of giving representation on the Port Trust of an Indian Port to people coming from countries where we are a depressed class is improper and vicious. I would beg of the Britishers in this House to begin to live as Indians.

**Dr. P. N. Banerjea** (Calcutta Suburbs: Non-Muhammadan Urban): Nothing will come out of begging.

**Mr. Jammadas M. Mehta:** I can only beg. But I do think that when we want eventually to become a consolidated Commonwealth, our British friends should begin to live as Indians. They should set an example. Instead of that, what do I find? I find that this Bill gives them a bloated representation. The reason why I have moved this amendment is this. First of all, we want that there should be no representation on a Port Trust on the basis of race. This is my fundamental objection. Europeans, unless they are Britishers, should be closely watched. I do not know whether a German, unless the war intervened, would not have been entitled to be a member of the Port Trust of Madras. In fact, today Swiss firms are represented on the European Chamber and they would be entitled to sit as Port Trustees in this country, while we have no similar privilege in their country. I would, therefore, earnestly request the British Members of this House to give up this isolationist attitude in regard to the trade and interests in this country. I would also beg of Government once for all to give up this practice of perpetuating racial differences in our commercial bodies. Although the Honourable Member in charge began excellently in his Statement of Objects and Reasons and although when we met in the Select Committee I found him in a healthy state of mind, the Bill as it has now emerged from the Select Committee shows that the principle which he was out to eliminate as stated in the Statement of Objects and Reasons has become aggravated. More sectional interests have now been accepted by him for representation without examining whether the sectional interests seeking representation had on merits any right to representation—not that I want any sectional representation at all. Having specifically stated in the Statement of Objects and Reasons that they do not want sectional representation, Government have gone back on their words. This is what he said on the 26th of February, 1941 :

“Although it is ordinarily desirable to avoid the representation of specific branches of commerce.....”

On the 10th November, 1941, he has been converted to the opposite view. Even on that footing no attempt was made in the Select Committee, to weigh the claims of different bodies. On the contrary, the less qualified and entitled you are, the more rights you get. For instance, there is this Madras Trades Association.

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Now, this body, according to its champion, the Honourable Sir Frederick James, has not even more than ten to twelve members. Others say that it has not got even seven men. I do not propose to sit in judgment between the figures seven and twelve because I have no first-hand knowledge in the matter. But there are Indians who say that this body consists of six members only. And who are these six members? The Spencers, some Whiteaway Laidlaw men, some printers and some Motor importers. Now, this motor importation today has become out of the question. So far as the trade in motors is concerned, it is sure to be considerably affected by the demand for war requirements. The trade in motors is bound to be depressed. To whatever extent the prices of motor cars might have been increased, there is not much private importation of motor cars on account of the restrictions on shipping. Yet what do I find? This Trades Association with a number of members whose minimum is six and maximum twelve is granted one seat simply because it is non-Indian. This is like the three tailors of Tooley Street coming forward to represent the City of London and the Government of the day saying "Amen". Are we sitting here to give proper representation to trade interests on the Port of Madras or are we sitting here to distribute largesses to our cousins? This favouritism has shocked me. How was this brought about? Sir Frederick James is a consummate tactician. He said to this hides and skins man "have one more seat for you and the hides and skins man said, you take one". So, it was an unholy agreement between two sectional interests, which the Honourable Member in charge has ratified.

The Honourable Member in charge made great play with five members from Madras. I ask him to look at the Benches opposite. Most of the elected Members from Madras are absent. Those who are there are either nominated or sectional representatives. The general body of elected people from Madras are absent. In the absence of these people and on the support of dubious interests, he cannot claim the same weight for his five supporters as the elected Members on a broad franchise. The Honourable Member in charge has come forward to say that he has the support of five Members from the Madras Presidency. Out of these five, one or two are nominated and one or two represent sectional interests and, therefore, his claim that the five representatives of Madras are behind this Bill has no value. Against these five there may be 15 elected Members, if the House was full, who will have voted down this kind of representation. I find that the Select Committee's report perpetuates racial representation. Having done so, it gives bloated representation to sectional interests, particularly to our British friends and that too without going into the claims of other bodies. Now, Sir, one of the claimants to a seat on this Madras Port Trust was the Piecegoods Merchants Association. This Piecegoods Merchants' Association had a representation for many years. It has still got 145 Members on its rolls. No doubt the piecegoods trade in Madras has considerably shrunk on account of the same reasons as the other import trades are suffering. It has further shrunk on account of the indigenous production of cloth which has increased and therefore the imports are diminishing. But whatever the shrinkage in the volume of the business of the Piecegoods Merchants' Association, the shrinkage of the Trades Association had

