

Monday, 2nd December, 1940

THE  
COUNCIL OF STATE DEBATES

VOLUME II, 1940

*(19th November to 2nd December 1940)*

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EIGHTH SESSION  
OF THE  
FOURTH COUNCIL OF STATE



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# COUNCIL OF STATE.

*Monday, 2nd December, 1940.*

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

## QUESTIONS AND ANSWERS.

### EMERGENCY COMMISSIONS.

86. THE HONOURABLE MR. HOSSAIN IMAM : Will Government lay on the table a statement giving the following information in regard to Emergency Commissions granted up to 30th October, 1940 for (a) I. M. S., (b) I.A.F., (c) R.I.N. and (d) Army separately :

(i) The total in each of the above categories of Hindus, Muslims, other Indians, statutory Indians and Europeans from each province.

(ii) The method of their recruitment.

THE HONOURABLE MR. A. DEC. WILLIAMS (on behalf of His Excellency the Commander-in-Chief) : Figures have already been given up to the end of September. It is not in the public interest to continue bringing these figures up to date.

THE HONOURABLE MR. HOSSAIN IMAM : Do I take it that separately for each Service, the number of Hindus, Muslims and others has been given ?

THE HONOURABLE MR. A. DEC. WILLIAMS : No, Sir. All I have to state is that Government do not consider it in the public interest to continue giving any figures of this kind.

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, the Honourable Member stated that figures have been laid. I asked——

THE HONOURABLE THE PRESIDENT : He has given an explicit reply to your question that Government cannot see their way to give the information. I cannot ask the Honourable Member to give you any more information.

THE HONOURABLE MR. HOSSAIN IMAM : I am not asking for any further information, Sir. I should like him to say in reply to which question this information was laid. He stated, Sir, that figures have been given.

THE HONOURABLE THE PRESIDENT : He refused the information. I cannot press him.

**THE HONOURABLE MR. HOSSAIN IMAM:** I am only asking in which connection, and in reply to what question, these figures were given?

(The Honourable the President called on the Honourable Mr. Hossain Imam to put his next question).

**INDIAN AUDIT AND ACCOUNTS, ETC., SERVICES EXAMINATION, 1940.**

**87. THE HONOURABLE MR. HOSSAIN IMAM:** Will Government state the figures for 1940 of students who are actually appearing in the Accounts and Audit Examination.

**THE HONOURABLE MR. C. E. JONES:** I lay on the table a statement giving the figures for the year 1940 required to complete the statement which was laid on the table in answer to Part (a) (iii) of question No. 19 of the 19th November, 1940.

*Number of candidates who actually appeared at the Indian Audit and Accounts, etc., Services Examination, 1940.*

Name of Province.	Hindus.	Muslims.	Others.
Assam . . . . .	1	..	1
Bengal . . . . .	59	2	1
Bihar . . . . .	11	2	..
Bombay . . . . .	13	1	4
Central Provinces . . . . .	4	1	1
Madras . . . . .	63	1	8
North West Frontier Province . . . . .	1	1	
Orissa . . . . .	1	1	..
Punjab . . . . .	29	23	8
Sind . . . . .	2	..	..
United Provinces . . . . .	42	11	4
Other Areas . . . . .	30	5	4
Total . . . . .	256	48	31
Grand Total . . . . .	335		

**NUMBER OF GERMANS AND ITALIANS RELEASED AFTER FIRST DETENTION.**

**88. THE HONOURABLE MR. HOSSAIN IMAM:** Will Government state the number of Germans, Italians and other citizens of enemy countries, who have been liberated after their first detention.

**THE HONOURABLE MR. E. CONRAN-SMITH:** I take it that by detention the Honourable Member refers to internment. Five hundred and eighty-eight Germans and Austrians were released after their first internment but of

these 130 have been reinterned. Twelve Italians have been released from internment.

**THE HONOURABLE MR. HOSSAIN IMAM :** Will the Government give any reason—the general principle on which they have been released ?

**THE HONOURABLE THE PRESIDENT :** That is an argument.

**THE HONOURABLE MR. HOSSAIN IMAM :** The principle on which they have been released.

**THE HONOURABLE THE PRESIDENT :** Don't use the word "reason".

**THE HONOURABLE MR. E. CONRAN-SMITH :** I take it the Honourable Member means those who have been released since detention. The cases of Germans and Austrians who were interned at the beginning of the war were considered by a special committee set up by Government for the purpose and the committee released the numbers which I have already given to the House.

GERMAN G. E. Co.

**89. THE HONOURABLE MR. HOSSAIN IMAM :** Will Government state fully the circumstances under which the Bombay branch of the German G. E. has been treated as a non-enemy firm.

**THE HONOURABLE SIR ALAN LLOYD :** Government are not aware of the existence in Bombay of any branch of a firm known as the German G. E. If the Honourable Member has in mind the G. E. Z. Electric Train and Lighting Co., Bombay, I may state that it has been vested in the Custodian of Enemy Property. If the reference is to the A. E. G. India Electric Co., that firm had before the outbreak of war transferred its business to a new firm by name A. E. G. Electric Co., and after consulting legal opinion the Government of India decided that the transfer could not be challenged nor could the new firm be held to be an enemy firm.

**THE HONOURABLE MR. HOSSAIN IMAM :** Is it a fact that the Custodian of Enemy Property, Bombay, came to the decision that this was an enemy firm and it is only a *benami* transaction ?

**THE HONOURABLE SIR ALAN LLOYD :** To the first part of the question, the answer is in the affirmative.

**THE HONOURABLE MR. HOSSAIN IMAM :** Will the Honourable Member state what was the legal opinion which the Government consulted ?

**THE HONOURABLE THE PRESIDENT :** How does that question arise out of the answer ?

**THE HONOURABLE MR. HOSSAIN IMAM :** The Honourable Member stated that on receiving legal opinion Government reversed the decision of the Custodian of Enemy Property. I am asking who was the legal authority which was consulted.

**THE HONOURABLE THE PRESIDENT :** The Government legal advisers.

**THE HONOURABLE MR. HOSSAIN IMAM :** Was it the Legislative Department or the Commerce Department ?

**THE HONOURABLE SIR ALAN LLOYD :** Sir, the opinion was obtained from the Legislative Department.

**NUMBER OF MOTOR CARS, ETC., REGISTERED IN EACH PROVINCE.**

**90. THE HONOURABLE MR. HOSSAIN IMAM :** Will Government state the number of (a) motor cars, (b) light motor buses, (c) heavy motor buses and (d) motor trucks registered in each province in India on 31st March, 1940.

**THE HONOURABLE MR. S. N. ROY :** Government have asked Provincial Governments to submit annual statements of the numbers of vehicles *taxed* by Provincial Governments under the following heads :

- (1) Motor cycles.
- (2) Private motor cars.
- (3) Public service vehicles—
  - (a) Cabs.
  - (b) Other public service vehicles.
- (4) Goods vehicles.
- (5) Miscellaneous.

The returns for the year ending 31st March, 1940 have not all been received yet. A statement will be laid on the table of the House at the first opportunity after the figures are received.

**SILVER RUPEES.**

**91. THE HONOURABLE MR. HOSSAIN IMAM :** Will Government give the total number of silver rupees which have been withdrawn by the public from the Reserve Bank of India since the beginning of the war to the end of October (or near about that date).

**THE HONOURABLE MR. C. E. JONES :** The total number of silver rupees withdrawn from circulation between 1st September, 1939 and the 25th July, 1940 when one rupee notes were introduced is about 49 crores. Since the latter date, no distinction is maintained in the accounts of the Bank between silver rupees and one rupee notes which, under the currency Ordinance, are equivalent for all purposes.