absolutely gone to the vanishing point. And, still between the two one body which had a representation was deprived of it, another which enjoyed representation for no good reason in particular and was therefore omitted by the Government in their original Bill, have now been included only because it has got powerful supporters in this House like Sir F. E. James and others. Sir, the claims of the Piecegoods Merchants Association were not even fully examined. They made in their representation a very good suggestion for distribution. That suggestion was very superficially gone through. Today, although the Honourable Member in charge wanted that the Port of Madras being a small Port should have 15 as the maximum, yet in order to buy peace, he went on distributing the seats one after the other to sectional interests which according to his own statement in the Statement of Objects and Reasons had no justification. Secondly, labour representation out of 18 is only one. Labour makes any port a port. A port in any country depends for its prosperity on the hard labour of the workers and, therefore, labour has a very substantial claim to representation on a Port Trust. A Port will be nothing without the workers who contribute to its prosperity and its very existence. But the workers here get only one seat out of 15 original and now out of 18. This is absolutely insignificant representation and nothing that I could do would persuade the Honourable Member to increase that number. The Southern India Chamber, which is at least equivalent in its importance to the Madras Chamber of Commerce shares with the Madras Chambers of Commerce one seat less. Then, there are Government nominations from the Central Government and I am told that the representatives to be appointed by the Central Government will be the Agents and the General Managers of the two railways which have got their termini at Madras, and the Collector of Customs. Well, these three gentlemen will all be Britishers.

**The Honourable Sir Andrew Clow:** No.

**Mr. Jamnadas M. Mehta:** Then, Sir, the Government of Madras will appoint one gentleman, half to half, the possibilities are 50:50; he may be a European or an Indian. Therefore, in a Province where out of a population of four crores, the European percentage could not be one in five thousand, the Europeans will very nearly get half the number of seats. This is most unjust and unfair. I do say there must be some searching of conscience amongst our British friends here that they should claim such a preponderating share in the government of a Port which belongs to this country. I request that they would volunteer to surrender such exaggerated representation. They should do this, because in the future international reconstruction of the world . . . . .

**Dr. P. N. Banerjee:** You are very optimistic.

**Mr. Jamnadas M. Mehta:** I want to pin them down that their performance shall be in consonance with their professions.

What do I find in a comparatively unimportant matter like representation on a Port Trust. They want not merely their pound of flesh, but a pound and quarter because they have got the power of the Government of India behind them. The vested interests are willing to support them and they can as my Honourable friend, Sir F. E. James, did, so manœuvre that they encourage other sectional interests so that both of them can

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combine and get seats for each of them. But to the real people of the Presidency, the people who are responsible for this trade, for whose benefit and at whose cost this port will run, their representatives are only three and one labour representative. Perhaps the Madras Corporation might elect one more Indian, and so the real representatives of the people of Madras, the trading interests, the economic interests, the labour interests will be five in a body of eighteen Members. All other interests, on the admission of the Honourable Member himself will be sectional . . . . .

**The Honourable Sir Andrew Clow:** What about the Andhra Chamber of Commerce?

**Mr. Jamnadas M. Mehta:** I am quite prepared to eliminate that. If you agree to my principle, I am quite prepared that the Andhra Chamber of Commerce should go. I am not in favour of Andhra interests as such, but when you single out the Madras Trades Association, I am most surprised. Then you are not the right person to challenge me about the Andhra Chamber of Commerce.

On all these grounds, I submit that the Bill was never properly considered in the Select Committee, that it perpetuates racial representations *in excelsis*, that it gives very little or insignificant representation to Labour, that it bolsters up representations of bodies which have no real existence in fact and which worsens the present situation, that it superficially examined the claims of other bodies, that the Southern India Chambers of Commerce with 19 affiliated Associations gets only three seats, an Association in which all the Indian communities are adequately represented, Hindus and Muslims, Tamilians and Andhras, all merchants are adequately represented, that the Southern India Chamber of Commerce has seen always that every community, every section had got representation through elections . . . . .

**Mr. President (The Honourable Sir Abdur Rahim):** Order, order. I believe the Honourable Member was a Member of the Select Committee. I have listened carefully to his arguments and his speech and I find that so far he is really discussing the clauses of the Bill. He is putting forward arguments which might legitimately have been urged in the Select Committee and he himself was there to urge them, and I can only presume that they were so urged. I have been given now a ruling of Sir Frederick Whyte to this effect. This was on a similar motion for recommitment to the Select Committee.

"The Honourable Member must see from the Report of the Select Committee on the Bill that they consider that they have adequately considered it. The points he is raising are arguments which he may legitimately use for persuading the House to reverse the decision, if necessary of the Select Committee and, therefore, it would appear to me to be more appropriate on each of the individual clauses which will be put at a subsequent stage.

I do not think he quite appreciates the ruling I laid down a little while ago regarding a motion for recommitment. It is the business of the Chair to protect the House against dilatory motions except where such motions are rendered necessary either by the manner in which a Select Committee have handled the Bill or by unforeseen circumstances arising since the Bill emerged from the Select Committee, and in my opinion neither of these conditions are satisfied."

And, I think, he disallowed the motion. I have listened to the speech of the Honourable Member so far, but neither of these conditions are fulfilled in this case.

**Mr. Jamnadas M. Mehta:** Sir, I am saying that all these considerations received very superficial attention in the Select Committee.

**Mr. President** (The Honourable Sir Abdur Rahim): That is no ground; it is merely a reflection on the Select Committee. I, therefore, disallow the motion, and if the Honourable Member has nothing more to say which would justify the recommittal of the Bill to the Select Committee, the House will resume consideration of the Bill.

**Mr. Jamnadas M. Mehta:** Then I shall oppose this motion.

**Mr. President** (The Honourable Sir Abdur Rahim): Then I take it the Honourable Member will not repeat what he has said already.

**Mr. Jamnadas M. Mehta:** No, Sir, it is no use repeating an argument. Most of what I have said before applies to my present attitude, and the last thing which I now say in addition to what has been said is that the South Indian Chamber of Commerce is not put in this Bill on the same footing as the Europeans who get five seats against that body's three. I think its claims should be properly examined. It is a body of long standing which has so far represented adequately Indian interests and all sections of the trade in the port of Madras and has done even-handed justice to every interest, whether coming from the south or from the north.

**Mr. President** (The Honourable Sir Abdur Rahim): Has not the Honourable Member tabled an amendment to that effect?

**Mr. Jamnadas M. Mehta:** Yes, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim): Then the Honourable Member had better wait till that clause is reached.

**Mr. Jamnadas M. Mehta:** The amendment may succeed or not, but I want to throw out this Bill bodily.

**Mr. President** (The Honourable Sir Abdur Rahim): But the Honourable Member cannot go on dealing with the clauses in detail at this stage.

**Mr. Jamnadas M. Mehta:** Let me make one statement. Everything that I say here will have reference to some clause or other and I cannot talk outside the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim): But a detailed discussion of the clauses will not be in order at this stage.

**Mr. Jamnadas M. Mehta:** Then what is in order?

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has plenty of experience and ought to know. .

**Mr. Jamnadas M. Mehta:** I am trying to submit that the Bill that has emerged from the Select Committee is so bad that I must be permitted to give my reasons.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has already spoken at length.

**Mr. Jamnadas M. Mehta:** But this Bill is so bad that I cannot adequately describe its demerits without speaking for a few minutes more, and I shall try to remember the instruction of the Chair that I should not go into too much detail.

I shall now invite the attention of the House to the Minute of Dissent which I was forced to append to the report on account of the extraordinarily worsened conditions under which the port of Madras will now be governed. One more point now remains and that is this. I would have preferred that all the Chambers of Commerce in Madras should sit together and work as one body thinking that the trade interests of all of them were common, form a joint electorate, and a minimum qualification for vote may be substituted in place of the present section of interests, *e.g.*, on the lines of what exists in the Provincial Legislatures today, that any member of an affiliated commercial body who pays income-tax of Rs. 5,000 or more may be enrolled as a voter, whether Hindus or Muslim, European or Indian. And that joint body should elect the representatives that are to be elected, ten or eleven, whatever the number may be, and thereby safeguard and protect the common interests of all the sections of the trade in Madras.