**ATTENDANCE ON TRAINS BY THE SEVA SAMITI AT CERTAIN RAILWAY STATIONS OF THE E.I.R.**

**92. THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN :** (a) Are Government aware that the E.I.R. has permitted Seva Samiti or similar organizations to attend trains on certain railway stations and has even provided accommodation for such organizations within the railway premises ? If so, on what grounds ?

(b) Was an application made to the authorities concerned on behalf of Allahabad Muslim League for similar permission and, if so, was it granted or refused and if refused, on what grounds ?

(c) Are Government aware that many incidents have taken place at the railway stations when Muslim women and even men have been improperly treated by members of Hindu organizations particularly during communal riots in the United Provinces and Bihar ?

THE HONOURABLE MR. L. WILSON : (a) and (b). I have called for the information and a reply will be laid on the table of the House in due course.

(c) No.

NUMBER OF MUSLIM AND OTHER CONTRACTORS REGISTERED ON THE E.I.R.,  
E.B.R. AND G.I.P.R.

93. THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : (a) Will Government please state the number of Muslim and non-Muslim building contractors registered on the E.I.R, G.I.P.R. and E.B.R. for work over 5,000 and under 5,000 ? How many Muslims actually got work above and below 5,000 in 1938, 1939 and 1940 ? Please give the information in respect of each division on the E.I.R. and G.I.P.R.

(b) How many Muslim contractors applied to be registered during the above period and how many of them were registered and how many of them got any work ?

(c) How many Indian refreshment rooms and dining cars are there on the E.I.R., G.I.P.R., and E.B.R., and how many of them are Muslim ?

THE HONOURABLE MR. L. WILSON : Enquiries are being made from the Railway Administrations concerned and a reply will be laid on the table in due course.

CATERING ARRANGEMENTS FOR MUSLIMS ON STATE RAILWAYS.

94. THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : Are Government aware that all the Shia Muslims and a majority of other Muslims do not eat food cooked by Hindus and suffer great hardship owing to absence of Muslim refreshment rooms and Muslim section of Indian dining cars.

THE HONOURABLE MR. L. WILSON : I understand that with Muslims other than Shias it is a matter of choice. Where a substantial need exists, separate catering arrangements are made for Muslims.

THE HONOURABLE MR. HOSSAIN IMAM : Are there any Muslim catering arrangements in Indian dining cars ?

THE HONOURABLE MR. L. WILSON : There is catering for Muslims in some of the Indian dining cars.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : Is there any arrangement for Muslim catering on the G.I.P.R. dining car of the Grand Trunk Express ?

THE HONOURABLE MR. L. WILSON : I must have notice of that question, Sir.



### BEGGARS ON RAILWAY PLATFORMS.

95. THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN: Are Government aware that beggars have become a great nuisance on railway platforms and, if so, what steps have been taken to stop it?

THE HONOURABLE MR. L. WILSON: Government are aware that beggars are a nuisance on some railway platforms, and have under consideration the amendment of rule 17 of Part II of the General Rules for Indian State Railways which would enable Railway Administrations to take more effective action to prevent this nuisance.

### CATERING CONTRACTS ON STATE RAILWAYS.

96. THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN: Have the State Railways carried out the instructions issued by the Railway Board on the recommendation of the Central Advisory Committee in respect of catering contracts?

THE HONOURABLE MR. L. WILSON: I understand State Railways are implementing the instructions.

### CONSULTATION OF LOCAL ADVISORY COMMITTEES BY STATE RAILWAYS BEFORE PLACING CATERING CONTRACTS.

97. THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN: Has any railway put the question of catering contract before any local advisory committee and, if so, which of them and before which local committee and, if not, why not?