Sir, I oppose.

**Sir F. E. James** (Madras: European): Sir, my Honourable friend has painted a pathetic and wholly incorrect picture of the Select Committee. He seemed to imagine that my Honourable friend, Sir Andrew Clow, timid, pure in heart as of course he is, with a stern Presbyterian conscience, was debased and defiled by the demonical intrigues of Beelzebub in the shape of myself. I can assure my Honourable friend that whatever the truth is about Sir Andrew Clow, his picture is entirely incorrect as far as I am concerned. My Honourable friend is incorrigible; convinced against his will he is of the same opinion still, like a certain sex with which some of us are acquainted. He travelled over the whole field of contradiction and inconsistency that was within his reach. He objected to the restoration of the representation of the Madras Trades Association on the ground that it had no trade, and then advocated the Madras Piecegoods Association on the ground that although it had no trade it had many members. He spoke about bloated representation. The Madras Trades Association has actually had two seats on this body for the last 57 years, and I thought that its dislodgement from that position entirely was really without any justification. We have, therefore, agreed to restore that Association to the representation on the Board giving one seat only. Surely that can hardly be called bloated representation.

**Mr. Jamnadas M. Mehta:** European!

**Sir F. E. James:** My Honourable friend repeats again the mis-statement that unfortunately he made in his own Minute of Dissent, namely, that this is a European Association. Of course there is all the difference in the world between a Trades Association and a European Association.

Perhaps if he will go down to Madras and study the situation on the spot he will be better informed. But the Madras Trades Association is not racial in its composition nor is there any racial basis for its membership. As I explained to my colleagues in the Select Committee, this body has been represented on the Trust for a number of years by an Indian. How can then my Honourable friend say that this is a European Association which is put back to the Port Trust to increase the bloated representation of the capitalists? Sir, the report of the Select Committee seems to us to be a fair compromise between a number of contending claims. My Honourable friend, Mr. Mehta, himself thought that one seat was not enough for labour and he committed himself in fact to the astonishing statement that without labour there would be no port. I should imagine that the ideal Port Trusts, as far as he is concerned, is a body of trustees all of whom represented labour, presided over by Mr. Jamnadas Mehta. But what is the use of labour at a port without ships, and how can you have ships without trade? It is not labour that makes Port? My Honourable friend is greatly mistaken there. The labour arrives at the Port only after the ship has arrived and a ship does not come into the Port unless it has some goods to deliver or to take away to another place. I know my Honourable friend is a redoubtable champion of labour but he should not really go too far in his championship.

Sir, the only other point I would mention is that we did approach this question from the point of view of the distribution of interests represented on the Port Trust. My Honourable friend, Sir Andrew Clow, laid down the principle that generally speaking what should determine representation is direct interest in the Port, and that bears a very close relation to the volume of trade in which persons represented on the Port Trust happen to be engaged, and on that basis we approached this problem. Whatever my Honourable friend may say about the paucity of members in the Madras Trades Association—I think he has got the figures wrong—he has of course omitted to refer to the Affiliated Association—the real thing is: is this a body whose members have a sufficiently direct interest in the actual working of the port to justify representation?

The Select Committee came to the conclusion that on the balance it had and they thought that inasmuch as it was not desirable to upset the distribution that had been suggested by my Honourable friend, Sir Andrew Clow, it would not be objectionable if we increased the number from 15 to 18 and made room for two other bodies which had an equal claim to representation. I may say those who have advocated the claims of the Madras Trades Association have, from the very beginning, made it perfectly clear that they do not want to obtain representation for that association on the Madras Port Trust at the expense of any of the predominantly Indian bodies now on that Trust and that is why, when the matter first came to the Committee, I asked the members to consider restoring representation to this Association, and at the same time I proposed that two other bodies should also have representation on the Trust. I think, Sir, that this represents a fair compromise. I do not think it is a compromise which should be objected to.

As to the wider question which my Honourable friend, Mr. Jamnadas Mehta, has raised, *viz.*, the abolition of the present system and one joint electorate, may I suggest to him that his first duty is to go down to Madras to convince the South Indian Chamber of Commerce and other bodies that

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such a proposal would be in their interest. I think he would find that they would not be as easy to convince as he suspects this House to be. I hope, Sir, that the House will accept the Select Committee's Report, which, as I have already said, is a fair compromise; and I can assure my Honourable friend from Bombay that as far as Madras is concerned we shall be happy if this is accepted.

**Mr. Amarendra Nath Chattopadhyaya** (Burdwan Division: Non-Muhammadan Rural): Sir, I was a member of the Select Committee and I have given a Note of Dissent on the very same lines as my Honourable colleague, Mr. Jamnadas Mehta, has. Sir, we have been told by Sir Frederick James that it is a fair compromise. What was the trouble and where does compromise come in? It is represented by all representative bodies proportionate with their importance. As I have pointed out in my Note of Dissent, the Madras Chamber of Commerce have been given more than what is fair and just and the Madras Trades Association should not have been given one. The Madras Trades Association consists of a very few members and as such they should not have been given any representation and still it was managed by the Committee to give them one. I propose that if this Select Committee's Report is to be passed by this House, there should be a change in this item. Further, the Southern Indian Chamber of Commerce is a body which represents more correctly the Madras trade and commerce than any other body. They have been given only three. They should be given one more, *i.e.*, four by taking away one from the Madras Trades Association.

Sir, with regard to labour. Really speaking, Mr. Jamnadas Mehta has been a champion of labour during all his political life and if he has said that labour makes a port he was not far from the truth. It is the labour that constructs the ship, it is the labour that carries out loading and unloading and it is the labour that builds the Port and if this labour is left unrepresented or so disproportionately represented it would be doing wrong to the labour. I was told, Sir, that in the Calcutta Port Trust one was representing the labour. That too is wrong. Labour should have two seats. If this House accepts this small amendment to that Committee's Report, I think Mr. Jamnadas Mehta will not oppose the Bill. His opposition is on quite another ground. He says . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): What is the good of repeating what Mr. Mehta has said. Honourable Member had better advance his own arguments.

**Mr. Amarendra Nath Chattopadhyaya**: Sir, I think that there should be one Chamber of Commerce everywhere in all the provinces with Ports, so that the representation might go from one body looking into the interest of all the trade and commerce. That is the thing which is desirable at this moment. It is perhaps already delayed far too long and, really speaking, it should appeal to our British colleagues here who should think of this amalgamation of all chambers, and if that is done, then this sort of trouble in this Legislature will cease. Therefore, if these amendments that are tabled are accepted for the present, with regard to the increase of representation of the South Indian Chamber of Commerce by one and labour by one seat, I think it will be acceptable. If it is not then I think we should oppose the Bill.

**Dr. P. N. Banerjee:** Sir, the Bill as it has emerged from the Select Committee has welcome as well as unwelcome features. The welcome features are two: first, the number of elected seats has been increased, and secondly, representation has been given to the Andhra Chamber of Commerce. But the unwelcome features are many. In the first place, representation has been given on a racial and communal basis. We, on this side of the House, have always been opposed to racial and communal representation and it is exceedingly wrong on the part of Government not only to retain but also to emphasise such representation. Secondly, the distribution of seats as between the different associations is not at all fair. Some of the associations have a much larger membership, but their position has been made equal to those associations which have very small membership. Thirdly, Indian commerce has not been given that amount of adequate representation which is its due, as against European commerce. There are various other features also to which we should take exception. For instance, the Chairman of the Trust is a nominated person. The time has now come when we should demand that the Chairman of every Port Trust should be an elected person and an Indian if a suitable Indian can be found and I do not see how it can be said that a suitable Indian cannot be found for the Madras Port Trust.

Then as regards the question raised by my Honourable friend of separate and joint electorates, I am entirely with him. Let all the business people of Madras combine and let all the seats which are their due be given to them jointly. Such joint representation will eliminate all sorts of bitterness and ill-feeling between Indian commerce and European commerce. I am glad to find that my Honourable friend, Sir Frederick James, is of this opinion. He is in favour of a joint electorate. If so, let us have an agreed amendment and let us press this agreed amendment on the Government. The Government will perhaps adduce other arguments in favour of separate electorates, but we shall be able to place the Government in the wrong. These are the unwelcome and undesirable features which should be removed from this Bill. I am sorry that no notices of amendments have been given. . . .