THE HONOURABLE MR. L. WILSON: Yes: the N.W.R. before the Local Advisory Committees at Lahore and Karachi, the E.I.R. before their Calcutta and United Provinces Local Advisory Committees, the B.B.&C.I.R. before their Ajmer and Bombay Committees, the M. & S.M.R. before their Madras and Bombay Presidency Committees; the E.B.R. have also consulted their Local Advisory Committee. The last part of the question does not therefore arise.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN: May I ask the Honourable Member in what form the E.I.R. put this question before the Cawnpore or United Provinces Advisory Committee?

THE HONOURABLE MR. L. WILSON: I shall require notice of that question, Sir.

### CATERING CONTRACTORS ON STATE RAILWAYS OPERATING OVER MORE THAN ONE DIVISION.

98. THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN: Are there still contractors on State Railways who hold catering contracts over more than one division or over an area which is more than that of a division?

THE HONOURABLE MR. L. WILSON: Yes.

**THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN :** May I ask the Honourable Member why they hold that contract against the instructions of the Railway Board ?

**THE HONOURABLE MR. L. WILSON :** They do not, Sir.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU :** Who are those people who hold contracts over more than one division ?

**THE HONOURABLE MR. L. WILSON :** I have not a list with me, Sir.

**PROCEDURE FOLLOWED IN IMPOSING DISCIPLINARY PUNISHMENTS ON GAZETTED OFFICERS IN THE INCOME-TAX DEPARTMENT.**

**99. THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN :** Will Government state :

(a) Whether there is any provision similar to that provided for disciplinary punishment of subordinate officers as in paragraph 6 (1) of the Income Tax Office Manual (1933 edition) correction list No. 1, paragraph 30 for the gazetted officers of the Income-tax Department in respect of punishment provided in paragraph 3 clause (2) of the same. If not, why not ?

(b) Why the procedure as contained in C. S. (C. C. A.) rule 55 for dismissal, removal or reduction has not been made applicable to other punishments of gazetted officers contained in rule 49.

(c) What do Government propose to do in case of gazetted officers who have been stopped at efficiency bar without being given any information as to their inefficiency or calling for any explanation ?

**THE HONOURABLE MR. E. CONRAN-SMITH :** (a) No. But in practice gazetted officers, including those of the Income-tax Department, are given the same opportunity of tendering their explanations as is provided for in paragraph 6 (1) of the Income-tax Office Manual in the case of subordinate services.

(b) The procedure prescribed in rule 55 of the Civil Services (Classification, Control and Appeal) Rules would be needlessly elaborate in the case of penalties less than dismissal, removal and reduction.

(c) Government propose to take no action, but any appeal or representation submitted by the officer concerned will I am sure receive due consideration.

**TELEPHONE OPERATORS.**

**100. THE HONOURABLE RAI BAHADUR SATYENDRA KUMAR DAS :**

(a) Is it a fact that except paragraph 158, Chapter XXXIII of the Manual of Appointments and Allowances of Officers of the Indian Posts and Telegraphs Department, there is no other rule in the existing Posts and Telegraphs Manuals for the guidance of the telephone operators in respect of their pay, promotion, appointment, transfer, duty chart and revision of establishment and other relative matters ?

(b) If the reply to the above be in the affirmative, do Government propose to publish a Manual for the telephone operators embodying rules on the above subjects ?

(c) If the reply to part (a) be in the negative, which of the rules of the Posts and Telegraphs Manual apply to the telephone operators in regard to the above matters ?

THE HONOURABLE MR. S. N. ROY : (a) No.

(b) Does not arise.

(c) The rules relating to the recruitment, training, appointment, transfer and prospects of telephone operators are contained in rules published separately and these are being included in the Posts and Telegraphs Manual, Volume IV, now under reprint. Particulars regarding the old scales of pay for telephone operators are given in paragraphs 51 and 52 of the Manual of Appointments and Allowances of Officers of the Indian Posts and Telegraphs Department and particulars of the new scales in Schedule I of the Annexure to Section II, Part II of the same Manual. Rules regarding duty hours, duty charts and overtime are contained in paragraph 158 of the same Manual. There is no prescribed standard for regulating the strength of staff of telephone operators and each case is decided on its merits.