**The Honourable Sir Andrew Clow:** Yes, they have.

**Mr. President** (The Honourable Sir Abdur Rahim): There are a number of notices.

**Dr. P. N. Banerjee:** I am sorry I have not seen the amendments; but if there are any proper amendments, they should be pushed, and I hope the Government will see their way to accept some at least of those amendments, so that the undesirable features of this Bill may be eliminated.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, I find that the Honourable the Communications Member was very complacent over what has been done in the Select Committee. He made the assertion, perhaps because the members from Madras had agreed to the compromise or whatever it was that had been done in the Select Committee, and he said that Madras is satisfied. I also find Sir Frederick James showing his satisfaction. . . .

**An Honourable Member:** He also comes from Madras!

**Mr. Lalchand Navalrai:** He is also from Madras. But I do not think that after what we have heard in the House from Mr. Jamnadas Mehta and also the telegram which I hold in my hand. . . .

**Sir F. E. James:** I have the same one.

**Mr. Lalchand Navalrai:** But you never mentioned it and I am going to mention it—that is the difference. If the Honourable Member had mentioned it then he would not have shown so much of gloating over it or the satisfaction that he has shown. I find that though the members from Madras who were on the Select Committee may have agreed for certain reasons to the compromise, I find that the proper representation has not been given on the port trust. Before I come to that, I join my friend, Dr. Banerjea, that there has been a demand for very long that the Chairman of all port trusts should be Indians. I think the policy of the Government, by certain pronouncements that they have made in the House at least, is to Indianise the port trusts. The time has now come, when this Bill is before the House, when the initiative should be taken in appointing an Indian as chairman of the Madras Port Trust. We find that an experiment has been made in that direction by appointing an Indian in Bombay, and he has justified his appointment and has done as any other gentleman would in his position and therefore there is no reason why opportunity should not be given to Indians to be in the chair in all the ports. This Bill provides that the chairman shall be appointed by the Central Government. But I would submit that the Central Government should consider this suggestion of mine that, after the pronouncement of policy they have made that port trusts should be Indianised, the chairman of the Madras Port Trust should be now an Indian. Further I submit that I have received a telegram from Madras in which they complain that there is a preponderance of European representation.

**Sir F. E. James:** Read the whole of it.

**Mr. Lalchand Navalrai:** I am reading the whole of it. . . .

**Mr. President (The Honourable Sir Abdur Rahim):** If the Honourable Member is going to read the telegram, if it is not a lengthy one, he can do so and not interpolate arguments while reading it.

**Mr. Lalchand Navalrai:** I will read it, but I will say. . . .

**Mr. President (The Honourable Sir Abdur Rahim):** Yes, yes; he can say it after he has read the telegram.

**Sir F. E. James:** He does not want to read all of it.

**Mr. President (The Honourable Sir Abdur Rahim):** Or he can give the purport if it is too long. If it is not too long, he should read the whole of it.

**Mr. Lalchand Navalrai:** Very well, Sir. I will read the whole of it:

“The Madras Piecegoods Merchants’ Association having representation Madras Port Trust from 1923 Committee regrets not having allotted seat in amending Bill Select Committee also overlooked our claim fear European preponderance is still

maintained indirectly. Sectional interests in principle admitted. Only this Association suffers. Our interests in Madras Port Trust greater than other associations of Hide and Skin Merchants. Association being both exporters and importers."

Now, it is clear that this Association not only has a larger number of members, but even in the volume of trade they say they have a greater interest than the hide and skin merchants. . .

**The Honourable Sir Andrew Clow:** It is not true.

**Mr. Lalchand Navalrai:** What I am submitting is this. One cannot possibly say why a representation which had remained with them since 1923 should be so summarily taken now, and that representation should be given to some other body. With regard to the Hide and Skin merchants Association and the Trades Association, it has already been pointed out that they may be given representation, but the existing representation should not be taken away. I heard the Honourable the Communications Member say that we have this time added three representatives, but he has also taken away certain representation. . . .