#### TELEPHONE OPERATORS.

101. THE HONOURABLE RAI BAHADUR SATYENDRA KUMAR DAS : (a) Is it a fact that 17 per cent. and 20 per cent. of the total operative staff are sanctioned as leave reserve in the Postal Department and R. M. S. Department, respectively ? Is only 10 per cent. sanctioned in case of telephone operators who have to perform 24 hours' duty ?

(b) If answer to the above question be in the affirmative, do Government propose to revise the percentage of leave reserve sanctioned for telephone operators ?

THE HONOURABLE MR. S. N. ROY : (a) The facts as to percentage of leave reserve are as stated, but telephone operators are only required to perform 50 hours duty a week.

(b) No, Sir, not at present.

#### HOUSE RENT ALLOWANCE GRANTED TO LINEMEN AND SUB-INSPECTORS OF THE TELEGRAPH DEPARTMENT.

102. THE HONOURABLE RAI BAHADUR SATYENDRA KUMAR DAS : Is house rent at the flat rate of Rs. 2 per month granted to the linemen and sub-inspectors of the Telegraph Department ? If so, do Government propose to reconsider the position and to grant house rent on a sliding scale with due regard to the prevailing rate of the locality ?

THE HONOURABLE MR. S. N. ROY : No. When no free quarters are given, both Sub-Inspectors of Telegraphs and Linemen draw varying rates of house rent allowance according to locality subject to a minimum of Rs. 2. The second part does not arise.

#### INFORMATION PROMISED IN REPLY TO QUESTIONS LAID ON THE TABLE.

THE HONOURABLE MR. L. WILSON (Chief Commissioner for Railways) : Sir, I lay on the table the information promised in reply to question No. 62 asked by the Honourable Rai Bahadur Lala Ram Saran Das on the 26th March, 1940.

# DINING CARS ON STATE RAILWAYS.

*Concessions in respect of free passes for luggage, stores and staff and allowances for staff on State Railways for (1) Indian style dining cars and (2) European style restaurant cars.*

Railway.	Indian style dining cars.	European style restaurant cars.	Remarks.
<b>N.W. Luggage —</b>			
<i>Stores-provisions for bona fide use in cars.</i>	Free.	Free.	
<i>Staff</i>	<p>* 2nd Class card and cheques passes for contractors.</p> <p>Inter Class card and cheque passes for supervisory staff.</p> <p>Identification cards for servants employed in the cars.</p>	<p>* 1st Class card passes for Managerial control.</p> <p>2nd Class card passes for supervisory staff.</p> <p>Inter class card passes for supervisory staff.</p> <p>3rd Class passes and identification cards for servants employed in the cars.</p>	<p>*Orders are under issue to the N. W. Railway that similar class of passes are to be issued to contractors holding similar types of contract.</p>
<b>E.I. Luggage</b>			
<i>Stores-provisions for bona fide use in cars.</i>	Free	For outward and return trip-Free	<p>†Orders are now under issue to the E. I. Railway that this concession be allowed to the Indian restaurant car contractors, if required.</p>
<i>Staff</i>	<p>1st Class pass for Hindu contractor and Managerial control.</p> <p>2nd Class passes for supervisory staff.</p> <p>3rd Class passes for servants.</p>	<p>1st Class passes for Managerial control.</p> <p>2nd and Inter class passes for supervisory staff.</p>	
<b>G.I.P.—</b> There are no Indian dining cars. Only buffet cars are run for lower class passengers (Inter and 3rd).			
<b>E.B.—</b> No Indian dining cars are run.			

*Staff allowances.—(for staff employed on the Dining or Restaurant Cars).*

Railway.	Indian style dining cars	European style restaurant cars.	Remarks.
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N. W.	.	Nil.	Nil.	The payment, previously made, of Rs. 16 p. m. per car, as wages of Cleaner, has been stopped.
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E. I. *NOTE.*—On the North Western Railway, Indian style dining cars are for the use of all classes of Indian passengers. European style restaurant cars cater for first and second class ticket-holders of all communities.

On the East Indian Railway, Indian style restaurant cars are run for Indian passengers holding inter or third class tickets. The European style restaurant cars are for upper class ticket-holders of all communities.

*NOTE.*—There are certain differences in the conditions of contracts and the facilities allowed. These arise from the fact that on the East Indian and North Western Railways, there are separate contracts for the Indian style dining cars and for Indian refreshment rooms, whereas one contract covers both European style restaurant cars and refreshment rooms.

Government do not propose to lay copies of the relevant North Western and East Indian Railways contracts on the table, but they can be inspected in the office of the Railway Board.

## STATEMENT LAID ON THE TABLE.

**THE HONOURABLE MR. E. CONRAN-SMITH** (Home Secretary): Sir, I lay on the table a copy of the Declaration of Exemption under section 6 of the Registration of Foreigners Act, 1939, as published with the notification of the Government of India in the Home Department, No. 21/38/40-Political (E), dated the 27th November, 1940.

### *Declaration of Exemption.*

No. 21/38/40-Political (E), dated the 27th November, 1940.—In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors who are not foreigners, shall not apply to, or in relation to, Miss Evelyn Phyllis Feld, an American national.

H. J. FRAMPTON,

*Deputy Secretary to the Government of India.*

## INDIAN INCOME-TAX (AMENDMENT) BILL.

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

"That the Bill further to amend the Indian Income-tax Act, 1922, and to make certain transitory provisions with respect to the operation of that Act on the coming into force of Part II of the Indian Income-tax (Amendment) Act, 1939, as passed by the Legislative Assembly, be taken into consideration."

Sir, when this Bill was introduced in the other House it was, in spite of the reassuring nature of the Statement of Objects and Reasons, received with a certain amount of suspicion, natural enough in the case of an Income-tax Bill. However, Sir, after Honourable Members and their constituents had had an opportunity to examine the Bill meticulously they realized that we were as good as our word, that the Bill did give extensive concessions and that it contained no trap for the unwary taxpayer. Only one clause in the Bill was amended, clause 10, which deals with recognized provident funds, and the small amendments that were made more effectively carried out our intention in proposing the clause. Otherwise the Bill was passed unaltered.

I do not think it is necessary for me to go through the various clauses of the Bill, but I should like to refer to one or two. Clause 5 gives a very substantial concession to property owners. Clause 6 gives a concession to certain non-residents with small incomes. Clause 7 gives relief to a certain class of super-taxpayer; and clauses 9 and 10 liberalize the provisions with regard to recognized provident funds. In a separate category you have clause 14, which is necessitated by the imminent establishment of the Appeal Tribunal. When that Tribunal is established the Commissioners' functions automatically cease; but at that time there will be some thousands of applications pending before the Commissioners and we have had to make provision for dealing with those applications which will be pending at the time the Tribunal is instituted.

**THE HONOURABLE MR. J. H. S. RICHARDSON** (Bengal Chamber of Commerce): Sir, I feel it would be ungracious if I did not take this opportunity of gratefully acknowledging the effort made by Government to remedy certain hardships and defects in the existing Income-tax provisions as is mentioned in the Statement of Objects and Reasons attached to this Bill. Such

[Mr. J. H. S. Richardson.]

consideration on the part of the Finance Department is indeed welcome even though it may be rare and it gladdens the heart of the taxpayer who so often has to adopt the role of a suppliant and almost equally often has to retire not only disappointed, but disillusioned.

I am informed by various Income-tax Experts—and I do not profess to be one myself—that the opinion is held in regard to this Bill that whilst it may remedy certain defects of a minor nature, it does nothing with regard to real hardships and I am wondering whether we may hope that the present Bill is an indication of some softening of the heart on the part of those in whose hands the whip of taxation has been placed and whether this Bill may be but the harbinger of other measures in a real and final endeavour to eliminate those things which have been shown by experience as defective, obscure or anomalous.