**The Honourable Sir Andrew Clow:** No, the Select Committee has not done so.

**Mr. Lalchand Navalrai:** He has taken away the representation of this association.

**The Honourable Sir Andrew Clow:** That was not in the original Bill.

**Mr. Lalchand Navalrai:** The Government has taken it away, but whatever it is, this association should be granted proper representation, and the existing representation should not be taken away.

**The Honourable Sir Andrew Clow:** Sir, I think it was quite excusable on the part of Dr. Banerjea to be ignorant of the fact that a large number of amendments had been put in, because he probably had not seen the notice, but I was surprised to find that my friend, Mr. Jamnadas Mehta, had forgotten the fact that he himself had sent in a number of amendments. I assumed that from his speech, which seemed to be prepared for numerous amendments so that I think he had forgotten he had put in amendments of his own. He made a lot of accusations against me. He accused me of appealing unfairly to the support from Madras. Well, it is very difficult for us here to have a lot of local knowledge, and when I find that Members from one particular province advise us in a particular direction, I naturally attach a little more weight to that than I do to the suggestions of Members from other provinces. I did not contest for a moment the right of any member, no matter from what part of India he comes, to express his view on any Bill, however local, as is this Bill. What appeared to pain him most was the charge of inconsistency made against me. He said, whereas, I had stated, as I did, in the Statement of Objects and Reasons, that it was ordinarily undesirable to give representation to specific branches of commerce, I have now changed my view. I was not clear whether he thought the view I had stated in the Statement of Objects and Reasons was right or wrong. . . .

**Mr. Jamnadas M. Mehta:** Quite right.

**The Honourable Sir Andrew Clow:** And yet I find that he himself has amendments suggesting that the Piecegoods Association should be given representation. . . .

**Mr. Jamnadas M. Mehta:** That is in the last resort.

**The Honourable Sir Andrew Clow:** If that is not a specific branch of commerce, I do not know what it is. There is only one Association which represents a specific branch of commerce and which has been given representation, and that was the Hides and Skin Association which was in the Bill from the start. He raised, unfortunately, certain racial issues in accusing me of racialism. . . .

**Mr. Jamnadas M. Mehta:** The Bill raises it.

**The Honourable Sir Andrew Clow:** I do not want to enter into that, because I think the Bill is less racial on that point than Mr. Jamnadas Mehta. But no one would be more pleased than I if the leaders of trade and commerce and industry in those ports were combined in one powerful and representative organization. I do not know what happened in Madras. I should imagine that the Madras Chamber of Commerce was there first, and that the others were formed afterwards. I do not know why they did not join in the main Chamber of Commerce, but I am given to understand that they were never excluded, and that the Madras Chamber of Commerce still has a few Indian members. But surely we have got to face facts, and I feel very doubtful if Mr. Jamnadas Mehta would apply the same principle in the field in which he is more familiar, and that is the field of labour. In other words, if we had three trade unions to deal with on the Railway Board and we said because we cannot combine them into one we shall not deal with any one but will deal with the labourers themselves.

I do not think he would approve of that principle. His main grievance was that the Bill had not been improved by the addition of three Members. Two of these will represent purely Indian Chambers, and thus I should have thought I had gone further to ensure a point that he himself made that there should be a larger Indian representation on the Trust. But he is asking us now to throw out this Bill. So let us go back to the position that would be reached if that were done, and let us compare the representation as it now stands of commercial interests in Madras to the representation that will subsist if this Bill is passed. At present the Madras Chamber of Commerce has four seats. These will remain. The Southern India Chamber of Commerce has two; it will have three. The Madras Trades Association has two; it will have only one. The Skin and Hide Merchants' Association has one, it will have two. The Piecegoods Association has one; it gives way to the Andhra Chamber of Commerce, and in addition seats are added for the Corporation, for labour, and for the Government of Madras. Even if Members opposite were here, I don't say they would support the Bill in all its details, for I don't know their minds, but I am quite sure that none of them would say that the Madras Port Trust Act as it will be amended will be worse than the present position. I claim that from every point of view it is an improvement on the present position, and I ask the House to pass this motion.

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

“That the Bill to alter the constitution of the Board of Trustees of the Port of Madras, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim): I think it will be more convenient to take up the consideration of the Bill clause by clause tomorrow.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 11th November, 1941.