THE HONOURABLE THE PRESIDENT: There is nothing to prevent you to bring in an amending Bill.

THE HONOURABLE MR. J. H. S. RICHARDSON: Certainly not. The burdens imposed by the recent increases announced in taxation and the certain knowledge that these are but the forerunners of others, carry with them the responsibility of the Central Board of Revenue more than ever to pay serious consideration to all cases of hardship which may be brought to their notice since the higher the taxation, the more severe the hardship becomes on any defect or anomaly in the various Income-tax Acts.

Sir, we have heard a good deal recently regarding the liberalization of this, that and the other and whilst expressing our sincere gratitude for small mercies on the one hand nevertheless it often seems to me the use of this word liberalization might very well also be recommended for the attention of those whose duty it is to administer the ever increasingly complicated Income-tax Law. In the forthcoming period of heavy taxation I suggest that some of the surplus red tape might perform a more suitable and useful function such as a bookmark in the pages of their dictionaries under the letter "L". This place—in their dictionaries of course—will possibly not only remind them of the tortures frequently suffered by assesses but also of the merciful relief rendered possible by the practical application of this blessed word "liberalization".

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan): Sir, before I proceed with my remarks on the Bill let me confess that I have no personal experience of the provisions of this Bill except as a very slight acquaintance; nor have I studied this measure sufficiently to speak with any sense of confidence—

THE HONOURABLE SIR DAVID DEVADOSS (Nominated Non-Official): Then why do you speak?

THE HONOURABLE MR. HOSSAIN IMAM: I will tell you why I speak. The Judge has asked me the question, why do I speak? I am a representative of a certain class of people, and as such have to voice their opinion whether I am interested personally or not—

THE HONOURABLE SIR DAVID DEVADOSS: Convinced!

THE HONOURABLE MR. HOSSAIN IMAM: It is not a question of conviction: it is a question of interest. The Honourable Mr. Richardson gave us a good homily which I hope the Central Board of Revenue will take to heart. I only wanted to draw the attention of the House to a provision by which the non-residents have been given an option to get exemption from the higher rate of tax than those that are applicable to them, whereas the residents have not been given the same concession. Secondly, I freely confess that I was not able to find, but I was told that the fees for making an appeal to the Tribunal are fairly high. If it were possible to reduce that amount, consistent with efficiency, or it might be made *ad valorem*, I would suggest it for the consideration of the Honourable Member of the Central Board of Revenue. Thirdly, I should like to invite the attention of the Member to the fact which I stated at the last Finance Bill that in Bihar the number of appeals to the number of the assesses was higher, and the decisions also of the appellate authorities were more in favour of the assesses than of the Income-tax authorities. I have drawn the attention of the Honourable Member to this aspect and I would ask him to keep in view that the Biharis are not penalized and assessed highly as has been the case in former times.

THE HONOURABLE MR. J. F. SHEEHY (Nominated Official): Sir, I do not know if I have understood the point made by my Honourable friend Mr. Hossain Imam about non-residents. Is he referring to clause 6: If so we have already provided that the Income-tax Officer will give residents a certificate. In section 18 of the Income Tax Act there is provision for giving residents a certificate. As regards the fee for an application to the Tribunal, the Select Committee and the Legislature agreed to the sum of Rs. 100 only a year ago, and as the Tribunal has not even begun to function yet I do not think we should alter the amount of the fee until we see how it works. As regards the question of looking after the administration in Bihar, I may point out that we are doing this and I do not think that Bihar assesses are being ill-treated.

AN HONOURABLE MEMBER: He wants preferential treatment.

THE HONOURABLE MR. HOSSAIN IMAM: I want the same treatment which is being accorded in Madras and Bengal.

THE HONOURABLE MR. J. F. SHEEHY: As regards the remarks of my Honourable friend Mr. Richardson, I have no great difficulty in agreeing generally speaking. He was so vague that my agreement does not commit me to anything. I do not think I can say anything more because he talked so vaguely about liberalization and about grievances; and as he does not mention any specific grievances I really cannot deal with the charge that he has made.

THE HONOURABLE THE PRESIDENT: Motion moved:

"That the Bill further to amend the Indian Income-tax Act, 1922, and to make certain transitory provisions with respect to the operation of that Act on the coming into force of Part II of the Indian Income-tax (Amendment) Act, 1930, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion adopted.

Clause 2 was added to the Bill.

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



Clauses 10 to 14 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**THE HONOURABLE MR. J. F. SHEEHY :** Sir, I move :

"That the Bill further to amend the Indian Income-tax Act, 1922, and to make certain transitory provisions with respect to the operation of that Act on the coming into force of Part II of the Indian Income-tax (Amendment) Act, 1939, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

### INDIAN SALE OF GOODS (AMENDMENT) BILL.

**THE HONOURABLE SIR ALAN LLOYD (Commerce Secretary) :** Sir, I move :

"That the Bill to amend the Indian Sale of Goods Act, 1930, as passed by the Legislative Assembly, be taken into consideration."

This Bill, Sir, does not make any substantive change in the law at all. It merely aims at transferring from the Indian Tariff Act certain provisions which are more appropriately to be included in the Indian Sale of Goods Act. The provision in question is one which, in the absence of a stipulation to the contrary, allows the adjustment of prices quoted in contracts entered into before a change of customs or excise duty to be effective as if there were a corresponding change in the contract. The desirability of transferring this section from the Indian Tariff Act was brought out recently by the fact that a certain High Court in a judgment held that the provision in question, although it refers to duties of customs and excise, did not apply to the sale of goods liable to an excise duty within the country. That was never the intention of the Government and the argument will not be sustainable if the section is removed to an Act which does not, like the Indian Tariff Act, contain a specific reference to customs duty only in its preamble.

Of the merits of the provision in itself I need say nothing because it has been part of the law for close on half a century and, in the course of my connection with the administration of indirect taxes which covers more than half that period, I have never heard it criticized.

Sir, I move.

The Motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**THE HONOURABLE SIR ALAN LLOYD :** Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

## EXCESS PROFITS TAX (AMENDMENT) BILL.

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

"That the Bill to amend the Excess Profits Tax Act, 1940, as passed by the Legislative Assembly, be taken into consideration."

Sir, during the discussions on the Excess Profits Tax Bill last session, the Finance Member promised to introduce amending legislation as and when necessary. This Bill is in fulfilment of that promise. Our original Excess Profits Tax Act is based on the United Kingdom Finance Act, No. II of 1939, and this has since been amended by the United Kingdom Finance Act of 1940. Well, in this Bill we have practically copied word for word those provisions of the United Kingdom Act of 1940 which we thought suitable to Indian conditions. But we have also included some provisions of our own, for example clauses 6 and 9 (a), both of which give the taxpayer concessions. On the whole, the provisions of the Bill favour the taxpayer and this was recognized by the Select Committee which made no substantial change in the Bill. The changes made by the Select Committee were minor changes such as extending the time for the filing of appeals. I do not think I need go through the various clauses which are explained in the notes attached to the Bill, but I should like to draw attention to clause 6 which gives a substantial concession in respect of profits which are taxed abroad, and also to clause 10 (c), which gives a further substantial concession in respect of assets that are inherently unproductive. Those are probably the two most important clauses in the Bill. I do not think I need refer to any another provision, Sir, but if any Honourable Member wants a point explained I shall do my best to satisfy him.

Sir, I move.

The Motion was adopted.

Clauses 2 to 5 were added to the Bill.

Clauses 6 to 10 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. F. SHEEHY: Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

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The Council then adjourned *sine die*.

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